

FIRST DAY - JANUARY 8, 2020**LEGISLATIVE JOURNAL****ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION****FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Wednesday, January 8, 2020

PRAYER

The prayer was offered by Senator Williams.

PRESENTATION OF COLORS

Presentation of Colors by the Nebraska State Patrol - Headquarters Troop Honor Guard.

ROLL CALL

Pursuant to the provisions of Article III, Section 10 of the Constitution of Nebraska, the One Hundred Sixth Legislature, Second Session of the Legislature of Nebraska assembled in the George W. Norris Legislative Chamber of the State Capitol at the hour of 10:00 a.m., on Wednesday, January 8, 2020, and was called to order by President Foley.

The roll was called and the following members were present:

Albrecht, Joni	Gragert, Tim	Lowe, John S.
Arch, John	Groene, Michael	McCollister, John S.
Blood, Carol	Halloran, Steve	McDonnell, Mike
Bolz, Kate	Hansen, Ben	Morfeld, Adam
Bostelman, Bruce	Hansen, Matt	Moser, Mike
Brandt, Tom	Hilgers, Mike	Murman, Dave
Brewer, Tom	Hilkemann, Robert	Pansing Brooks, Patty
Briese, Tom	Howard, Sara	Quick, Dan
Cavanaugh, Machaela	Hughes, Dan	Scheer, Jim
Chambers, Ernie	Hunt, Megan	Slama, Julie
Clements, Robert	Kolowski, Rick	Stinner, John P.
Crawford, Sue	Kolterman, Mark A.	Vargas, Tony
DeBoer, Wendy	La Grone, Andrew	Walz, Lynne
Dorn, Myron	Lathrop, Steve	Wayne, Justin
Erdman, Steve	Lindstrom, Brett	Williams, Matt
Friesen, Curt	Linehan, Lou Ann	Wishart, Anna
Geist, Suzanne		

CERTIFICATE

State of Nebraska

United States of America,) ss.
 State of Nebraska)

Secretary of State
 State Capitol
 Lincoln, Nebraska

I, Robert B. Evnen, Secretary of State of the State of Nebraska, do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the One Hundred Sixth Legislature, Second Session, 2020.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the One Hundred Sixth Legislature, Second Session, 2020.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska on this date of January 8, 2020.

(SEAL)

(Signed) Robert B. Evnen
 Secretary of State

DISTRICT/NAME	ELECTED
1 Julie Slama - Appointed	January 9, 2019
2 Robert Clements	November 6, 2018
3 Carol Blood	November 8, 2016
4 Robert Hilkemann	November 6, 2018
5 Mike McDonnell	November 8, 2016
6 Machaela Cavanaugh	November 6, 2018
7 Tony Vargas	November 8, 2016
8 Megan Hunt	November 6, 2018
9 Sara Howard	November 8, 2016
10 Wendy DeBoer	November 6, 2018
11 Ernie Chambers	November 8, 2016
12 Steve Lathrop	November 6, 2018
13 Justin Wayne	November 8, 2016
14 John Arch	November 6, 2018
15 Lynne M. Walz	November 8, 2016
16 Ben Hansen	November 6, 2018
17 Joni Albrecht	November 8, 2016
18 Brett Lindstrom	November 6, 2018
19 Jim Scheer	November 8, 2016

20	John S. McCollister	November 6, 2018
21	Mike Hilgers	November 8, 2016
22	Mike Moser	November 6, 2018
23	Bruce Bostelman	November 8, 2016
24	Mark A. Kolterman	November 6, 2018
25	Suzanne Geist	November 8, 2016
26	Matt Hansen	November 6, 2018
27	Anna Wishart	November 8, 2016
28	Patty Pansing Brooks	November 6, 2018
29	Kate Bolz	November 8, 2016
30	Myron Dorn	November 6, 2018
31	Rick Kolowski	November 8, 2016
32	Tom Brandt	November 6, 2018
33	Steve Halloran	November 8, 2016
34	Curt Friesen	November 6, 2018
35	Dan Quick	November 8, 2016
36	Matt Williams	November 6, 2018
37	John S. Lowe Sr.	November 8, 2016
38	Dave Murman	November 6, 2018
39	Lou Ann Linehan	November 8, 2016
40	Tim Gragert	November 6, 2018
41	Tom Briese	November 8, 2016
42	Michael Groene	November 6, 2018
43	Tom Brewer	November 8, 2016
44	Dan Hughes	November 6, 2018
45	Sue Crawford	November 8, 2016
46	Adam Morfeld	November 6, 2018
47	Steve Erdman	November 8, 2016
48	John P. Stinner Sr.	November 6, 2018
49	Andrew La Grone - Appointed	January 9, 2019

MESSAGE(S) FROM THE GOVERNOR

June 5, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Educational Telecommunications Commission:

Dorothy C. Anderson, 3210 Van Dorn Street, Lincoln, NE 68502
Jacque Carter, 535 Boswell Avenue, Crete, NE 68333

The aforementioned appointees are respectfully submitted for your

consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

June 25, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the State Emergency Response Commission:

Kyle Keeling, 1420 2nd Street, Sutherland, NE 69165
Tonya Ngotel, 1929 Washington Street, Lincoln, NE 68502

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

June 25, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Child Abuse Prevention Fund Board:

David J. Hansen, Ph.D., 7510 Cantrell Circle, Lincoln, NE 68523
Jillian Chance, 3625 Old Dominion Road, Lincoln, NE 68516

Contingent upon your approval, the following individual is being reappointed to the Nebraska Child Abuse Prevention Fund Board:

Shelly K. McQuillan, 1106 East G Street, Ogallala, NE 69153

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

June 26, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Commission on Problem Gambling:

Kelly Lambert, 239 Courtland Street, Turnbull, NE 68980

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

June 26, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Tourism Commission:

Robert Phillip Sabin Jr., 7818 Shirley Street, Omaha, NE 68124

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

June 26, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Environmental Quality Council:

Karl Barfuss, 3205 Gold View Drive, Norfolk, NE 68701
Norris Marshall, 186 W Road, Kearney, NE 68845

Contingent upon your approval, the following individuals are being reappointed to the Environmental Quality Council:

Douglas Anderson, 1407 West 10 Road, Aurora, NE 68818
Dennis D. Grams, 8701 S. 64 Street, Lincoln, NE 68516
James W. Hawks, 3121 West Phillip, North Platte, NE 69101

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

July 31, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Board of Parole:

Mark T. Langan, 3514 N. 12th Avenue, Omaha, NE 68164

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

July 31, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Director of the Department of Economic Development:

Anthony Goins, 3224 Sheridan Court, Lincoln, NE 68506

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

August 6, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Ethanol Board:

Timothy L. Else, 6171 Road U, Belvidere, NE 68315
Jan K. tenBensel, 703 Nasby Street, Cambridge, NE 69022

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

(Signed) Sincerely,
Pete Ricketts
Governor

Enclosures

August 28, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed as the Chief Medical Officer and Director of the Nebraska Department of Health and Human Services - Division of Public Health:

Gary J. Anthone, M.D., F.A.C.S., 10506 Burt Circle, Omaha, NE 68114

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

(Signed) Sincerely,
Pete Ricketts
Governor

Enclosures

September 17, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Motor Vehicle Industry Licensing Board:

Curt Prohaska, 18977 SW 66th Street, Crete, NE 68333

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Motor Vehicle Industry Licensing Board:

Joseph Kosiski, 5808 M Street, Omaha, NE 68117
Stephan Budke, 920 Dillon Circle, North Platte, NE 69101
Dennis R. Schworer, 417 Ridgewood Drive, Bellevue, NE 68005

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 19, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Coordinating Commission for Postsecondary Education:

Timothy Daniels, 9214 Crown Point Avenue, Omaha, NE 68134
Charles Garman, 16859 Saratoga Circle, Omaha, NE 68116

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 19, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Power Review Board:

Elizabeth A. Hilyard, 210038 Pinecone Drive, Gering, NE 69341

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 19, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the State Racing Commission:

Janelle Beveridge, 411 West 2nd Street, Paxton, NE 69155

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 24, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Environmental Quality Council:

Seth B. Harder, 54011 Highway 20, Plainview, NE 68769

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 25, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the Technical Advisory Committee on Statewide Assessment:

Chad W. Buckendahl, Ph.D., 2467 Cordoba Bluff Court, Las Vegas, NV,
89135
Cindy Gray, 3861 S. 182 Street, Omaha, NE 68130

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 25, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Crime Victim's Reparations Committee:

Anne C. Boatright, 12323 Westover Road, Omaha, NE 68154

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 30, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the State Emergency Response Commission:

Polly Ann Jordening, 4032 Buckingham Drive, Grand Island, NE 68803
Kimberly K. Plouzek, 1417 County Road D, Dorchester, NE 68343

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

September 30, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Nebraska Oil and Gas Conservation Commission:

John Arley Rundel, 416 East C Street, Trenton, NE 69044

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 4, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Beginning Farmer Board:

Wade E. Thornburg, 608 27th Circle, Beatrice, NE 68310
Dave W. Nielsen, 7100 Raymond Road, Lincoln, NE 68517

Contingent upon your approval, the following individual is being reappointed to the Beginning Farmer Board:

Bradley D. Lubben, Ph.D., 20508 Maple Circle, Eagle, NE 68347

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 4, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed

to the State Electrical Board:

David Hunter Jr., 63809 730 Road, Auburn, NE 68305

Contingent upon your approval, the following individual is being reappointed to the State Electrical Board:

James S. Brummer, 1823 Imperial Road, Norfolk, NE 68701

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 4, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Motor Vehicle Industry Licensing Board:

Brad Jacobs, 1404 Kendall Street, St. Paul, NE 68873
Thomas R. McCaslin, 1749 N. D Street, Broken Bow, NE 68822
Dennis Cloninger, 832 N Nebraska 7, York, NE 68467
Clint Jones, 46341 N. 400 Avenue, Genoa, NE 68640
Matthew O'Daniel, 2843 Dale Lane, Arlington, NE 68002

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 4, 2019

Mr. President, Speaker Scheer
and Members of the Legislature

State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Environmental Trust Board:

Jeff T. Kanger, 4316 S. 49th Street, Lincoln, NE 68516

Contingent upon your approval, the following individual is being reappointed to the Nebraska Environmental Trust Board:

Sherry Vinton, 80687 Haney Lane, Whitman, NE 69366

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 5, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Nebraska Rural Health Advisory Commission:

Sandra Torres, M.D., 2223 Dodge Street, Apt. 403, Omaha, NE 68102
Michael Allen Christopher Green, M.D., CHI Health University Campus,
2415 Cuming Street, Omaha, NE 68131

