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## CC333 1986 Proposed Constitutional Amendments and Statute Referendums

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1986 PROPOSED CONSTITUTIONAL AMENDMENTS AND STATUTE REFERENDUMS

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A.L. (Roy) Frederick, Extension Economist - Public Policy

JUN 17 1988

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The 1986 general election is November 4. At that time Nebraskans will vote on two amendments to the Nebraska Constitution. In addition, as a result of successful referendums by concerned citizens, two recently passed state laws (statutes) will be subjected to a vote of citizens.

To make an informed decision on each of these four items, voters should study each issue prior to election day. The intent of this publication is to 1) give an overview of the proposed amendments or statutes as they will appear on the ballot; and 2) list points being made by both supporters and opponents of each of the proposed amendments.

No personal value judgment with regard to the desirability of any of the amendments or statutes is intended.

Assistance from the offices of the Secretary of State and the Clerk of the Legislature is gratefully acknowledged.

Proposed Amendment No. 1

CHANGE DATE ON WHICH NINETY-DAY SESSION OF LEGISLATURE BEGINS

A vote FOR this proposal will move up the convening date of the 90-day regular legislative session from the first Wednesday after the first Monday in January in odd-numbered years to the fifth Wednesday after the November general election in each even-numbered year, and provide also that the terms of members would begin and the preceding terms end on this first day of the 90-day session; the 60-day regular legislative session would continue to convene on the first Wednesday after the first Monday in January of each even-numbered year.

A vote AGAINST this proposal will continue the present schedule under which both the 90-day and 60-day regular legislative sessions convene (in the odd and even years respectively) on the first Wednesday after the first Monday in January, and under which the terms of the members would begin and the preceding terms end on the first day of this 90-day session.

<div style="border: 1px solid black; width: 40px; height: 20px; margin-bottom: 10px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div>	<p>For</p> <p>Constitutional amendment to change the date on which the Legislature convenes in regular ninety-day sessions and on which the terms of members shall commence.</p>
<div style="border: 1px solid black; width: 40px; height: 20px; margin-bottom: 10px;"></div> <div style="border: 1px solid black; width: 40px; height: 20px;"></div>	<p>Against</p> <p></p>



Issued in furtherance of Cooperative Extension work, Acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture. Leo E. Lucas, Director of Cooperative Extension Service, University of Nebraska, Institute of Agriculture and Natural Resources.





1986 PROPOSED CONSTITUTIONAL AMENDMENTS AND STATUTE REFERENDUMS

by  
A.L. (Roy) Frederick  
and  
L. Steven Grasz\*

The 1986 general election is November 4. At that time Nebraskans will vote on two amendments to the Nebraska Constitution. In addition, as a result of successful referendums by concerned citizens, two recently passed state laws (statutes) will be subjected to a vote of citizens.

To make an informed decision on each of these four items, voters should study each issue prior to election day. The intent of this publication is to 1) give an overview of the proposed amendments or statutes as they will appear on the ballot; and 2) list points being made by both supporters and opponents of each of the proposed amendments.

No personal value judgment with regard to the desirability of any of the amendments or statutes is intended.

Assistance from the offices of the Secretary of State and the Clerk of the Legislature is gratefully acknowledged.

Proposed Amendment No. 1

CHANGE DATE ON WHICH NINETY-DAY SESSION OF LEGISLATURE BEGINS

A vote FOR this proposal will move up the convening date of the 90-day regular legislative session from the first Wednesday after the first Monday in January in odd-numbered years to the fifth Wednesday after the November general election in each even-numbered year, and provide also that the terms of members would begin and the preceding terms end on this first day of the 90-day session; the 60-day regular legislative session would continue to convene on the first Wednesday after the first Monday in January of each even-numbered year.

A vote AGAINST this proposal will continue the present schedule under which both the 90-day and 60-day regular legislative sessions convene (in the odd and even years respectively) on the first Wednesday after the first Monday in January, and under which the terms of the members would begin and the preceding terms end on the first day of this 90-day session.

<input type="checkbox"/>	For	Constitutional amendment to change the date on which the Legislature convenes in regular ninety-day sessions and on which the terms of
<input type="checkbox"/>	Against	members shall commence.

