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Voters can repeal “any act” of the Legislature, LB753 must remain on ballot

Public school supporters call on Nebraska Secretary of State to reject Sen. Linehan’s desperate attempt to derail the November vote on diverting tax dollars to private schools

Lincoln – Supporters of the effort to repeal LB753 say Nebraska’s Constitution gives voters the right to repeal “any act” of the legislature and that the measure must stay on the ballot for voters to decide.

Support Our Schools Nebraska gathered 117,415 signatures in fewer than 90 days last summer to let voters decide the fate of LB753’s plan to divert tax dollars to private schools. The petition was certified as meeting all legal requirements to put the issue on the ballot by Nebraska Secretary of State Bob Evnen on October 10. On January 9, State Sen. Lou Ann Linehan sent a letter to Evnen asking him to reverse the certification.

“Sen. Linehan and the billionaires pushing this tax scheme are afraid to let Nebraskans vote on whether they want tax dollars diverted to private schools,” said Tim Royers, a sponsor of Support Our Schools Nebraska and president of the Millard Education Association. “Linehan and her lemmings failed miserably in their attempt to derail the petition drive so now they’re pushing a bogus legal claim in their desperation to deny Nebraskans their right to vote on the issue.”

In a letter to Evnen, Support Our Schools Nebraska attorneys write that Evnen should reject Linehan’s request for “*at least two separate and independent reasons.*”

“First, Senator Linehan’s objections exceed the scope of your pre-election review. As discussed below, a legal sufficiency determination is procedural in nature, limited only to the form of the petition and the technical requirements of the sponsors. Senator Linehan’s request is substantive in nature, raising substantive constitutional challenges that are not ripe for review. Because substantive ballot challenges cannot be decided before an election, Senator Linehan’s request should be denied.

Second, Senator Linehan’s arguments fail as a matter of law. Her attempt to limit the referendum right is foreclosed by the plain text of the Constitution, which reserves to the people the right to repeal “any act” of the Legislature. Further, the Senator’s reliance on revenue generating provisions is misplaced because LB 753 reduces the state’s revenue through corporate and individual tax breaks. Senator Linehan’s arguments are without merit, and you should reject them as a matter of law.”

“Nebraska is the only state in the nation with a one-house legislature. The people of Nebraska, through our initiative and referendum process, serve as the second house,” said Royers. “The referendum is a right and a power reserved for the voters. Sen. Linehan’s attempt to infringe on that right undermines our democracy, stifles public participation, and removes a check on elected officials that is a hallmark of Nebraska’s unicameral system.”

Royers said Support Our Schools Nebraska will continue its work to protect the right of Nebraskans to vote on the repeal of L753. For more information on the effort, visit:

Website: <https://supportourschoolsnebraska.org/> **Facebook:** <https://www.facebook.com/SOSNebraska>
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