

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 718**

Introduced by Avery, 28.

Read first time January 06, 2010

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to petitions; to amend sections 32-628,  
2 32-630, 32-1303, and 32-1304, Reissue Revised Statutes  
3 of Nebraska; to change requirements for petitions  
4 and petition circulators; and to repeal the original  
5 sections.

6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 32-628, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           32-628 (1) All petitions prepared or filed pursuant to  
4 the Election Act or any petition which requires the election  
5 commissioner or county clerk to verify signatures by utilizing the  
6 voter registration register shall provide a space at least two and  
7 one-half inches long for written signatures, a space at least two  
8 inches long for printed names, and sufficient space for date of  
9 birth and street name and number, city or village, and zip code.  
10 Lines on each petition shall not be less than one-fourth inch  
11 apart. Petitions may be designed in such a manner that lines for  
12 signatures and other information run the length of the page rather  
13 than the width. Petitions shall provide for no more than twenty  
14 signatures per page.

15           (2) For the purpose of preventing fraud, deception,  
16 and misrepresentation, every sheet of every petition containing  
17 signatures shall have upon it, above the signatures, the statements  
18 contained in this subsection, except that a petition for recall  
19 of an elected official shall also have the additional information  
20 specified in subsection (2) of section 32-1304. The statements  
21 shall be printed in boldface type in substantially the following  
22 form:

23           WARNING TO PETITION SIGNERS—VIOLATION OF ANY OF THE  
24 FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL  
25 CHARGES: Any person who signs any name other than his or her own to

1 any petition or who is not qualified to sign the petition shall be  
 2 guilty of a Class I misdemeanor. Any person who falsely swears to  
 3 a circulator's affidavit on a petition, who accepts money or other  
 4 things of value for signing a petition, or who offers money or  
 5 other things of value in exchange for a signature upon any petition  
 6 shall be guilty of a Class IV felony.

7 (3) Every sheet of a petition which contains signatures  
 8 shall have upon it, below the signatures, an affidavit as provided  
 9 in this subsection, except that the affidavit for a petition for  
 10 recall of an elected official shall also include the additional  
 11 language specified in subsection (3) of section 32-1304. The  
 12 affidavit shall be in substantially the following form:

13 STATE OF NEBRASKA)

14 ) ss.

15 COUNTY OF .....)

16 ....., (name of circulator) being  
 17 first duly sworn, deposes and says that he or she is the circulator  
 18 of this petition containing ..... signatures, that he or she  
 19 is an elector of the State of Nebraska, that each person whose  
 20 name appears on the petition personally signed the petition in  
 21 the presence of the affiant, that the date to the left of each  
 22 signature is the correct date on which the signature was affixed  
 23 to the petition and that the date was personally affixed by the  
 24 person signing such petition, that the affiant believes that each  
 25 signer has written his or her name, street and number or voting

1 precinct, and city, village, or post office address correctly, that  
 2 the affiant believes that each signer was qualified to sign the  
 3 petition, and that the affiant ~~stated~~ made available to each signer  
 4 the object of the petition as printed on the petition before he or  
 5 she affixed his or her signature to the petition.

6           Circulator .....

7           Address .....

8           Subscribed and sworn to before me, a notary public, this  
 9 ..... day of ..... 20.... at ....., Nebraska.

10           Notary Public .....

11           (4) Each sheet of a petition shall have upon its face  
 12 and in plain view of persons who sign the petition a statement in  
 13 letters not smaller than sixteen-point type in red print on the  
 14 petition. If the petition is circulated by a paid circulator, the  
 15 statement shall be as follows: This petition is circulated by a  
 16 paid circulator. If the petition is circulated by a circulator who  
 17 is not being paid, the statement shall be as follows: This petition  
 18 is circulated by a volunteer circulator.