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 6, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Board of Educational Lands and Funds:

Glenn R. Wilson Jr., 3103 Brentwood Circle, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

November 6, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being reappointed to the State Highway Commission:

Jerome A. Fagerland, 501 North Madison, Atkinson, NE 68713
James W. Hawks, 3121 West Phillip, North Platte, NE 69101
Douglas Leafgreen, 1625 Aspen, Gering, NE 69341

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Commission for the Blind and Visually Impaired:

Kimberly Scherbarth, 3810 L Avenue, Kearney, NE 68847
Brent Heyen, 3001 R Street, Lincoln, NE 68503

Contingent upon your approval, the following individual is being reappointed to the Commission for the Blind and Visually Impaired:

Mark M. Bulger, 7520 S. 135 Street, Omaha, NE 68138

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Commission for the Deaf and Hard of Hearing:

Jonathan Scherling, 5112 Mason Street, Omaha, NE 68106
Robert J. Feit, 2510 Norman Circle, Lincoln, NE 68512

Contingent upon your approval, the following individual is being reappointed to the Commission for the Deaf and Hard of Hearing:

Candice Arteaga, 629 Oak Street, Greenwood, NE 68366

The aforementioned appointees are respectfully submitted for your

consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Child Abuse Prevention Fund Board:

Jillian Chance, 3625 Old Dominion Road, Lincoln, NE 68516

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being reappointed to the Nebraska Investment Council:

John M. Dinkel, 4800 N. Deer Run Drive, Norfolk, NE 68701

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being
reappointed to the Tax Equalization and Review Commission:

James D. Kuhn, 4511 E. Bismark, Grand Island, NE 68801

The aforementioned appointee is respectfully submitted for your
consideration. Copies of the certificate and background information are
included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being
reappointed to the Nebraska State Fair Board:

Beth Smith, 2310 Woodsdale Blvd., Lincoln, NE 68502

The aforementioned appointee is respectfully submitted for your
consideration. Copies of the certificate and background information are
included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the State Emergency Response Commission:

Rod Buethe, 20304 Westridge Road, Gretna, NE 68028

The aforementioned appointee is respectfully submitted for your consideration. Copies of the certificate and background information are included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 18, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Commission on Problem Gambling:

Claudia Louise Barthold, M.D., 200 S. 31st Avenue, #4709, Omaha, NE 68131

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Commission on Problem Gambling:

Mark R. Canada, 5301 Sky Loch Drive, Hastings, NE 68901
Cameron J. Arch, 7204 S. 160th Street, Omaha, NE 68136
Kelly J. Lambert, 239 Courtland Street, Trumbull, NE 68980

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificate and background information are

included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

December 20, 2019

Mr. President, Speaker Scheer
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Speaker Scheer and Members of the Legislature:

Contingent upon your approval, the following individuals are being
reappointed to the Public Employees Retirement Board:

Allen Simpson, 2401 Ryons Street, Lincoln, NE 68502
Michael D. Jahnke, 4002 Sunset Drive, North Platte, NE 69101
Kelli M. Ackerman, 2557 Wilderness Ridge Circle, Lincoln, NE 68512

The aforementioned appointees are respectfully submitted for your
consideration. Copies of the certificate and background information are
included for your review.

Sincerely,
(Signed) Pete Ricketts
Governor

Enclosures

ATTORNEY GENERAL'S OPINIONS

Opinion 19-010

SUBJECT: Constitutionality of LB 110 – Adoption of the
 Medical Cannabis Act

REQUESTED BY: Senator Andrew La Grone
 Nebraska Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General
 David A. Lopez, Deputy Solicitor General

INTRODUCTION

You have requested an opinion from this office regarding the
constitutionality of LB 110, which would create the Medical Cannabis Act

("MCA"). Committee Amendment 1680 to LB 110 ("AM1680"), currently pending on General File, would authorize the cultivation, processing, wholesale distribution, and retail sale of cannabis (marijuana) and cannabis products for medical uses under Nebraska law. It would establish a regulatory framework to govern these activities and a wholly new government agency—the "Cannabis Enforcement Department"—to enforce this regulatory scheme through producer and patient registration, inspections, licensure, fee collection, and related rulemaking.

Your specific question asks whether the MCA, if enacted, would be preempted by the federal Controlled Substances Act ("CSA"), the money laundering statutes, the unlicensed money transmitter statute, or the Bank Secrecy Act. To the extent the latter three categories of statutes govern this question, it is primarily based on the underlying CSA provisions. *See, e.g.*, 18 U.S.C. §§ 1956(c)(7)(B)(i), 1957 (money laundering); 18 U.S.C. § 1960(b)(1)(C) (unlicensed money transmitting); 31 U.S.C. § 5318; 31 C.F.R. § 1020.320 (Bank Secrecy Act regulation requiring financial institutions to file suspicious activity reports for transactions involving funds derived from federally illegal activities). The following analysis will thus focus on preemption under the CSA. As explained below, it is the opinion of this office that the MCA would be preempted.

ANALYSIS

I. The Controlled Substances Act

The CSA establishes a comprehensive federal scheme to regulate the market in controlled substances. This "closed regulatory system mak[es] it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA." *Gonzales v. Raich*, 545 U.S. 1, 13 (2005) (citing 21 U.S.C. §§ 841(a)(1), 844(a)).

To effectuate that "closed" system, the CSA "authorizes transactions within 'the legitimate distribution chain' and makes all others illegal." *United States v. Moore*, 423 U.S. 122, 141 (1975) (quoting H.R. Rep. No. 1444, *supra*, Pt. 1, at 3). Violators of the CSA are subject to criminal and civil penalties, and ongoing or anticipated violations may be enjoined. 21 U.S.C. §§ 841-863, 882(a).

The CSA categorizes all controlled substances into five schedules. *Id.* at § 812. The CSA's restrictions on the manufacture, distribution, and possession of a controlled substance depend upon the schedule in which the drug has been placed. *Id.* at §§ 821-829. The drugs are grouped together based on their accepted medical uses, the potential for abuse, and their psychological and physical effects on the body. *Id.* at §§ 811, 812. Each schedule is associated with a distinct set of controls regarding the manufacture, distribution, and use of the substances listed therein. *Id.* at §§ 821-830.

Since Congress enacted the CSA in 1970, marijuana and tetrahydrocannabinols have been classified as Schedule I controlled substances. See Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, § 202, 84 Stat. 1249 (Schedule I(c)(10) and (17)); 21 U.S.C. § 812(c) (Schedule I(c)(10) and (17)).

A drug is listed in Schedule I if it has "a high potential for abuse," "no currently accepted medical use in treatment in the United States," and "a lack of accepted safety for use . . . under medical supervision." 21 U.S.C. § 812(b)(1)(A)-(C). By classifying marijuana as a Schedule I drug, Congress mandated that the manufacture, distribution, or possession of marijuana be a criminal offense, with the sole exception being use of the drug as part of a Food and Drug Administration preapproved research study. 21 U.S.C. §§ 823, 841(a)(1), 844(a); *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483, 489-490, 492 (2001).

In the CSA, Congress included findings and declarations regarding the effects of drug distribution and use on the public health and welfare and the effects of intrastate drug activity on interstate commerce. Congress found, for example, that "[t]he illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people." 21 U.S.C. § 801(2). Congress also found:

A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

Id. at § 801(3). Congress further found that "[l]ocal distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances," *id.* at § 801(4); that "[c]ontrolled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate" and "[t]hus, it is not feasible to distinguish" between such substances "in terms of controls," *id.* at § 801(5); and that "[f]ederal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic," *id.* at § 801(6). The federal

executive branch confirmed this understanding of the intent and purpose of the CSA in 2004. Brief for the Petitioners, *Ashcroft v. Raich*, 545 U.S. 1 (2005) (No. 03-1454), 2004 WL 1799022, at *11.

Congress has not amended the CSA to remove marijuana from Schedule I, nor have considerable efforts to administratively reschedule marijuana been successful.¹

II. LB 110—the Medical Cannabis Act

The MCA (under AM1680 to LB 110) would authorize the production, distribution, sale, and consumption of medical marijuana in Nebraska and establish an elaborate, state-run regulatory system to govern those activities. There is no material dispute that its text is intended to establish as comprehensive a regime as possible to place the state itself in the position of authorizing, licensing, inspecting, and monitoring these activities, and to collect fees from entities permitted by the state to produce, process, and dispense marijuana and marijuana products. Several of the MCA's provisions are worth specifically highlighting.

The MCA would permit certified patients and designated caregivers to apply to a newly-created "Cannabis Enforcement Department" for enrollment in a registry program, after which they would be permitted to purchase and consume marijuana and marijuana products. AM1680, §§ 8-10, 31. Non-Nebraska residents would be permitted to participate subject to certain conditions. §§ 17, 32. Patients would qualify for participation after a diagnosis of a "qualifying medical condition," which the MCA defines by enumerating seventeen specific health conditions. § 24.

The new Cannabis Enforcement Department would be charged with developing an application for patient enrollment in the registry program, § 34, registration of designated caregivers, § 35, permitting non-patient "caregivers" to possess marijuana and distribute it to patients, § 36, and for creating a written certification form to be used by participating health care practitioners. § 39(1). The new agency is also required to develop requirements for a medical necessity waiver to allow a patient to possess a greater quantity of cannabis than otherwise allowed, § 39(3), and to provide for classification and regulation of commercial producers based on size. § 39(4).

The MCA would require that "[a] producer of cannabis *shall provide a reliable and ongoing supply* of cannabis needed for the registry program." § 41(1) (emphasis added). It would direct the Cannabis Enforcement Department to register and regulate a limited number of producers and all qualifying processors for the production and processing of all cannabis within Nebraska. § 40. The Department would also be required to register a limited number of dispensaries for the dispensing and sale of all cannabis for medical use in the state. § 43. The MCA would direct the Nebraska State

Patrol to assist in executing the MCA by conducting criminal background checks of industry participants. § 47.

Additionally, the MCA would provide for the collection of fees by the Cannabis Enforcement Department, directing the new agency to collect an application fee of \$25,000 for dispensaries, an application fee of up to \$5,000 for producers or processors or, for producers or processors in the tier allowed to cultivate the largest number of plants, an application fee of not more than \$25,000. § 61. The Department shall establish an annual fee for producers in the tier allowed to cultivate the largest number of plants of not more than \$40,000, and an annual fee of not more than \$5,000 for producers not in such tier. *Id.* Processors not licensed to perform solvent-based extractions on cannabis are subject to an annual fee of not more than \$5,000, while processors permitted to perform additional solvent-based extractions are subject to an annual fee of not more than \$40,000. *Id.* The Department shall establish an annual fee for dispensaries of not more than \$25,000. *Id.* Laboratories are to be assessed an annual fee not to exceed \$15,000. *Id.*

In sum, the MCA would, through its extensive licensure and regulatory scheme, place the state in the position of affirmatively facilitating the cultivation, processing, wholesale distribution, and retail sale of marijuana and marijuana products.