\* Frederick is Professor of Agricultural Economics and Extension Economist - Public Policy, UN-L. Grasz is research technologist, Department of Agricultural Economics, UN-L

This proposed amendment would change Article III, section 10, of the Constitution of Nebraska.

Proponents of this amendment make the following arguments:

- \* This proposal would allow the Legislature to swear in new members, elect officers, organize committees, elect committee chairpersons, and begin introducing legislation in December so that the legislative business of the Legislature can begin immediately in January, not after an organizational period.
- \* While the legislative session would still be limited to 90 days, freshman senators, in particular, would benefit from beginning work as soon as possible.
- \* The public would benefit by having many bills available for study earlier. This amendment also would enable senators to deal more efficiently with legislation in the January-February period.

Opponents of this amendment make the following arguments:

- \* Legislators might use the extra time to introduce more bills.
- \* This amendment would increase travel costs as senators would have to travel to Lincoln in December and then again in January.
- \* The earlier starting date would cut into interim study time, and would make it more difficult for senators to hold town hall meetings with their constituents between the election and the legislative session.



Proposed Amendment No. 2  
PROVIDE CHANGES IN IMPEACHMENT PROCEDURE

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A vote FOR this proposal will make several changes in and additions to the Legislature's impeachment procedure: (1) add a provision that such proceedings may be initiated in either a regular or special session; (2) add a requirement that impeachment resolutions give reasonable notice of acts or omissions alleged to constitute impeachable offenses; (3) change from 10 days to "in an expeditious fashion" the time within which the Chief Justice is to convene the Supreme Court to try the case after receiving notice of the adoption of an impeachment resolution (for other than a judge of said court); (4) make notice of impeachment of Chief Justice or member of Supreme Court served on clerk (instead of any judge) of Lancaster County district court who will choose at random 7 district judges from the state to meet in Lincoln within 30 days to sit as court to try the impeachment (rather than having 1 judge of the Lancaster county district court notify all district judges in the state to convene for this purpose); (5) add a provision that an impeachment case is to be brought in the name of the Legislature, be managed by 2 senators, be tried as a civil proceeding, and generally disallowing invocation of the privilege against self-incrimination; (6) add a provision that an impeachment conviction must be based only on clear and convincing evidence indicating guilt of an impeachable offense; and (7) repeal the current provision stating that drunkenness shall be a cause of impeachment and removal from office.

A vote AGAINST this proposal will mean that the above described changes in and additions to the present provisions relating to the Legislature's impeachment power and procedure will not be made and they will remain as presently written.



For

A constitutional amendment to provide changes in the impeachment procedure.



Against

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The proposal would amend Article III, section 17, and repeal Article XV, section 3 of the Constitution of Nebraska.

Proponents of this amendment make the following arguments:

\* Current constitutional guidelines for impeachment procedures are outdated and in need of adjustment. This amendment will make necessary clarifications so that any future impeachment proceedings run more smoothly.

\* This amendment makes convictions easier to obtain by lessening the standard of proof necessary to convict and by preventing the defendant from refusing to testify.



Opponents of this amendment make the following arguments:

\*The impeachment of a public official is a very serious procedure and one that can have devastating consequences for the career of the defendant. Lowering the standard of proof necessary to convict an impeached official may open the door to the use of political revenge.

\* The Constitution of Nebraska should be amended only after careful consideration by the Legislature and the people. This amendment received relatively little attention from the Legislature and may have been drafted as an emotional response to a particular impeachment trial.

Referendum ordered by Petition of the People No.400

CHANGE ORGANIZATION AND FINANCING FOR PUBLIC SCHOOLS

A vote FOR will retain Legislative Bill 662, which would: (1) Require public elementary-only school districts to merge or affiliate with public school districts containing a high school; (2) Establish a requirement that no more than forty-five percent of the total operational costs of the public school system of the State of Nebraska be derived from taxes on real property; and (3) Provide increased financial support from the state to the public schools through an increase in the state sales tax.