19           Sec. 2. Section 32-630, Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21           32-630 (1) Each person who signs a petition shall, at  
 22 the time of and in addition to signing, personally affix the date,  
 23 print his or her last name and first name in full, and affix his  
 24 or her date of birth and address, including the street and number  
 25 or a designation of a rural route or voting precinct and the city

1 or village or a post office address. A person signing a petition  
2 may use his or her initials in place of his or her first name if  
3 such person is registered to vote under such initials. No signer  
4 shall use ditto marks as a means of personally affixing the date or  
5 address to any petition. A wife shall not use her husband's first  
6 name when she signs a petition but shall personally affix her first  
7 name and her last name by marriage or her surname. Any signature  
8 using ditto marks as a means of personally affixing the date or  
9 address of any petition or any signature using a spouse's first  
10 name instead of his or her own shall be invalid.

11 (2) Each circulator of a petition shall personally  
12 witness the signatures on the petition and shall sign the  
13 circulator's affidavit. In order to make certain that the  
14 circulator makes available to each signer the object of the  
15 petition as required in section 32-628, the circulator shall  
16 read or show the printed portion of the petition which contains  
17 the object statement to each person before he or she signs the  
18 petition.

19 (3) No person shall:

20 (a) Sign any name other than his or her own to any  
21 petition;

22 (b) Knowingly sign his or her name more than once for the  
23 same petition effort or measure;

24 (c) Sign a petition if he or she is not a registered  
25 voter and qualified to sign the same except as provided in section

1 32-1404;

2 (d) Falsely swear to any signature upon any such  
3 petition;

4 (e) Accept money or other thing of value for signing any  
5 petition;

6 (f) Offer money or other thing of value in exchange for  
7 a signature upon any petition; or

8 (g) Pay a circulator based on the number of signatures  
9 collected.

10 Sec. 3. Section 32-1303, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 32-1303 (1) A petition demanding that the question of  
13 removing an elected official or member of a governing body listed  
14 in section 32-1302 be submitted to the registered voters shall be  
15 signed by registered voters equal in number to at least thirty-five  
16 percent of the total vote cast for that office in the last general  
17 election, except that (a) for an office for which more than one  
18 candidate is chosen, the petition shall be signed by registered  
19 voters equal in number to at least thirty-five percent of the  
20 number of votes cast for the person receiving the most votes for  
21 such office in the last general election, (b) for a member of a  
22 board of a Class I school district, the petition shall be signed  
23 by registered voters of the school district equal in number to at  
24 least twenty-five percent of the total number of registered voters  
25 residing in the district on the date that the recall petitions

1 are first checked out from the filing clerk by the principal  
2 circulator, and (c) for a member of a governing body of a village,  
3 the petition shall be signed by registered voters equal in number  
4 to at least forty-five percent of the total vote cast for the  
5 person receiving the most votes for that office in the last general  
6 election. The signatures shall be affixed to petition papers and  
7 shall be considered part of the petition.

8 (2) Petition circulators shall conform to the  
9 requirements of sections 32-629 and 32-630. In addition, in order  
10 to make certain that each circulator makes available to each signer  
11 the items required to be on the petition in subdivision (2)(b) of  
12 section 32-1304, the circulator shall read or show the printed  
13 portion of the petition which contains such items to each person  
14 before he or she signs the petition.

15 (3) The petition papers shall be procured from the  
16 filing clerk. Prior to the issuance of such petition papers, an  
17 affidavit shall be signed and filed with the filing clerk by  
18 at least one registered voter. Such voter or voters shall be  
19 deemed to be the principal circulator or circulators of the recall  
20 petition. The affidavit shall state the name and office of the  
21 official sought to be removed, shall include in typewritten form  
22 in concise language of sixty words or less the reason or reasons  
23 for which recall is sought, and shall request that the filing  
24 clerk issue initial petition papers to the principal circulator  
25 for circulation. The filing clerk shall notify the official sought

1 to be removed by any method specified in section 25-505.01 or,  
2 if notification cannot be made with reasonable diligence by any  
3 of the methods specified in section 25-505.01, by leaving a copy  
4 of the affidavit at the official's usual place of residence and  
5 mailing a copy by first-class mail to the official's last-known  
6 address. If the official chooses, he or she may submit a defense  
7 statement in typewritten form in concise language of sixty words  
8 or less for inclusion on the petition. Any such defense statement  
9 shall be submitted to the filing clerk within twenty days after the  
10 official receives the copy of the affidavit. The filing clerk shall  
11 notify the principal circulator or circulators that the necessary  
12 signatures must be gathered within thirty days from the date of  
13 issuing the petitions.

