

# Former Nebraska Senator Appeals Medical Cannabis Legalization

## Former Nebraska Senator Files Direct Appeal to Supreme Court in Bid to Overturn Voter-Approved Medical Marijuana Laws

### *A Renewed Legal Challenge Seeks to Dismantle Nebraska's New Cannabis Legislation*

A former Nebraska state senator has once again challenged the state's newly passed medical cannabis laws by filing a direct appeal to the Nebraska Supreme Court, in a case that could impact the trajectory of marijuana reform in the Cornhusker State.

John Kuehn, a former state senator and past member of the Nebraska State Board of Health, submitted his latest appeal on Saturday, bypassing the intermediate Nebraska Court of Appeals. Kuehn, a vocal and long-time opponent of marijuana legalization, is calling on the state's highest court to rule on the constitutionality of Nebraska's medical marijuana framework approved by voters in 2024.

Kuehn's argument centers on the claim that Nebraska's cannabis laws conflict with federal legislation, which still classifies marijuana as a Schedule I substance under the Controlled Substances Act. His filing asserts that this federal designation renders Nebraska's state-level legalization unconstitutional.

### **Legal Grounds Focus on Preemption, Standing, and Constitutional Interpretation**

The one-page filing submitted by Kuehn argues that his case deserves immediate attention by the Supreme Court because it addresses the constitutionality of state laws—specifically, whether a state can legally establish a medical marijuana program when federal law categorizes cannabis as illegal for all purposes.

In a prior ruling on June 26, Lancaster County District Judge Susan Strong dismissed Kuehn's case, concluding that he lacked "standing," a legal requirement for bringing a lawsuit. Judge Strong said that Kuehn had not demonstrated "injury in fact," meaning a direct and concrete personal harm caused by the laws he sought to invalidate.

Kuehn's argument was that the expenditure of taxpayer funds and public employee time to implement the cannabis laws constituted sufficient injury. Strong rejected that notion, emphasizing that merely being a taxpayer or politically concerned citizen does not automatically provide legal standing.

### **Federal Law Versus State Policy: The Crux of the Constitutional Conflict**

A key claim in Kuehn's appeal is that federal law must preempt state law when the two are in direct conflict. Marijuana remains a Schedule I substance at the federal level, defined as having a high potential for abuse and no accepted medical use. According to Kuehn, this means Nebraska cannot legally implement a program that contradicts this federal classification.

Despite this, nearly 40 U.S. states have passed laws establishing medical marijuana programs, a point that critics of Kuehn's lawsuit frequently raise. The conflict between federal prohibition and state legalization has been a contentious legal and political issue for over a decade.

Notably, federal agencies, including the Department of Health and Human Services and the Food and Drug Administration, have faced increasing pressure from lawmakers and advocacy groups to reclassify or decriminalize cannabis. A recent recommendation from the Department of Health suggests rescheduling cannabis to Schedule III, a less restrictive category, but no final ruling has been issued.

## **Opposition Also Targets the Structure and Oversight of the Cannabis Program**

Kuehn's lawsuit also challenges the legality of the newly established Nebraska Medical Cannabis Commission. The commission, which is charged with overseeing implementation, licensing, and regulation of the state's cannabis market, is alleged by Kuehn to represent an unconstitutional delegation of legislative authority.

The complaint names several state officials and departments, including Governor Jim Pillen, Secretary of State Bob Evnen, State Treasurer Tom Briese, Tax Commissioner Jim Kamm, and the ballot initiative sponsors behind the 2024 campaign.

Kuehn and his legal team argue that the Legislature improperly allowed executive agencies to make regulatory decisions that should fall solely within the purview of the legislative branch.

## **Nebraska Attorney General Also Expresses Opposition to Cannabis Rollout**

The Nebraska Attorney General's Office, led by Republican Mike Hilgers, has also challenged the state's cannabis laws—though from a different angle. The AG's office previously moved to dismiss Kuehn's lawsuit on procedural grounds, but pledged to file its own case against the Medical Cannabis Commission once licensing begins, citing similar constitutional concerns.

Under the new laws, the commission is required to begin licensing cannabis businesses no later than October 1, 2025. The attorney general's challenge is expected to focus on federal preemption and whether the state is empowered to issue licenses for a substance that remains illegal at the federal level.

## **A Parallel Legal Battle Questions Ballot Signature Validity**

In addition to the direct constitutional challenge, Kuehn is also a plaintiff in a separate legal case currently awaiting review by the Nebraska Supreme Court. That case, which includes Secretary of State Evnen and Attorney General Hilgers as co-plaintiffs, seeks to invalidate the 2024 ballot measures altogether.

The lawsuit claims that insufficient valid signatures were collected to qualify the medical marijuana initiatives for the ballot in the first place. However, Judge Strong ruled last November that the measures had been properly certified, allowing the vote to proceed.

More than 70 percent of Nebraska voters supported the legalization measure, while 67 percent backed the accompanying regulatory framework, marking a landslide victory for medical cannabis advocates.

## **Cannabis Reform Advocates Denounce Legal Maneuvers as Politically Motivated**

Crista Eggers, executive director of Nebraskans for Medical Marijuana and a lead figure in the 2024 campaign, denounced the ongoing legal efforts to overturn the law. In a public statement, she characterized

Kuehn's latest appeal as a "desperate attempt" to override the will of the people.

Eggers and other advocates argue that the lawsuits reflect outdated ideologies and political resistance to progressive drug policy reform rather than genuine legal flaws.

## **What's Next: Nebraska Supreme Court Holds the Key to Medical Cannabis Future**

With two cases now awaiting review by Nebraska's highest court, the future of the state's voter-approved medical marijuana program hangs in the balance. If the court decides to hear either or both appeals, its decisions could set significant precedents for how state-level cannabis policies interact with federal law and ballot initiative processes.

The Supreme Court is expected to decide by September whether to take up the direct appeal and will also begin hearing oral arguments in the signature validation case around the same time.

In the meantime, the Medical Cannabis Commission is moving forward with preparing for the October 1 licensing deadline unless a judicial order halts its progress.

For now, Nebraska remains in legal limbo, emblematic of a broader national conflict between evolving state cannabis policies and the slow-moving machinery of federal reform.

Email: [info@cannabisriskmanager.com](mailto:info@cannabisriskmanager.com) | Phone: +415-226-4060

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