

JOURNAL STAR EDITORIAL BOARD
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Second house in danger of losing its voice

With Secretary of State Bob Evnen's decision Thursday, voters will get to weigh in on the Opportunity Scholarships Act, a \$25 million, dollar-for-dollar tax credit for donors to scholarship funds for nonpublic schools.

Evnen's decision came after a question from Sen. Lou Ann Linehan about whether such a vote interfered with the Legislature's constitutional role of setting revenue policy. Evnen said it wasn't up to his office to settle that question.

But that won't be the end of this particular issue, pointing to an even more fundamental one that must be wrestled with.

Philosophically, Nebraska's citizenry is seen as the "second house" of our unique unicameral state government.

Via the petition and referendum process, voters can choose to nullify laws and policies set by the Legislature and administration as well as create laws and programs that have been rejected by senators and the governor.

Recent practice, however, shows politicians often working to thwart giving voters their say or following their wishes.

In 2020, Lancaster County Sheriff Terry Wagner served as the plaintiff to challenge the petition signed by 200,000 Nebraskans that would have put medical marijuana on the fall ballot.

That challenge, which overruled Evnen's decision to put the measure on the ballot, succeeded as the Nebraska Supreme Court ruled that the petition violated the single-subject referendum requirement — a decision that came far too late in

the year for

another petition drive to take place.

And, even when the referendum passes, its political opponents can work to delay and minimize its implementation. The most obvious example of delay: It took the administration of former Gov. Pete Ricketts two years to implement voter-approved Medicaid expansion, the longest such delay in the country.

Now comes a new tactic designed to thwart the referendum that could overturn the Opportunity Scholarships Acts.

The method, now before the Legislature, is a new bill, proposed by Sen. Lou Ann Linehan of the Omaha area that would provide \$25 million in grants to private school scholarship funds. Passage of LB1402, which has been sent to the floor by the

Appropriations Committee, would then allow the senators who support sending state funds to private schools, to repeal the tax credit law, thereby rendering the ballot measure irrelevant.

LB1402, if passed, could silence the citizenry, effectively shutting down the "second house" before it has a chance to vote on the issue.

There's nothing that prohibits the replace-and-repeal action to attempt an end run around the referendum. The challenge to the medical marijuana petition was similarly well within the bounds of the system.

But these tactics, at their core, are gaming the system to disenfranchise voters, who want to exercise their rights as the second house, to decide the fate of laws and policies.

LB1402 is just the latest example, and in each case elected officials have their justifications, but the trend shows a disturbing attitude toward the will of the people and our unique system of government.