III. The U.S. Supreme Court's decision in *Gonzales v. Raich* establishes that state-level marijuana schemes like the Medical Cannabis Act are preempted by the CSA and therefore unconstitutional.

The Supremacy Clause of the United States Constitution provides that "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." Art. VI, cl. 2. As a consequence of this constitutional command, "a state statute is void to the extent it conflicts with a federal statute – if, for example, 'compliance with both federal and state regulations is a physical impossibility' . . . or where the law 'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" *Maryland v. Louisiana*, 451 U.S. 725, 747 (1981) (citations omitted).

In 1996, California voters passed Proposition 215, known as the "Compassionate Use Act." Under this Act, "seriously ill" California residents were allowed access to marijuana for medical purposes. *Gonzales v. Raich*, 545 U.S. 1, 7 (2005). The Act exempted from criminal prosecution patients and their "primary caregivers" who possessed or cultivated marijuana for medicinal purposes with the recommendation or approval of a physician. *Id.* at 6. The Act required that the marijuana that was being grown by the patient or caregiver be used *only* for the patient's personal use.

Id. The California scheme was thus a purely noncommercial, compassionate use-based regime.

After DEA agents raided the homes of two seriously ill Californians who were in full compliance with the California Act, those Californians brought suit, seeking injunctive and declaratory relief prohibiting the enforcement of the federal CSA to the extent it prevents them from possessing, obtaining, or manufacturing cannabis for their personal medical use. *Id.* at 7.

The case made its way to the Supreme Court, where the federal government argued that marijuana was a drug with "significant potential for abuse and dependence," and was a "fungible commodity that is regularly bought and sold in an interstate market." Reply Brief for Petitioners, *Ashcroft v. Raich*, 545 U.S. 1 (2005) (No. 03-1454), 2004 WL 2652615, at *1. "That market," the federal government explained, "like the market for numerous other drugs having a significant potential for abuse and dependence, *is comprehensively regulated by the [CSA].*" *Id.* (emphasis added). Because Congress explicitly found that marijuana has "no currently accepted medical use in treatment in the United States" and had categorized marijuana as a "Schedule I" drug, the CSA was enacted "[i]n order to eradicate the market for such drugs." *Id.* As such, the federal government argued, "the CSA makes it unlawful to manufacture, distribute, dispense, or possess *any* Schedule I drug for *any* purpose, medical or otherwise, except as part of a strictly controlled research project." *Id.* (emphasis in original).

Nor, argued the federal government, was it "relevant that respondents' conduct may be lawful under state law" because "[u]nder the Supremacy Clause, state law cannot insulate conduct from the exercise of Congress's enumerated powers." *Id.* "Here," argued the government, "regulation of intrastate activities is an *essential* part of Congress's regulation of the interstate drug market and Congress's goal of achieving a comprehensive and uniform system that guards against drug abuse and diversion and permits manufacturing and distribution for legitimate medical uses only under carefully prescribed safeguards in the CSA itself." *Id.*

The Supreme Court agreed, having "no difficulty concluding that Congress had a rational basis for believing that failure to regulate the intrastate manufacture and possession of marijuana would leave a *gaping hole in the CSA.*" *Raich*, 545 U.S. at 22 (emphasis added).

"First," the Court said, "the fact that marijuana is used 'for personal medical purposes on the advice of a physician'" is irrelevant, because "the CSA designates marijuana as contraband for *any* purpose." *Id.* at 27 (emphasis in original). "Moreover," said the Court, "the CSA is a comprehensive regulatory regime specifically designed to regulate which controlled substances can be utilized for medicinal purposes, and in what manner." *Id.* "Thus, even if respondents are correct that marijuana does have accepted medical uses . . . the CSA would still impose controls beyond what is required by California law" because "[t]he CSA requires manufacturers,

physicians, pharmacies, and other handlers of controlled substances to comply with statutory and regulatory provisions mandating registration with the DEA, compliance with specific production quotas, security controls to guard against diversion, recordkeeping and reporting obligations, and prescription requirements." *Id.* "Accordingly," the Court concluded, "the mere fact that marijuana – like virtually every other controlled substance regulated by the CSA – is used for medicinal purposes cannot possibly serve to distinguish it from the core activities regulated by the CSA." *Id.*

"One need not have a degree in economics to understand why . . . an exemption [from the CSA] for the vast quantity of marijuana (or other drugs) locally cultivated for personal use . . . [would] have a substantial impact on the interstate market for [marijuana]." *Id.* at 28. Thus, the policy judgment Congress made in the CSA "that an exemption for such a significant segment of the total market would undermine the orderly enforcement of the entire regulatory scheme is entitled to a strong presumption of validity." *Id.* Nor, said the Court, can "limiting the activity to marijuana possession and cultivation 'in accordance with state law' . . . serve to place [California's law] beyond congressional reach." *Id.* at 29.

The Court thus soundly rejected the notion that the marijuana production and use at issue "were not 'an essential part of a larger regulatory scheme' because they had been 'isolated by the State of California, and [are] policed by the State of California,' and thus remain 'entirely separated from the market.'" *Id.* at 30. "The notion that California law has surgically excised a discrete activity that is hermetically sealed off from the larger interstate marijuana market is a dubious proposition," concluded the Court, and one that Congress rationally rejected when it enacted the CSA. *Id.*

In the end, concluded the Court, if California wished to legalize the growing, possession, and use of marijuana, it would have to seek permission to do so "in the halls of Congress." *Id.* at 33.

It is the opinion of this office that the MCA would suffer from the same legal infirmities as the California scheme in *Raich*. Notwithstanding the fact that state-level marijuana legalization schemes have spread in the recent (and discretionary) unwillingness by the federal government to civilly enforce the CSA against states, that exercise of discretion simply does not change the federal law that remains on the books and which Congress has steadfastly maintained.

That is evident from the text of the various administrative memoranda that have been issued to guide the federal government's present posture of nonenforcement. In the most recent of these, issued in early 2018, even as the U.S. Attorney General directed federal prosecutors to follow well-established principles in determining which marijuana activities merited prosecution within their jurisdiction, he premised his guidance with a reaffirmation of the CSA's prohibition of the cultivation, distribution, and possession of marijuana. Memorandum from Jefferson B. Sessions,

Attorney General, U.S. Department of Justice, to All United States Attorneys (Jan. 4, 2018). Intra-bureaucratic guidance memoranda simply do not change federal law.

Given *Gonzales v. Raich*, and given the text and legislative history of the CSA, there is no doubt that *Congress* intended the CSA to serve the purpose of making *all* manufacture, sale, and possession of regulated drugs illegal, except to the extent explicitly authorized by the CSA. Nothing about the federal government's relaxed view of its enforcement obligations under the CSA changes the fact that *Congress* intended the CSA to prohibit the type of legalization proposed by the MCA.

Indeed, in the briefing it filed with the Supreme Court in *Gonzales v. Raich*, the federal government confirmed that it shares this understanding of the intent and purpose of the CSA. Brief for the Petitioners, *Ashcroft v. Raich*, 545 U.S. 1 (2005) (No. 03-1454), 2004 WL 1799022, at *11 ("Congress has concluded that regulation of *all* intrastate drug activity 'is essential to the effective control' of interstate drug trafficking.") (emphasis added). Congress has taken no action in the decade-plus since to indicate a different intent and purpose. And, if "excepting drug activity for personal use or free distribution from the sweep of the CSA would discourage the consumption of lawful controlled substances and would undermine Congress's intent to regulate the drug market comprehensively to protect public health and safety" (Brief for the Petitioners, *Ashcroft v. Raich*, 545 U.S. 1 (2005) (No. 03-1454), 2004 WL 1799022, at *11), then the comprehensive commercial distribution scheme proposed by the MCA undoubtedly would do the same.

This is particularly so given the CSA's provision at 21 U.S.C. § 903 that a state law is preempted when a "positive conflict" exists such that a CSA provision and the state law in question "cannot consistently stand together." Such a positive conflict clearly exists between the CSA and the MCA.

CONCLUSION

In sum, we conclude that the MCA, by creating a state regulatory scheme that would affirmatively facilitate the cultivation, processing, wholesale distribution, and retail sale of federal contraband on an industrial scale, would frustrate and conflict with the purpose and intent of the CSA. Accordingly, we conclude that the MCA would be preempted by the CSA and would be, therefore, unconstitutional.

Sincerely,
DOUGLAS J. PETERSON
Attorney General
(Signed) David A. Lopez
Deputy Solicitor General

pc: Patrick J. O'Donnell
Clerk of the Nebraska Legislature

¹ Notably, even the recent farm bill, legislation which legalized the commercial production of hemp (defined as cannabis or cannabis derivatives with a tetrahydrocannabinol concentration ("THC") of 0.3 percent or less), stopped well short of removing marijuana from Schedule I. Agriculture Improvement Act of 2018, Pub. L. No. 115-334, §§ 10113, 12619 (2018). Likewise, continuing federal appropriations provisions which prohibit the U.S. Department of Justice from using funds to interfere with state medical marijuana laws in no way modify the CSA, much less remove marijuana from Schedule I. *See, e.g.*, Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 538 (2018). Any argument that such provisions substantively change the underlying CSA marijuana prohibition misapprehends the state of the controlled substances laws, generally, and the function of appropriations riders, specifically.

Opinion 19-012

SUBJECT: Constitutionality of the Appointment of County
 Election Commissioners and their Chief Deputies

REQUESTED BY: Senator Matt Hansen
 Nebraska State Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General
 Lynn A. Melson, Assistant Attorney General

INTRODUCTION

You have requested an opinion from this office concerning the appointment of county election commissioners and their chief deputies. You note that Neb. Const. art. IX, § 4 states that "[t]he Legislature shall provide by law for the election of such county and township officers as may be necessary. . . ." Your two questions are as follows:

1. Whether the election commissioners provided for under Neb. Rev. Stat. §§ 32-207 and 32-211 are county officers under Nebraska Article IX, Section 4 of the Nebraska Constitution.
2. If election commissioners are county officers, whether the appointment of election commissioners and their deputies violates Article IX, Section 4 of the Nebraska Constitution.

You explain that you are "considering legislation that would make the offices of election commissioner and deputy election commissioner subject to popular vote rather than appointment by the Governor and county boards." Therefore, we will also discuss whether chief deputy election commissioners are county officers who must be elected pursuant to Neb. Const. art. IX, § 4.

