

Jim's Perspective...

November Election and 2023 Legislature

The November 8 general election is almost here, and it will provide a significant change in the make-up of the Nebraska legislature. Eleven senators are term-limited. Two are not seeking re-election, three seats in the legislature have new senators appointed by the governor, and if Sen. Hilgers is elected Attorney General, then in total we will have 17 new senators for 2023. Eight senators have only two years experience. In total, the 2023 legislature will likely consist of 25 senators with no more than two years of experience. In addition, we will have a new governor, a new speaker in the Legislature (if Hilgers elected Attorney General), and the Banking, Commerce and Insurance Committee will have a new chair of the committee and at least five new members in the 8-person committee. It will be a very different legislative experience next year. As I have done in the past, I will review every bill introduced in the legislature. Once bill introduction has ended after 10 "legislative days" I will meet with the PIA legislative committee to discuss what bills the committee wants to support or oppose.

As is often the case, Nebraska voters will have several interesting Initiatives to consider November 8th. Initiative Measure 432 is the voter I.D. proposal and Initiative Measure 433 would raise the state minimum wage from \$9.00 to \$15.00 by 2026. In 1897, Nebraska became the first state to authorize initiatives and popular referendums by permitting cities to put the procedures in their charters as an ordinance. Finally, in 1907, Lincoln and Omaha became the first cities to add the initiative and referendum process. In 1912, the state of Nebraska allowed citizens to use initiatives and referendums on a statewide level. At that time, the Populist Party was very strong and very aggressive on the legislative front. Three sections were added to the Nebraska constitution to provide for this process, and voters approved of these changes to the constitution by nearly a thirteen to one margin. Of course, the most famous Nebraska initiative was the 1934 passage of an initiative measure that abolished Nebraska's two-chamber Legislature and created the Unicameral Legislature.

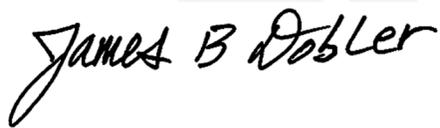
Initiatives can address most any issue, however, they cannot interfere with the Legislature's ability to raise revenue. Initiatives can only deal with a single subject which was an issue in the past related to medical marijuana. Additionally, there are restrictions in place to provide that the same or similar initiative petitions cannot be submitted within a three-year period. The initiative is defined as a petition in which the voters can potentially create new laws or amend the Nebraska constitution. The referendum is defined as a petition in which the voters can strike down or repeal an existing statute. It can only be used to repeal laws passed within the most recent legislative session.

The initiative and referendum in a sense have made the people co-equal with the Legislature when it comes to creating new legislation and, as a result, this has caused some animosity on the part of the Legislature towards the initiative and referendum process. Through the years, the Legislature has attempted to restrict or limit the initiative and referendum process. The Nebraska Supreme Court has allowed the Legislature to enact some laws to facilitate the initiative and referendum process, and the Legislature may enact reasonable legislation to prevent fraud,

however, legislation that would obstruct, hamper or render ineffective initiatives and referendums are unconstitutional.

Of course, as we all know, two of the biggest initiatives that passed involved term limits (passed in 2000 by 55% of voters voting in favor of the initiative) and the passage of legal gambling (passed in 2020) in Nebraska. The term limits initiative has been pursued a number of times prior to when it finally was applied in 2006. However, the prior initiatives that were approved by the voters, were invalidated by court decision in 1992 and 1996. I don't remember the details of what happened with those initiatives.

November 8 will be very interesting, to say the least! It will set the tone for the 2023 Legislative session!



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