A vote AGAINST will repeal Legislative Bill 662, which would: (1) Eliminate the requirement that public elementary-only school districts merge or affiliate with public school districts containing a high school; (2) Eliminate the requirement that no more than forty-five percent of the total operational costs of the public school system of the State of Nebraska be derived from taxes on real property; and (3) Prevent an increase in the state sales tax to provide increased state financial support to the public schools.



For



Against

Shall Legislative Bill 662, enacted by the Eighty-Ninth Legislature of the State of Nebraska in its First Session, the purposes of which are to require public elementary-only school districts to merge, affiliate or become a part of public school districts containing a high school, to limit the percentage of total operational costs of the public school system derived from taxes on real property, and to increase the amount of state financial support to the public schools through an increase in the state sales tax, be retained?

Tax equity and self government, or "local control," are the key issues in the debate over LB662, Nebraska's mandatory school district consolidation and finance law.

Supporters of LB662 say that the most important reason for retaining it is that it will provide a "fair" system of property taxation for the support of public elementary and secondary (K-12) schools. Specifically, they argue that a fair system would mean more equity in property tax rates than now exists.

Opponents object to LB662 primarily because it would mandate a state-ordered merger of hundreds of local school districts against the will of the people of those districts. They argue that LB662 would destroy local control of schools

Before examining arguments of both proponents and opponents in more depth, the following statistics, provided by the Nebraska Dept. of Education, may provide useful background information to voters.

1. For the 1985-86 school year, Nebraska had 955 school districts. By class, the districts were designated as follows:

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<u>Class of districts</u>	<u>Number of districts</u>
I. (elementary grades only)	644
II. (elementary and secondary grades; less than 1,000 residents in district)	66
III. (elementary and secondary grades; 1,000-100,000 residents)	220
IV. Lincoln school district	1
V. Omaha school district	1
VI. Secondary grades only	<u>23</u>
Total	955

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Only Texas, California and Illinois had more school districts than Nebraska, but in each case public school enrollment was at least seven times as large as Nebraska's. Each of the states adjacent to Nebraska has considerably fewer school districts, even though enrollment in states such as Iowa and Kansas is larger.

Despite the relatively large number of school districts in Nebraska, the number of districts continues to fall. In 1949, for example, Nebraska had 6,734 school districts.



2. While the Class I districts account for about two-thirds of all districts, they account for less than ten percent of resident enrollment, and 16 percent of property valuation:

Class of District	Total valuation of Class I-V Districts (million dollars)	Total K-12 Resident Enrollment <sup>1/</sup>	Average Valuation Per K-12 Resident Enrollee (\$)	Percent of State K-12 Resident Enrollment (%)	Percent of Total State Class I-V Valuation (%)
I	7,295	25,532	285,714	9.66	16.37
II	2,384	8,541	279,095	3.23	5.35
III	24,363	164,203	148,369	62.15	54.68
IV	4,115	24,536	167,708	9.29	9.24
V	6,395	41,404	154,452	15.67	14.35
Totals	44,551	264,216	168,616	100.00	100.00

<sup>1/</sup> Enrollment figures for the class I category include those class I district residents attending class VI district secondary schools on a resident basis (4,439 students), as well as those attending high school under the county non-resident tuition fund (4,094 students). The balance (16,999 students) attend elementary schools.

3. Because Class I districts account for a relatively larger proportion of property valuation than enrollment, property tax rates tend to be lower in Class I districts than in other school districts in the state. This holds true even after taking into account support of a Class VI high school or payment of nonresident high school tuition for property owners in a Class I district.

In 1985-86, the median property tax rate for the support of K-12 education was 1.15 (\$ of tax per \$100 assessed valuation). Highest and lowest tax levies were as follows:

<u>Highest Tax Levy</u>		<u>Lowest Tax Levy</u>	
School	Total Levy	School	Total Levy
Crawford Public	2.8683	York Co Dist 73	.3340
Yutan Public	2.6798	Brown Co Dist 50	.3566
Lyman Public	2.6000	Sioux Co Dist 13	.4098
Melbeta Public	2.5663	Gresham Public	.4150
Stuart Public	2.3775	Merrick Co Dist 15	.4270
Gretna Public	2.3669	Holt Co Dist 213	.4329
Wolbach Public	2.3633	Arnold Public	.4434
Arcadia Public	2.3312	Brown Co Dist 19	.4511
Elkhorn Public	2.3072	Sarpy Co Dist 22	.4937
Malcolm Public	2.2989	Merrick Co Dist 2	.4995

For equally valued property, a taxpayer in the Crawford Public School District would have paid 8.5 times as much tax as another taxpayer in York County District 73.