ARTICLE IX, § 4 AND APPLICABLE STATUTES

Neb. Const. art. IX, § 4 provides: "The Legislature shall provide by law for the election of such county and township officers as may be necessary and for the consolidation of county offices for two or more counties; *Provided*, that each of the counties affected may disapprove such consolidation by a majority vote in each of such counties."

Turning to the statutes most relevant to your questions, Neb. Rev. Stat. § 32-207 (2016) provides that "[t]he office of election commissioner shall be created for each county having a population of more than one hundred thousand inhabitants. The election commissioner shall be appointed by the Governor and shall serve for a term of four years or until a successor has been appointed and qualified." Currently, Douglas, Lancaster, and Sarpy counties have election commissioners appointed by the Governor.

In those counties having a population of more than one hundred thousand inhabitants, the election commissioner must appoint a chief deputy election commissioner who is a member of a different political party than the election commissioner. Neb. Rev. Stat. § 32-209 (2016).

Neb. Rev. Stat. § 32-211 (2016) provides that the county board of each county with not less than twenty thousand nor more than one hundred thousand inhabitants "may" create the office of election commissioner and shall appoint that election commissioner. It is our understanding that, currently, four counties have election commissioners appointed by their county boards.

Section 32-211 further provides that, if an election commissioner is appointed by a county board, the board also has the option of appointing a chief deputy election commissioner of a different political party than the election commissioner.

Neb. Rev. Stat. § 32-218 (2016) provides that the county clerk will perform the duties assigned to the election commissioner, except in those counties which have an election commissioner pursuant to § 32-207 or § 32-211.

ANALYSIS**I. Whether Election Commissioners Are County Officers.**

Your first question is whether election commissioners (and chief deputy election commissioners) are county officers. The Nebraska Supreme Court has discussed the indicia of public office on multiple occasions. Characteristics of a public office include the creation of the position by constitution or a statute, a definite or fixed term of office, a required oath of office and the ability to exercise an independence beyond that of employees.

"When a position based upon a provision of law carries with it continuing duties of public concern which involve some exercise of the sovereign power in their proper performance, the position may be said to be an office public in character." *Eason v. Majors*, 111 Neb. 288, 291, 196 N.W. 133, 134 (1923) (holding that a department head at the state normal school was a public officer). "[A] public officer is an incumbent of a public office, which is the right, duty and authority conferred by law, by which, for a given period, an individual is invested with some portion of the sovereign functions of government for the benefit of the public." *Home Savings & Loan Ass'n v. Carrico*, 123 Neb. 25, 30, 241 N.W. 763, 765 (1932) (holding that an attorney appointed to represent an indigent defendant was neither an officer nor an employee).

In *State ex rel. O'Connor v. Tusa*, 130 Neb. 528, 535, 265 N.W. 524, 528 (1936) ["*Tusa*"], the Nebraska Supreme Court noted the following definition of "office": "An office is a public station or employment, conferred by the appointment of government. The term embraces the ideas of tenure, duration, emolument, and duties." (quoting *United States v. Hartwell*, 73 U.S. 385, 393 (1867)). "It may be said that the almost universal rule is that, in order to indicate office, the duties must partake in some degree of the sovereign powers of the state." *Tusa* at 535, 265 N.W. at 528. After examining the statutory duties of a county manager, the Court determined that a county manager was a county officer. As we will discuss in greater detail in our response to your second question, the Court held that, because the county managers under those statutes were appointed to office, rather than elected, the statutes violated Neb. Const. art. IX, § 4.

Applying this analysis to your inquiry, we find that county election commissioners and chief deputy election commissioners in Nebraska are county officers. The "office of election commissioner" for each county with more than one hundred thousand inhabitants is created by statute, Neb. Rev. Stat. § 32-207 (2016). The election commissioner is appointed by the Governor for a term of four years. *Id.* Counties with a population of not less than twenty thousand nor more than one hundred thousand may create the "office of election commissioner." Neb. Rev. Stat. § 32-211 (2016). The election commissioner is appointed by the county board for a term of four years. *Id.*

All election commissioners are authorized to appoint other deputies, clerks and employees. Neb. Rev. Stat. § 32-212 (2016). Election commissioners must take an oath and give a bond before taking office. Neb. Rev. Stat. § 32-213 (2016). An election commissioner is responsible for the enforcement of the Election Act as it relates to his or her office and must adopt and promulgate rules and regulations in regard to elections and the registration of voters in his or her county. Neb. Rev. Stat. §§ 32-214 and 32-215 (2016).

The chief deputy election commissioner in a county with more than one hundred thousand inhabitants is also a position created by statute and has

the same term of office as the election commissioner. Neb. Rev. Stat. § 32-209 (2016). The chief deputy election commissioner takes a required oath of office and furnishes a bond. Further, the chief deputy election commissioner performs duties assigned by the election commissioner and, in the absence of the election commissioner, the chief deputy "shall perform all the duties of the election commissioner. . . ." *Id.* In a county with a population of not less than twenty thousand nor more than one hundred thousand, the county board has the option of appointing a chief deputy election commissioner, who serves for a term of four years. Neb. Rev. Stat. § 32-211 (2016).

Our conclusion that the election commissioners and chief deputy election commissioners are county officers is consistent with our 1994 opinion concerning the status and authority of election commissioners under LB 76, a substantial revision of the election laws pending before the Legislature at that time. Op. Att'y Gen. No. 94008 (February 7, 1994). The questions we addressed were: (1) if the election commissioner was appointed by the Governor, to whom the election commissioner would be responsible; and (2) whether a county board would have authority to require the election commissioner to comply with county personnel policies and procedures. In addressing those questions we stated:

It appears to us that the election commissioner for counties over 50,000 in population created by LB 76 would be a county officer because the bill provides that the election commissioner is employed by the county, and because the position created by the bill entails many of the indicia of public office, e.g., the election commissioner is appointed for a specific term, the position is created by statute and the position has duties and authority beyond that of a mere employee. *See Eason v. Majors*, 111 Neb. 288, 196 N.W. 133 (1923).

Op. Att'y Gen. No. 94008 at 3-4.

There are two other cases which are consistent with our conclusion. The Nebraska Supreme Court stated that the election commissioner and deputy election commissioner of Douglas County were "public officers" of Douglas County in *State ex rel. Meissner v. McHugh*, 120 Neb. 356, 233 N.W. 1 (1930). This case did not concern article IX, § 4. Instead, the Court determined, in the context of a special proceeding to contest whether a nomination for the office of county attorney must be accepted, that a single justice of the Court sitting in Lancaster County lacked jurisdiction over public officers in another county.

In *Dwyer v. Omaha-Douglas Public Bldg. Comm.*, 188 Neb. 30, 195 N.W.2d 236 (1972), the Court upheld the constitutionality of a statute authorizing certain cities and counties to establish a joint public building commission. The Court found that the Omaha-Douglas County Public Building Commission was a separate governmental subdivision and not an arm of the county. Therefore, the levy by the Commission was not a county

tax. The Court also briefly considered an argument that appointment of the Commission members violated article IX, § 4, and found that the Commission members were not county officers as the Commission was a separate governmental subdivision.

II. Whether Election Commissioners Must Be Elected.

Your second question is whether the appointment of election commissioners and chief deputy election commissioners violates Neb. Const. art. IX, § 4. This constitutional provision was incorporated into the Constitution in 1875. While text was added following the 1968 general election which authorized the consolidation of county offices, the original provision requiring the election of county officers remains unaltered.

Our current statutes which provide for the appointment of election commissioners and chief deputy election commissioners, as discussed above, are Neb. Rev. Stat. §§ 32-207, 32-209, and 32-211. Nebraska has had a statute requiring the Governor to appoint an election commissioner in a county of a certain population since 1913. Despite this long history, we are not aware of any Nebraska cases which directly address your questions. As a preliminary matter, we note that "[s]tatutes are afforded a presumption of constitutionality, and the unconstitutionality of a statute must be clearly established before it will be declared void." *Gourley v. Nebraska Methodist Health System, Inc.*, 25 Neb. 918, 942, 663 N.W.2d 43, 67 (2003). "[A] statute is presumed to be constitutional, and all reasonable doubts are resolved in favor of its constitutionality." *State v. McCumber*, 295 Neb. 941, 948, 893 N.W.2d 411, 417 (2017). However, in this instance, it is our view that the statutes providing for the appointment of election commissioners and chief deputy election commissioners would, if challenged, be held unconstitutional by the Nebraska Supreme Court.

Our office previously discussed similar issues concerning article IX, § 4 in some detail in Op. Att'y Gen. No. 96024 (March 14, 1996). That opinion addressed whether a constitutional amendment was necessary to alter Nebraska's form of county governance and institute an optional county administrator system. In the opinion we began by discussing several canons of constitutional construction.

First, we are bound by the cardinal rule that the state Constitution must be applied and enforced as it is written. *State ex rel. Spire v. Conway*, 238 Neb. 766, 472 N.W.2d 403 (1991). Next, the provisions of the Constitution must be read as a whole. *Jaksha v. State*, 222 Neb. 690, 385 N.W.2d 922 (1986). "Moreover, constitutional provisions are not open to construction as a matter of course; construction of a constitutional provision is appropriate only when it has been demonstrated that the meaning of the provision is not clear and that construction is necessary." 238 Neb. at 774-775, 472 N.W.2d at 408-409.

* * *

Finally, because the Nebraska Constitution "is not a grant but, rather, a restriction on legislative power, . . . the Legislature is free to act on any subject not inhibited by the Constitution." *State ex rel. Stenberg v. Douglas Racing Corp.*, 246 Neb. 901, 905, 524 N.W.2d 61, 64 (1994) (citations omitted). In so acting, however, the court has established that "[t]he people of the state, by adopting a Constitution, have put it beyond the power of the [L]egislature to pass laws in violation thereof." *State ex rel. Randall v. Hall*, 125 Neb. 236, 243, 249 N.W. 756, 759 (1933).

Op. Att'y Gen. No. 96024 at 2-3.

With regard to article IX, § 4, we noted that the Nebraska Supreme Court "has long held that, pursuant to the Article IX, § 4 provision, '[t]he number and character of county offices that may be created rests in the discretion of the [Legislature].'" *Dinsmore v. State*, 61 Neb. 418, 429, 85 N.W. 445, 448 (1901). Op. Att'y Gen. No. 96024 at 4. However, we concluded that "[w]hile the Legislature is vested with broad authority to determine which county offices will exist, once those offices have been established, the people have retained the right to elect the individuals who will occupy those offices." Op. Att'y Gen. No. 96024 at 6.