14 (4) The filing clerk, upon issuing the initial petition  
15 papers or any subsequent petition papers, shall enter in a record,  
16 to be kept in his or her office, the name of the principal  
17 circulator or circulators to whom the papers were issued, the date  
18 of issuance, and the number of papers issued. The filing clerk  
19 shall certify on the papers the name of the principal circulator  
20 or circulators to whom the papers were issued and the date they  
21 were issued. No petition paper shall be accepted as part of the  
22 petition unless it bears such certificate. The principal circulator  
23 or circulators who check out petitions from the filing clerk may  
24 distribute such petitions to persons who may act as circulators of  
25 such petitions.

1           (5) Petition signers shall conform to the requirements  
2 of sections 32-629 and 32-630. Each signer of a recall petition  
3 shall be a registered voter and qualified by his or her place of  
4 residence to vote for the office in question.

5           Sec. 4. Section 32-1304, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           32-1304 (1) The Secretary of State shall design the  
8 uniform petition papers to be distributed by all filing clerks  
9 and shall keep a sufficient number of such blank petition papers  
10 on file for distribution to any filing clerk requesting recall  
11 petitions. The petition papers shall as nearly as possible conform  
12 to the requirements of section 32-628.

13           (2) In addition to the requirements specified in section  
14 32-628, for the purpose of preventing fraud, deception, and  
15 misrepresentation, every sheet of each petition paper presented  
16 to a registered voter for his or her signature shall have upon  
17 it, above the lines for signatures, (a) a statement that the  
18 signatories must be registered voters qualified by residence to  
19 vote for the office in question and support the holding of a recall  
20 election and (b) in letters not smaller than sixteen-point type in  
21 red print (i) the name and office of the individual sought to be  
22 recalled, (ii) the reason or reasons for which recall is sought,  
23 (iii) the defense statement, if any, submitted by the official, and  
24 (iv) the name of the principal circulator or circulators of the  
25 recall petition. The decision of a county attorney to prosecute or

1 not to prosecute any individual shall not be stated on a petition  
2 as a reason for recall.

3 (3) Every sheet of each petition paper presented to a  
4 registered voter for his or her signature shall have upon it, below  
5 the lines for signatures, an affidavit as required in subsection  
6 (3) of section 32-628 which also includes language substantially  
7 as follows: "and that the affiant ~~stated~~ made available to each  
8 signer, before the signer affixed his or her signature to the  
9 petition, the following: (a) The name and office of the individual  
10 sought to be recalled, (b) the reason or reasons for which recall  
11 is sought as printed on the petition, (c) the defense statement, if  
12 any, submitted by the official as printed on the petition, and (d)  
13 the name of the principal circulator or circulators of the recall  
14 petition".

15 (4) Each petition paper shall contain a statement  
16 entitled Instructions to Petition Circulators prepared by the  
17 Secretary of State to assist circulators in understanding the  
18 provisions governing the petition process established by sections  
19 32-1301 to 32-1309. The instructions shall include the following  
20 statements:

21 (a) No one circulating this petition paper in an attempt  
22 to gather signatures shall sign the circulator's affidavit unless  
23 each person who signed the petition paper did so in the presence of  
24 the circulator.

25 (b) No one circulating this petition paper in an attempt

1 to gather signatures shall allow a person to sign the petition  
2 until the circulator has ~~stated~~ made available to the person (i)  
3 the object of the petition as printed on the petition, (ii) the  
4 name and office of the individual sought to be recalled, (iii)  
5 the reason or reasons for which recall is sought as printed on  
6 the petition, (iv) the defense statement, if any, submitted by  
7 the official as printed on the petition, and (v) the name of the  
8 principal circulator or circulators of the recall petition.

9           Sec. 5. Original sections 32-628, 32-630, 32-1303, and  
10 32-1304, Reissue Revised Statutes of Nebraska, are repealed.