None of the ten districts with the highest tax levies are Class Is. However, eight of the ten with the lowest levies are Class Is. If the comparison is extended to the highest 100, only twenty eight districts are Class Is; in the lowest 100, ninety six are Class Is. In short, there is evidence to indicate that, with a given property value, those in Class I districts generally will pay less than those in other districts.

4. In 1984-85, total revenues raised for the support of K-12 education in Nebraska amounted to \$843.9 million. Sources of revenue were as follows:

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	<u>Amount</u> (\$ million)	<u>% of Total</u> (%)
Local district property taxes	466.0	55.2
Other local	37.8	4.5
County	36.0	4.3
State	225.5	26.7
Federal	53.5	6.3
Other	<u>5.1</u>	<u>3.0</u>
Total	843.9	100.0

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Nebraska differs from most states in that twice as much revenue comes from local district property taxes as from state sources. Nationwide, the split between local and state sources is about even.

Proponents of LB662 make the following arguments:

- \* Clear inequities are present in the funding of public elementary and secondary education because of the variance in tax rates required of local property taxpayers.

- \* Class I school districts are tax havens for the owners of nearly one fourth of Nebraska's agricultural land.

- \* LB662 will provide a "fair" system of property taxation for the support of public elementary and secondary schools. Under LB662 ALL Nebraska property owners will share in paying for K-12 education.

- \* LB662 will bring property tax relief to overtaxed property owners. It stipulates that no more than 45% of the cost of education can be absorbed by property tax. Currently, property owners bear 55% of the cost in direct local district property taxes plus additional amounts paid to counties for nonresident high school tuition.

- \* LB662 does not eliminate local control over education. All residents of class I school districts will have a voice in their expanded district and will, for the first time, have a voice in the secondary school system as well.

- \* LB662 will not force rural schools to close their doors. No school can be closed without a vote of the people in the current class I district.

- \* LB662 will eliminate the high school tuition problem in Nebraska. All Nebraskans will reside in school districts that provide K-12 education, thus eliminating the need to charge tuition to anyone.



Opponents of LB662 make the following arguments -

\* LB662 would mandate the state-ordered merger of hundreds of local school districts against the will of the people of those districts.

\* LB662 contains the largest state tax increase in Nebraska in decades. Presumably, in so doing, LB662 would provide local property tax relief. However, the one-percentage point increase in the state general sales tax rate probably will not be sufficient to reduce dependence on the property tax to 45 percent of total K-12 funding. Moreover, no lid is placed on property taxes. School districts could leave current rates in place or even increase them. The state would then be forced to increase its state aid payments to bring the property tax share down to 45 percent of the total.

\* Local school district residents should be able to decide the fate of their own schools. School district consolidation is already taking place on a voluntary basis. More than 5,000 school districts have merged in Nebraska in the last four decades. The remaining districts should not be forced to merge by the state.

\* Class I schools offer a high quality education and should not be placed in jeopardy of being closed. Mergers in some rural areas could mean hours of riding buses each day for school children.

\* Mandatory school consolidation is a step toward a centralized public education system financed and run by the state.

\* LB662 is a backdoor attempt to increase state aid to education. Distribution and financing questions associated with state aid should be openly discussed and voted on in the legislature, not disguised as tax or education reform.

\* Although LB662 contains a provision for Class I schools to remain open after affiliation or merger with a K-12 school district, it may be unconstitutional to permit only the Class I residents to vote on a school closing after a Class I district has merged or affiliated with another district.

Referendum order by petition of the people No. 401

MANDATORY SEAT BELT USE LAW

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A vote "FOR" will retain a statutory provision generally requiring any driver and front seat passenger of a motor vehicle operated on a street or highway in the State of Nebraska to wear a safety belt.