Our analysis in that opinion relied extensively on *State ex rel. O'Connor v. Tusa*, 130 Neb. 528, 265 N.W.524 (1936), which we discussed in answer to your first question. In *Tusa*, Douglas County voters had exercised their statutory option to adopt a county manager form of government. When an individual attempted to file as a candidate for the office of county register of deeds, a controversy arose whether the office of register of deeds had been abolished by adoption of the county manager form of government. In deciding that issue, the Nebraska Supreme Court held that a county manager was a county officer as that term is used in article IX, § 4 and that a Nebraska statute authorizing the appointment of a county manager was unconstitutional.

Moreover, in that opinion we noted that the Court's *Tusa* decision was consistent with the ruling in an earlier case. In *State ex rel. Harte v. Moorhead*, 99 Neb. 527, 156 N.W. 1067 (1916), the Court concluded a districting plan was unconstitutional. Citing the predecessor of article IX, § 4, the Court reasoned that county governments are local in their nature and that the Constitution protects them in their right of local self-government. "The Constitution makers had something definite in mind when they provided that county officers should be elected." *Id.* at 534, 156 N.W. at 1069. For these reasons, we concluded the language of article IX, § 4 would need to be amended before adopting a county administrator system in which county officers would be appointed. Op. Att'y Gen. No. 96024 at 6.

Our office also considered whether county officers may be appointed in 1977-78 Rep. Att'y Gen. 20 (Opinion No. 13, dated February 1, 1977), in which we pointed out that a "potential problem" could be raised by article IX, § 4 if, under pending legislation, county officers were appointed rather than elected. And, in Op. Att'y Gen. No. 88014 (February 25, 1988), we concluded that the appointment of county superintendents, under proposed legislation, would violate article IX, § 4. In the latter opinion, we considered that the county superintendent was referred to as an "office" and that individuals appointed to that position would exercise sovereign functions of government. "Under our system of government, the people of our state cannot be denied the opportunity to elect county officers." *Id.* at 2.

Finally, our conclusion is supported by decisions of other jurisdictions and authorities. *See State ex rel. Johnston v. Melton*, 192 Wash. 379, 73 P.2d 1334 (1937) (holding that a state constitutional provision requiring the election of county officers was mandatory); *State ex rel. Armstrong v. Halliday*, 61 Ohio St. 171, 55 N.E. 175 (1899) (holding that a state constitutional provision required county officers to be elected so that a county fish and game warden could not be appointed); 3 Eugene McQuillin, *The Law of Municipal Corporations* § 12:117 (3d ed.) ("The constitutional method for filling offices must be observed. Neither the legislature of the state, nor that of the municipality, can change such method.").

CONCLUSION

For the reasons discussed above, it is our opinion that the positions of election commissioner and chief deputy election commissioner created by Nebraska statutes are county officers. The Nebraska Supreme Court has not yet addressed the specific question whether the appointment of election commissioners by either the Governor or a county board violates Neb. Const. art. IX, § 4. However, in our view, the Nebraska statutes requiring or authorizing the appointment of an election commissioner or a chief deputy election commissioner are constitutionally suspect and would, if challenged, be found unconstitutional by the Court.

Sincerely,
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Attorney General
(Signed) Lynn A. Melson
Assistant Attorney General

pc. Patrick J. O'Donnell
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09-633-29

Opinion 19-013

SUBJECT: Constitutionality of Legislation Reducing the Percentage of Actual Value of Real Property Subject to Taxation by K-12 Public Education Entities.

REQUESTED BY: Senator Mike Groene
Nebraska State Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General
L. Jay Bartel, Assistant Attorney General

INTRODUCTION

You are considering legislation that would reduce the percentage of actual value of real property subject to taxation by Nebraska K-12 public education entities. In two prior opinions, we concluded it would be constitutional to reduce the percentage of valuation of agricultural and horticultural land used in determining state aid value under the Tax Equity and Educational Opportunities Support Act ["TEEOSA"]. Neb. Rev. Stat. §§ 79-1001 to 79-1033 (2014, Cum. Supp. 2018, and Supp. 2019); Op. Att'y Gen. No. 15-002 (Feb. 17, 2015); Op. Att'y Gen. No. 19-007 (May 6, 2019). You are now contemplating introducing legislation to provide a percentage reduction in the valuation of real property subject to taxation by K-12 public education entities. The reduction would apply to commercial and residential real property as well as agricultural and horticultural real property. One option would be to apply a ten percent reduction to all real property. A second option would be to apply a different percentage reduction to commercial and residential real property (i.e. ten percent) than is applied to agricultural and horticultural real property (i.e. twenty percent). The percentage applied would mirror the percentage reduction utilized in the TEEOSA formula. Your question is whether the proposed reduction to the percentage of actual value of real property subject to taxation by K-12 public education entities would violate the requirement that "[t]axes shall be levied by valuation uniformly and proportionately upon all real property . . ." in Neb. Const. art. VIII, § 1.

ANALYSIS**I. Constitutional and Statutory Provisions.**

Neb. Const. art. VIII, § 1(1) provides: "Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution; . . ." Subsection (4) of art. VIII, § 1, provides:

[T]he Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural and horticultural land which results in values that are not uniform and proportionate with all other real property

and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land; . . . Neb. Const. art. VIII, § 1(4).²

In addition, "the Legislature may prescribe standards and methods for the determination of the value of real property at uniform and proportionate values." Neb. Const. art. VIII, § 1(6).

The standard the Legislature has adopted to value real property for taxation is "actual value." Neb. Rev. Stat. § 77-201(1) (2018) (Except for agricultural land and horticultural land, agricultural land and horticultural land subject to special valuation, and historically significant real property, "all real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value."). Agricultural land and horticultural land, as well as agricultural land and horticultural land qualifying for special valuation, is "subject to taxation, and shall be valued at seventy-five percent" of its actual or special value. Neb. Rev. Stat. § 77-202(2) and (3) (2018). "Actual value" is defined in Neb. Rev. Stat. § 77-112 (2018), which provides:

Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property, the analysis shall include a consideration of the full description of the physical characteristics of the real property and an identification of the property rights being valued.

II. Nebraska Case Law Discussing the Constitutional Requirement of Uniform and Proportionate Taxation.

"The object of Nebraska's uniformity clause is accomplished if all of the property within the taxing jurisdiction is assessed and taxed at a uniform standard of value." *Sarpy County Farm Bureau v. Learning Community of Douglas and Sarpy Counties*, 283 Neb. 212, 246, 808 N.W.2d 598, 622 (2012) [*Sarpy County Farm Bureau*]. "The uniform method for valuing property which the Legislature has provided is to tax property at its 'actual value.'" *Xerox Corp. v. Karnes*, 217 Neb. 728, 732, 350 N.W.2d 566, 569 (1984) (citing Neb. Rev. Stat. §§ 77-201 and 77-112). "There is no longer a constitutional requirement for the value of agricultural and horticultural land to be uniform and proportionate with the value of other real property." *Krings v. Garfield Cty. Bd. of Equal.*, 286 Neb. 352, 362, 835 N.W.2d 750,

757 (2013). The Constitution, however, "still requires uniformity within" the class of agricultural and horticultural land. *Id.* at 361, 835 N.W.2d at 756.

III. Validity of "Fractional" Valuation of Property for Taxation Under the Uniformity Clause.

The uniform standard of value adopted by the Legislature for property taxation is "actual value." "For purposes of taxation, the terms actual value, market value, and fair market value mean the same thing." *Richards v. Thayer Cty. Bd. of Equal.*, 178 Neb. 537, 540, 134 N.W.2d 56, 58 (1965). *Accord Xerox Corp. v. Karnes*, 217 Neb. 728, 732-33, 350 N.W.2d 566, 569 (1984); *Gage Cty. v. State Bd. of Equal.*, 185 Neb. 749, 751, 178 N.W.2d 759, 762 (1970). Currently, all real property, other than agricultural and horticultural land or agricultural and horticultural land subject to special valuation, is assessed at 100 percent of its actual value. Agricultural and horticultural land, including agricultural and horticultural land subject to special valuation, is assessed at 75 percent of its actual or special value.

Your proposal would reduce the actual value of all real property subject to assessment, non-agricultural as well as agricultural, by a percentage, solely for taxation by K-12 public education entities. The percentage may be the same, i.e., a ten percent reduction for all real property, or different, i.e., a ten percent reduction of the valuation of non-agricultural real property and a twenty percent reduction of the valuation of agricultural real property. In either scenario, the reduced assessed value would apply only to taxes levied by K-12 public education entities; property taxes imposed by all other taxing entities would be levied on the full actual value of non-agricultural real property, and 75 percent of the actual or special value of agricultural and horticultural land.

"There are two main types of real-property assessments for tax purposes: actual value assessments, under which real property is assessed at full value; and fractional or percentage assessments, under which real property is assessed at a fraction or percentage of full value. . . ." Annot., *Requirement of Full-Value Real Property Taxation Assessments*, 42 A.L.R.4th 676, 682 (1985). "[U]niform fractional assessments have been held valid under state constitutional/statutory provisions for assessment of real property at its just value . . . , at a uniform value . . . , at uniform and proportionate valuations . . . , or . . . in proportion to its true value." *Id.* at 683.

Article IX, § 1 of the Nebraska Constitution of 1875 provided, in part: "The Legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property and franchises the value to be ascertained in such manner as the Legislature shall direct." In *Beadle v. Sanders*, 104 Neb. 427, 428, 177 N.W. 789, 789 (1920), the Nebraska Supreme Court noted that the "state assesses property at a fraction of its actual value." The Court cited the above constitutional provision, and the statute "mak[ing] the taxable value [of property] one-fifth of the actual or

market value." *Id.* at 428-29, 177 N.W. at 789-90 (citing Rev. Stat. § 6300 (1913)).

The Nebraska Constitution, as amended in 1920, provided in Article XIII, § 1, that "taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises . . ." Following adoption of this amendment, the Legislature provided for the taxation of property at its "actual value." Comp. Stat. § 5820 (1922). This basis for taxation continued until 1953, when legislation was enacted providing for the valuation of property at its "actual value" and the assessment of property "at fifty per cent of such actual value." Neb. Rev. Stat. § 77-201 (Cum. Supp. 1953). For a short time, the standard was changed to valuation of property at its "basic value," and assessment "at fifty percent of such basic value." Neb. Rev. Stat. § 77-201 (Cum. Supp. 1955). The Legislature then returned to providing for valuation of property at its "actual value," and assessment "at thirty-five percent of such actual value." Neb. Rev. Stat. § 77-201 (Cum. Supp. 1957). "Actual value" was later made the basis for both the valuation and assessment of property by the enactment of 1979 Neb. Laws LB 187, § 191 (codified at Neb. Rev. Stat. § 77-201 (Cum. Supp. 1980)).

The Nebraska Constitution currently requires that "[t]axes be levied by valuation uniformly and proportionately upon all real property. . ." Neb. Const. art. VIII, § 1(1). There is no language expressing an intent to require taxation of real property at its "full" or "actual value." While the Legislature has used full "actual value" as the basis for taxation in the past, and does so presently for nonagricultural real property, it has also provided for assessment real property at a percentage of full actual value. And, it currently provides for the taxation of agricultural and horticultural land (including land subject to special valuation) at a percentage of full actual value. Thus, the Legislature may provide for the assessment of real property at a uniform fraction or percentage of its actual value.

While assessment at a uniform percentage of actual value is constitutionally permissible, your proposed legislation would provide only for assessment of real property by K-12 public education entities at a reduced percentage of value. All other taxing entities would assess real property at full actual value, in the case of non-agricultural real property, or at seventy-five percent of actual or special value, in the case of agricultural and horticultural land. For example, you indicate the assessed value of all real property could be reduced by 10 percent, or that the assessed value of non-agricultural real property could be reduced by 10 percent, and agricultural and horticultural land could be reduced by 20 percent.

"The object of the uniformity clause is satisfied if all of the property within the taxing jurisdiction is assessed and taxed at a uniform standard of value." *Sarpy County Farm Bureau*, 283 Neb. at 246, 808 N.W.2d at 622. The "taxing jurisdiction" or jurisdictions relevant to your proposed legislation are those included in the undefined term "K-12 public education entities." Presumably, the intent is to utilize the same reduced valuation

percentage throughout the relevant taxing jurisdiction or jurisdictions encompassed by this term. Under your first scenario, the assessed value providing the basis for taxation for K-12 education entities is reduced by a uniform percentage for all real property subject to assessment within the taxing jurisdiction. Under your second scenario, which applies a greater percentage reduction to agricultural and horticultural land than other real property, the reduced percentages again are uniform within the taxing jurisdiction. While the percentage reduction of actual value for agricultural and horticultural land is greater than that applied to other real property, that is permissible, as agricultural and horticultural land is a separate class of real property that is not required to be valued uniformly in relation to non-agricultural real property; only uniformity within the class of agricultural and horticultural land is required. Accordingly, the reduced valuations you propose, if applied uniformly, do not appear to contravene art. VIII, § 1.

The remaining question is whether it is permissible to establish an assessed level of value for taxation by K-12 public education entities that is different than the level of assessed value for all other taxing entities. While we have not found any Nebraska case law on point, the Supreme Court of Texas has considered whether a statute providing for assessment of property at a greater percentage of value in one subdivision than the level of value subject to assessment by other taxing subdivisions violated the Texas Constitution's uniformity clause and the Equal Protection Clause of the U. S. Constitution. *Smith v. Davis*, 426 S.W.2d 827 (Tex. 1968) ["*Smith*"]. The challenged statute allowed hospital district tax assessments to be made "at a greater percentage of fair cash market value than that used in assessing the property for state and county purposes." *Id.* at 830. Art. VIII, § 1, of the Texas Constitution provided that "taxes shall be equal and uniform, and all property * * * shall be taxed in proportion to its value, which shall be ascertained as may be provided by law." *Smith*, 426 S.W.2d at 833. While noting that the state and federal constitutions "do require that taxation be uniform, equal, and in proportion to the value of the property being taxed . . .," the court found the assessments were "uniform and equal," as "[t]here is no constitutional requirement that different taxing bodies use the same proportion of fair market value in assessing property for tax purposes." *Id.* at 834.

While assessment at disparate levels of value by different taxing entities is permissible provided they are uniform within the taxing jurisdiction, a question could arise as to whether the creation of two classes of taxing entities results in impermissible special legislation in violation of Neb. Const. art. III, § 18.³ A legislative act violates the prohibition against special legislation if it "creat[es] a totally arbitrary and unreasonable method of classification. . . ." *Haman v. Marsh*, 237 Neb. 699, 709, 467 N.W.2d 836, 845 (1991). "A special legislation analysis focuses on a legislative body's purpose in creating a challenged class and asks if there is a substantial difference of circumstances to suggest the expediency of diverse legislation." *J.M. v. Hobbs*, 288 Neb. 546, 557, 849 N.W.2d 480, 489

(2014). "A legislative body's distinctive treatment of a class is proper if the class has some reasonable distinction from other subjects of a like general character." *Big John's Billards, Inc. v. State*, 288 Neb. 938, 945, 852 N.W.2d 727, 735 (2014). "[T]hat distinction must bear some reasonable relation to the legitimate objective and purposes of the legislative act." *Id.*

In Att'y Gen. Op. No. 15-002, we concluded that legislation that would reduce the value of agricultural and horticultural land, including land subject to special valuation, but not other real property, for purposes of calculating state aid to schools, did not create an improper classification in violation of the special legislation clause. *Id.* at 5. You indicate the proposed reduction in assessed values for taxation by K-12 public education entities would correspond with reductions in the valuation of real property for purposes of computing available resources under TEEOSA. The stated purpose is "to assure that the amount of reduction of property valuations within the TEEOSA formula will translate into actual property taxes paid by a property owner. . . ." Given this connection and purpose, we cannot say the classifications created are improper and contrary to art. III, § 18.

CONCLUSION

The uniformity clause requires that all real property within a taxing jurisdiction be assessed and taxed at a uniform standard of value. While art. VIII, § 1, requires uniform and proportionate taxation, it does not mandate taxation at full actual value. While the Legislature has used full "actual value" as the basis for taxation in the past, and does so presently for nonagricultural real property, it has also provided for the assessment of real property at a percentage of full actual value. And, it currently provides for valuing and taxing agricultural and horticultural land (including land subject to special valuation) at a percentage of full actual value. Thus, the Legislature may provide for the assessment of real property at a uniform fraction or percentage of its actual value. While there is no Nebraska case law addressing whether it is permissible to establish disparate levels of value subject to assessment by different taxing entities, there is authority indicating that uniformity does not require that different taxing entities use the same proportion of value in assessing property for tax purposes. What is required is uniformity in the percentage of taxable value within each taxing jurisdiction. The reduced valuations of real property for taxation by K-12 public education entities you propose, applied uniformly, do not appear to contravene art. VIII, § 1. Further, the classifications created by the different levels of assessed value proposed do not appear to violate the prohibition against special legislation in Neb. Const. art. III, 18.

Very truly yours,
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07-1316-29

¹ Prior to 1992, art. VIII, § 1, required uniform taxation of "all tangible property and franchises." A constitutional amendment approved by the voters in 1992 replaced this requirement with the current language requiring taxes to be "levied by valuation uniformly and proportionately upon all real property and franchises. . . ." Neb. Const. art. VIII, § 1(1), *as amended by* 1992 Neb. Laws, LR 219 CA, § 1.

² The Legislature also is authorized to "enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses." Neb. Const. art. VIII, § 1(5). Pursuant to this so-called "Greenbelt amendment," the Legislature has exercised this power by providing for the special valuation of certain lands used for agricultural or horticultural purposes. Neb. Rev. Stat. §§ 77-1344 to 77-1347.01 (2018).

³ Article VIII, § 1, states this section applies "[n]otwithstanding" other provisions of the Constitution, including Article III, § 18. The effect of this language has not yet been subject to judicial interpretation. Nevertheless, we will consider the application of the special legislation clause to the proposed classifications.

Opinion 19-014

SUBJECT: Constitutionality of Legislation Distributing Future
Tax Equity and Educational Opportunities Support
Act State Aid Funding Adjustments Proportionately
Across All School Districts

REQUESTED BY: Senator Mike Groene
Nebraska State Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General
Leslie S. Donley, Assistant Attorney General

You have requested an opinion from this office with respect to the constitutionality of proposed legislation which would amend the Tax Equity and Educational Opportunities Support Act, Neb. Rev. Stat. §§ 79-1001 to 79-1033 (2014, Cum. Supp. 2018, Supp. 2019) ("TEEOSA"). You indicate in your request letter that when the Legislature believes it necessary to annually adjust the TEEOSA formula, individual formula variables are "tweaked."¹ You indicate that this process adjusts the formula to generate the total amount of state aid the Legislature will fund.

PROPOSED LEGISLATION

As we understand it, your proposed legislation would amend the TEEOSA formula to provide for "distributions of any future TEEOSA state aid funding adjustments made by the Legislature proportionally across all school districts." The legislation "would alter the TEEOSA formula to increase the amount of state aid to all school districts," resulting in "property tax relief through a lowered local property tax request." One key component of your proposed legislation is "provid[ing] equitable state funding to all school districts, with the greater of a per student foundation aid or 33.3% of a school district's formula needs."² You indicate that specific provisions may be added to TEEOSA to address how the formula works in the event of a legislative adjustment, i.e., the formula will be left intact, while the total amount of the adjustment is divided proportionally across the school districts. By way of example, you indicate that the preliminary calculation of state aid is \$1.5 billion. However, the Legislature determines that \$1.425 billion is "adequate to fund the free instruction in Nebraska's common schools" A new statute would be added to TEEOSA to divide the difference—\$75 million [or 5 percent of \$1.5 billion]—proportionally across all districts by reducing each district's preliminarily calculated state aid by 5 percent. In addition, to ensure that funding is adequate, a new section would be added to allow local school boards, by a supermajority vote, an annual budget exception to their statutory levy and revenue limits to recoup up to 75 percent of any reductions in their state aid due to legislative action.

You have asked for our opinion as to the following questions:

- I. Do these proposed provisions added to Nebraska's public school funding formula . . . adhere to "[t]he Legislature shall provide for the free instruction in our common schools" provision of Neb. Const. art. VII, § 1?
- II. Furthermore, do the proposed provisions comply with the equal protection clauses under Neb. Const. art. I, § 3 and U.S. Const. Amend. XIV, § 1?

Our response to each of your inquiries is set out below.

DISCUSSION

I. Free Instruction Clause

Restated, your proposal would reduce every school district's state aid funding by an amount equal to the percentage of any legislative adjustment to the preliminarily calculated amount of state aid funding. A school district will be able to recover 75% of the reduction by a supermajority vote of its governing body. While you have not expressly articulated in what manner

your proposed legislation might contravene the free instruction clause, it appears to us your concerns relate to the *adequacy* of the funding in those instances when the Legislature adjusts the preliminary calculated amount of state aid.

The free instruction clause provides, in pertinent part, that

[t]he Legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of five and twenty-one years.

Neb. Const. art. VII, § 1.