A vote "AGAINST" will eliminate a statutory provision generally requiring any driver and front seat passenger of a motor vehicle operated on a street or highway in the State of Nebraska to wear a safety belt.



☒ For

☒ Against

Shall section 1 of Legislative Bill 496, enacted by the Eighty-Ninth Legislature of the State of Nebraska in its First Session, the purpose of which is to require any driver and front seat passenger of a motor vehicle operated on a street or highway in the State of Nebraska to wear a safety belt, be retained?

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LB496, Nebraska's mandatory seat belt use bill was signed into law on June 5, 1985. It applies to drivers and front seat passengers riding in motor vehicles manufactured after 1972. Violators may be fined \$25 each, but only if stopped for another reason. In law suits involving traffic accidents, the statute also allows for deduction of up to 5% from damage awards for failure to mitigate damages by wearing a seat belt.

Due to a successful petition drive by the opponents of this legislation, the question of whether to retain this law will be presented to the voters in November, 1986.

Proponents of LB496 make the following arguments:

\* Seat belts save lives. Under LB496, seat belt use in Nebraska during the first quarter of 1986 was 38-42% compared to only 11-15% during the same period of 1985. At least 50 percent of all people killed in motor vehicle crashes could have been saved if they wore safety belts. Nebraska would save 85 lives a year if everyone wore seat belts.

\* Seat belt usage reduces injuries to automobile passengers. During the first quarter of 1986, Nebraska recorded the fewest injuries to motor vehicle occupants since 1972. Injuries were down 12% from the first quarter of 1985 even though vehicle miles driven were at an all time high.

\* Seat belt usage would save individual citizens and taxpayers millions of dollars in health care costs. Health care costs generated from motor vehicle accidents are second only to those incurred by care of cancer patients.

\* Without a mandatory seat belt law, consumers will face significantly higher prices when buying automobiles due to federal regulations which will require the installation of passive safety devices such as air bags in new cars. Unlike airbags, seat belts are already available in most cars. Airbags or other passive restraints would add \$300-\$800 to the price of a new automobile.

Opponents of LB496 make the following arguments:

\* The decision to wear or not wear a seat belt is a personal choice and should not be dictated by the government. Unlike other safety regulations and traffic laws, the mandatory seat belt law is not designed to protect other parties; it is designed to protect a person from his own actions or the actions of others. This is an infringement on personal rights.

\* Mandatory seat belt laws, including LB496, are the result of "blackmail" tactics by the U.S. Transportation Department. In July of 1984, the Transportation Department issued a final rule on occupant crash protection standards. The rule requires installation of automatic restraints in all new cars by the 1990 model year. This rule would be rescinded if states containing 2/3 of the US population adopt mandatory seat belt laws before April 1, 1989.

\* The cost of freedom is often high. Cost-benefit ratios should not be used to determine the wisdom of restrictions on personal freedoms. Legal prohibitions on all unhealthful or dangerous activities (such as over-eating, hang-gliding, etc.) would likely be economically beneficial to the nation. The resulting loss of freedom, however, would be too high a price to pay.

\* Mandatory seat belt laws are not enforceable. Unenforceable laws should not be put on the books because they create contempt and disregard for law.

#### Proposed Amendment No. 1

##### CHANGE DATE ON WHICH NINETY-DAY SESSION OF LEGISLATURE BEGINS

A vote FOR this proposal will move up the opening date of the 90-day regular legislative session from the first Wednesday after the first Monday in January in odd-numbered years to the fifth Wednesday after the November general election in each even-numbered year, and provide that the terms of members would begin and the succeeding terms end on this first day of the 90-day session; the 90-day regular legislative session would continue to convene on the first Wednesday after the first Monday in January of each even-numbered year.

Those AGAINST this proposal will continue the present schedule under which the 90-day and 60-day regular legislative sessions convene (in the odd-numbered years) on the first Wednesday after the first Monday in January, and under which the terms of the members would begin and the succeeding terms end on the first day of this 90-day session.

Constitutional amendment to change the date on which the Legislature convenes in regular ninety-day sessions and on which the terms of members shall commence.