Beginning with *Affholder v. State*, 51 Neb. 91, 70 N.W. 544 (1897),³ the Nebraska Supreme Court has on several occasions considered the subject of "free instruction" in Nebraska's common schools. In *Affholder*, the plaintiffs sued the local school board to require the school district to furnish textbooks to the children attending the school in accordance with an 1891 act. The school board argued that the act in question violated the "same subject" rule in Neb. Const. art. III, § 11 [now art. III, § 14], since the title of the act referenced "textbooks," but another section of the act required the provision of all "school supplies." *Id.* at 92, 70 N.W. at 545. The court considered whether school supplies were encompassed by the term "textbooks" in the context of the free instruction clause and concluded that

[s]ection 6, art. 8, [now art. VII, § 1] of the constitution of Nebraska provides that "the legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of 5 and 21 years." What methods and what means should be adopted in order to furnish free instruction to the children of the state has been left by the constitution to the legislature. Prior to the passage of the act under consideration, instruction in all public schools was gratuitous, and by this act the legislature has seen fit to require the various school districts to purchase text-books necessary to be used in the schools. We do not think the term "text-books" should be given a technical meaning, but that it is comprehensive enough to and does include globes, maps, charts, pens, ink, paper, etc., and all other apparatus and appliances which are proper to be used in the schools in instructing the youth

Id. at 93, 70 N.W. at 545 (emphasis added).

In *State ex rel. Shineman v. Board of Education*, 152 Neb. 644, 42 N.W.2d 168 (1950), parents sued the local board of education to compel the board to establish a kindergarten for children who attained the age of five years of age, but not six years, before October 15. The parents argued that under the constitutional provision, their children were entitled to free public instruction. Because their children did not meet the statutory age limit for first grade, their children were prohibited from securing free instruction there. Accordingly, they contended the board of education was required to

establish a kindergarten so that their five-year old children could receive the free instruction. *Id.* at 647, 42 N.W.2d at 170.

The trial court disagreed, however, and the Nebraska Supreme Court affirmed. The court reiterated the holding in *Affholder* "that the method and means to be adopted in order to furnish free instruction to the children of the state have been left by the Constitution to the Legislature." *Id.* at 648, 42 N.W.2d at 170. Notwithstanding explicit language in the clause requiring free instruction for persons ages five to twenty-one, the court found that "[c]learly legislation is necessary to carry into effect the constitutional provision. It is not a self-executing provision." *Id.* In the absence of a statute implementing the right, the matter of creating a kindergarten program was left to the discretion of the board of education. *Id.* at 649, 42 N.W.2d at 171.

In *Nebraska Coalition for Educational Equity and Adequacy v. Heineman*, 273 Neb. 531, 731 N.W.2d 164 (2007) ["*Nebraska Coalition*"], the plaintiffs filed a declaratory judgment action claiming that Nebraska's education funding system failed to "provide sufficient funds for an 'adequate' and 'quality' education." *Id.* at 534, 731 N.W.2d at 169. The plaintiffs further alleged that the funding system violated the free instruction and the religious freedom clauses of the Nebraska Constitution. The plaintiffs sought three declarations from the court, including "that the religious freedom and free instruction clauses provide[d] a fundamental right 'to obtain free instruction which enables each student to become an active and productive citizen in our democracy, to find meaningful employment, and to qualify for higher education.'" *Id.* at 536-37, 731 N.W.2d at 170. The plaintiffs also asked the court to declare the school funding system unconstitutional for "fail[ing] to provide adequate resources to provide the free education guaranteed by these sections . . ." *Id.* at 537, 731 N.W.2d at 170. The trial court dismissed the complaint, determining that the plaintiffs' allegations that the Legislature had not provided sufficient funds to provide for an adequate education posed a nonjusticiable political question. *Id.* at 538, 731 N.W.2d at 171.

The Nebraska Supreme Court framed the critical issue in *Nebraska Coalition* as whether it may determine that the Legislature has failed to provide adequate funding for public education without violating the separation of powers clause. *Id.* at 541, 731 N.W.2d at 173. The court acknowledged that it "does not sit as a superlegislature to review the wisdom of legislative acts[.]" *id.* at 545-46, 731 N.W.2d at 176, and "[t]hat restraint reflects the reluctance of the judiciary to set policy in areas constitutionally reserved to the Legislature's plenary power." *Id.*

In its analysis, the court applied the criteria⁴ set out in *Baker v. Carr*, 369 U.S. 186 (1962), to determine whether the issue presented a nonjusticiable political question. The court indicated that it had already determined that the free instruction clause was clearly directed to the Legislature, and "that the duty to adopt the method and means to furnish free instruction has been left by the state Constitution to the Legislature." *Id.* at 549, 731 N.W.2d at 178.

The court found that "there are no qualitative, constitutional standards for public schools that this court could enforce, apart from the requirements that the education in public schools must be free and available to all children." *Id.* at 550, 731 N.W.2d at 179. In this regard, the court examined the state's constitutional history relating to the Legislature's duty to provide free public schools, and "interpret[ed] the paucity of standards in the free instruction clause as the framer's intent to commit the determination of adequate school funding solely to the Legislature's discretion, greater resources, and expertise." *Id.* at 552, 731 N.W.2d at 180. It held that "[a]ny judicial standard effectively imposing constitutional requirements for education would be subjective and unreviewable policymaking by this court." *Id.* at 553, 731 N.W.2d at 180-81. The court noted that under Neb. Const. art. III, § 25, fiscal policy decisions are left to the Legislature. "We could not hold that the Legislature's expenditures were inadequate without invading the legislative branch's exclusive realm of authority. In effect, we would be deciding what spending issues have priority." *Id.* at 554, 731 N.W.2d at 181. The court further observed that "a justiciable issue must be susceptible to immediate resolution and capable of present judicial enforcement." *Id.* at 555, 731 N.W.2d at 182. The court listed jurisdictions (i.e., Arkansas, Kansas, Texas, New Jersey), which had been mired in school funding litigation, and noted that "[t]he landscape is littered with courts that have been bogged down in the legal quicksand of continuous litigation and challenges to their states' school funding systems." *Id.* at 557, 731 N.W.2d at 183. The court, however, assertively "refuse[d] to wade into that Stygian swamp." *Id.*

In concluding that the issue before it presented a nonjusticiable political question, the court stated:

The Nebraska Constitution commits the issue of providing free instruction to the Legislature and fails to provide judicially discernible and manageable standards for determining what level of public education the Legislature must provide. This court could not make that determination without deciding matters of educational policy in disregard of the policy and fiscal choices that the Legislature has already made. . . .

Id. at 557, 731 N.W.2d at 183.

Affholder, Shineman and Nebraska Coalition all stand for the proposition that the Legislature is the sole judge of what amount of money should be spent on education. Consequently, your proposed legislation, which would reduce all school districts' state aid in an amount equal to a percentage of the legislative adjustment to the preliminary calculated state aid funding, does not contravene the constitutional provision discussed above. We would stress, however, that any future amendments to TEEOSA be consistent with other provisions in the act that require the Legislature to fund state aid as calculated under the formula.⁵

II. Equal Protection Clause

Your second question asks us to consider your proposed legislation in the context of the equal protection provisions of both the Nebraska and United States Constitutions. Neb. Const. art. I, § 3 states that "[n]o person shall be deprived of life, liberty, or property, without due process of law, nor be denied equal protection of the laws." The U.S. Const. Amend XIV, § 1, provides, as pertinent, "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

"The Nebraska Constitution and the U.S. Constitution have identical requirements for equal protection challenges." *Lingenfelter v. Lower Elkhorn Natural Resources Dis.*, 294 Neb. 46, 77, 881 N.W.2d 892, 914 (2016); *Citizens of Decatur for Equal Education v. Lyons-Decatur School Dist.*, 274 Neb. 278, 302, 739 N.W.2d 742, 762 (2007) [*"Citizens of Decatur"*]. *Accord Kenley v. Neth*, 271 Neb. 402, 712 N.W.2d 251 (2006). The Equal Protection Clause requires the government to treat similarly situated people alike. It does not forbid classifications; it simply keeps governmental decisionmakers from treating differently persons who are in all relevant respects alike. *Lingenfelter*, 294 Neb. at 77, 881 N.W.2d at 914; *Citizens of Decatur*, 274 Neb. at 302-03, 739 N.W.2d at 762.

In *Citizens of Decatur*, a coalition of parents and taxpayers sued the surviving school district and members of the school board seeking an injunction to stop the district from moving grades four to six to the surviving district. To support its claim that the school board's action violated the equal protection and substantive due process rights of its members, "the Coalition argued that Nebraska's free instruction clause provided a fundamental right to an education equally or proportionally funded compared with other schools in the same district." *Id.* at 285, 739 N.W.2d at 751. The trial court ultimately found for the school district on all claims.

"If a legislative classification involves either a suspect class or a fundamental right, courts will analyze the classification with strict scrutiny. A suspect class is one that has been "saddled with such disabilities, or subjected to such a history of purposeful unequal treatment . . . as to command extraordinary protection from the majoritarian political process."" *Id.* at 303, 739 N.W.2d at 762. The coalition did not allege that the school district discriminated against a "suspect class" nor did it contest that the school board's actions were rationally related to a legitimate state interest. It relied instead on the argument that the Nebraska Constitution provides a fundamental right to equal and adequate educational funding. The court rejected this argument, noting its holding in *Nebraska Coalition*. "The free instruction clause does not mandate equal funding of schools." *Id.* at 301, 739 N.W.2d at 761. Funding decisions are left to the Legislature, which in turn entrusts local budget decisions to school boards.

Where a suspect class or fundamental right is not implicated, "the Equal Protection Clause requires only that the classification rationally further a legitimate state interest." *Id.* at 303, 739 N.W.2d at 763. "[T]he burden is upon the challenging party to eliminate any reasonably conceivable state of facts that could provide a rational basis for the classification." *Id.* The court found that faced with increasing budget deficits, the school board's actions to reduce costs "were rationally related to its goal of providing an education for its students." *Id.* at 302, 739 N.W.2d at 762. It further found that the coalition failed to show that a heightened level of scrutiny applied or that the school board's actions were not rationally related to a legitimate state purpose.

You state that your proposed legislation "would alter the TEEOSA formula to increase the amount of state aid to all school districts and thereby provide property tax relief through a lowered local property tax request. One key component . . . would be to provide equitable state funding to all school districts . . ." It appears to us that the classification at issue, i.e., an across the board reduction in state aid funding, may further a legitimate state interest in lowering property taxes. We fail to see how the proposed legislation would result in an increase in state aid to school districts or would provide equitable funding to all districts. However, since the challenging party has the burden "to eliminate any reasonably conceivable state of facts that could provide a rational basis for the classification," we believe that a court would likely find your legislation, if enacted, constitutional since it rationally relates to your goal of providing property tax relief.⁶

Finally, as we recently pointed out in Op. Att'y Gen. No. 19-007 (May 6, 2019), to the extent the proposed legislation is constitutionally challenged by a county or school district, those entities have no due process or equal protection rights against the state. "U.S. Const. amend. XIV and Neb. Const. art. I, § 3, prohibit the State from depriving any 'person' of life, liberty, or property without due process of law. A county, as a creature and political subdivision of the State, is neither a natural nor an artificial person Accordingly, a county cannot invoke the protection of the 14th amendment against the State." *Rock County v. Spire*, 235 Neb. 434, 447-48, 455 N.W.2d 763, 771 (1990). "[T]he [school] district, as a creature and political subdivision of the state, is neither a natural nor an artificial 'person' and, therefore, cannot invoke due process protection against the state." *Loup City Public Schools v. Nebraska Dep't of Revenue*, 252 Neb. 387, 394, 562 N.W.2d 551, 556 (1997).

CONCLUSION

For more than a century, the Nebraska Supreme Court has held that the Nebraska Constitution leaves all decisions regarding the funding of public education to the Legislature. The Constitution provides no judicially discernible and manageable standards to determine what level of public education the Legislature must provide. Based on the foregoing authorities,

we conclude that your proposed legislation would not contravene the free instruction clause or the equal protection provisions in the Nebraska and U.S. Constitutions.

Sincerely,
DOUGLAS J. PETERSON
Attorney General
(Signed) Leslie S. Donley
Assistant Attorney General

pc Patrick J. O'Donnell
Clerk of the Nebraska Legislature

49-2318-29

¹ In this regard, you reference 2019 Neb. Laws LB 675, § 1 (base limitation defined in Neb. Rev. Stat. § 77-3346 adjusted to two percent from two and one-half percent); and 2017 Neb. Laws LB 409 (adjustments made to both the base limitation and the local effort rate defined in Neb. Rev. Stat. §79-1015.01).

² We understand that "student foundation aid" is in reference to language found in AM1572 to Legislative Bill 289, currently pending on General File.

³ See also *State ex rel. Baldwin v. Dorsey*, 108 Neb. 134, 187 N.W. 879 (1922) (The court held that a school district receiving nonresident students could charge no more than the tuition fee set by the Legislature, even when the school district offered courses beyond those required by the state.); and *Farrell v. Sch. Dist. No. 54*, 164 Neb. 853, 858, 84 N.W.2d 126, 131 (1957) ("[The free instruction clause] leaves all matters pertaining to schools and school districts, their creation, dissolution, government, and control with the Legislature. In all such matters the State is supreme.").

⁴ The Baker criteria consisted of "six independent tests," as follows:

[(1)] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [(2)] a lack of judicially discoverable and manageable standards for resolving it; or [(3)] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [(4)] the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or [(5)] an unusual need for unquestioning adherence to a political decision already made; or [(6)] the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

Id. at 547-48, 731 N.W.2d at 177.

⁵ See, e.g., Neb. Rev. Stat. § 79-1008.01 (Supp. 2019) ("Each local system shall receive equalization aid in the amount that the total formula need, as determined pursuant to section 79-1007.11, exceeds its total formula resources, as determined pursuant to section 79-1017.01.").

⁶ We reach this conclusion solely on the basis of the proposed legislation set out in your request letter, and have not considered other TEEOSA legislation that may be pending in the Legislature.

EXECUTIVE BOARD REPORT

The Executive Board reported the following committee assignments made over the interim:

LR87 - Interim study to continue the work of the select interim committee created in LR437, 2018, to examine possible improvements to the standing committee system.

The members of the Rules Committee, plus Senators Bolz, Hilgers, DeBoer, Hughes, Wayne, and 3rd congressional district is open.

LR241 - Interim study to create a select committee to develop an environmental action plan for the state, including assessments of vulnerability, risks, economic impacts, and mitigation strategies.

The chair of the Agriculture Committee or his or her designee (Senator Brandt);

The chair of the Banking Committee or his or her designee (Senator Kolterman);

The chair of the Natural Resources Committee or his or her designee (Senator Bostelman); and

Four additional members: Senators Brewer, Lowe, McCollister, and Pansing Brooks.

LR104 - State-Licensed Care Facilities Oversight Committee of the Legislature.

Senators Friesen, Halloran, Linchan, Murman, Quick, Walz, Wishart.

LR223 - An interim study to appoint special committee to carry out a comprehensive study of incarceration and mental health services in Nebraska.

Members from each of the following committees:

Judiciary: Senators Lathrop and Pansing Brooks

Appropriations: Senators Bolz and Wishart

Health and Human Services: Senators Howard and Cavanaugh

ANNOUNCEMENT(S)

Priority designation(s) received:

Kolterman - LB720

AMENDMENT(S) - Print in Journal

Senator Stinner filed the following amendment to LB4:

AM1981

(Amendments to Final Reading copy)

- 1 1. Insert the following new sections:
- 2 Sec. 4. The following section is outright repealed: Section
- 3 77-5015.01, Reissue Revised Statutes of Nebraska.
- 4 Sec. 5. Since an emergency exists, this act takes effect when
- 5 passed and approved according to law.
- 6 2. On page 1, line 4, strike "and" and insert "to eliminate
- 7 provisions relating to notice;"; and in line 5 after "sections" insert ";
- 8 to outright repeal section 77-5015.01, Reissue Revised Statutes of
- 9 Nebraska; and to declare an emergency".
- 10 3. On page 4, line 6, after the period insert "Reimbursements under
- 11 this subsection shall be made from the Tax Equalization and Review
- 12 Commission Cash Fund.".

Senator Groene filed the following amendment to LB147:

AM1803

- 1 1. Strike the original sections and insert the following new
- 2 sections:
- 3 Section 1. Section 79-254, Reissue Revised Statutes of Nebraska, is
- 4 amended to read:
- 5 79-254 Sections 79-254 to 79-294 and sections 3 and 4 of this act
- 6 shall be known and may be cited as the Student Discipline Act.
- 7 Sec. 2. Section 79-258, Reissue Revised Statutes of Nebraska, is
- 8 amended to read:
- 9 79-258 Administrative and teaching personnel may take actions
- 10 regarding student behavior, other than those specifically provided in the
- 11 Student Discipline Act, which are reasonably necessary to aid the
- 12 student, further school purposes, or prevent interference with the
- 13 educational process. Such actions may include, but need not be limited
- 14 to, physical intervention, counseling of students, parent conferences,
- 15 rearrangement of schedules, requirements that a student remain in school
- 16 after regular hours to do additional work, restriction of extracurricular
- 17 activity, or requirements that a student receive counseling,
- 18 psychological evaluation, or psychiatric evaluation upon the written
- 19 consent of a parent or guardian to such counseling or evaluation.
- 20 Sec. 3. (1) Teachers and other school personnel may use reasonable
- 21 physical intervention to safely manage the behavior of a student to:
- 22 (a) Protect such student, another student, a teacher or other school
- 23 personnel, or another person from physical injury; or
- 24 (b) Secure property in the possession of such student if the
- 25 possession of such property by such student poses a threat of physical
- 26 injury to such student, another student, a teacher or other school
- 27 personnel, or another person.
- 1 (2) Any physical intervention by a teacher or other school personnel
- 2 pursuant to subdivision (1)(a) or (b) of this section shall not be used
- 3 for the purpose of inflicting bodily pain as a penalty for disapproved
- 4 behavior.
- 5 (3) Following the use of physical intervention pursuant to this
- 6 section, a teacher or other school personnel shall contact and notify the
- 7 parent or guardian of the use of physical intervention.
- 8 (4) No teacher or other school personnel shall be subject to
- 9 professional or administrative discipline and no teacher, other school
- 10 personnel, or school district shall be criminally or civilly liable for

11 the use of physical intervention pursuant to subdivision (1)(a) or (b) of
 12 this section if such physical intervention was reasonable. Nothing in
 13 this section shall be construed to limit any defense that may be
 14 available under any provision of law, including, but not limited to, any
 15 defense relating to self-protection or the protection of others.
 16 Sec. 4. (1) Each school district shall have a policy that describes
 17 the process of removing a student from a class and returning a student to
 18 a class. Such policy shall: (a) Describe how and when a student may be
 19 removed from a class and returned to a class; (b) use a discipline
 20 process that is proactive, instructive, and restorative; (c) require
 21 appropriate communication between administrators, teachers or other
 22 school personnel, students, and parents or guardians. Such policy shall
 23 be made available to the public.
 24 (2) Unless prohibited by the federal Individuals with Disabilities
 25 Education Act, 20 U.S.C. 1400 et seq., or a plan developed pursuant to
 26 section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as such
 27 acts existed on January 1, 2019, an administrator or administrator's
 28 designee shall immediately remove a student from a class upon request by
 29 a teacher or other school personnel if such teacher or other school
 30 personnel has followed school policy in requesting the removal of such
 31 student.
 1 (3) When a student is removed from a class, the goal must be to
 2 return the student to the class as soon as possible after appropriate
 3 instructional or behavioral interventions or supports have been
 4 implemented to increase the likelihood the student will be successful.
 5 For a student with a pattern of disruptive behavior, the school shall
 6 provide additional interventions or supports.
 7 (4) No teacher or other school personnel shall be subject to
 8 professional or administrative discipline and no teacher, other school
 9 personnel, or school district shall be criminally or civilly liable for
 10 the removal of a student from a class pursuant to this section if such
 11 teacher or other school personnel acted in a reasonable manner and in
 12 accordance with school policy.
 13 Sec. 5. Section 4 of this act becomes operative on August 1, 2020.
 14 The other sections of this act become operative on their effective date.
 15 Sec. 6. Original sections 79-254 and 79-258, Reissue Revised
 16 Statutes of Nebraska, are repealed.

Senator Kolterman filed the following amendment to LB30:
[AM2050](#)

(Amendments to Standing Committee amendments, AM302)

1 1. On page 11, line 10, strike "2020" and insert "2021".

MOTION - Election of Officer

Senator Hilgers moved that the following officer be elected to serve for the
 One Hundred Sixth Legislature, Second Session:

Sergeant at Arms

Doug Donscheski

The motion prevailed.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 740. Introduced by Executive Board: Hilgers, 21, Chairperson.

A BILL FOR AN ACT relating to the State Treasurer; to repeal a section providing for certain transfers of funds on August 30, 2009; and to outright repeal section 84-621, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 741. Introduced by Executive Board: Hilgers, 21, Chairperson.

A BILL FOR AN ACT relating to labor; to repeal provisions governing the Subsidized Employment Pilot Program that terminated on July 1, 2018; and to outright repeal sections 48-3101, 48-3102, 48-3103, 48-3104, 48-3105, 48-3106, 48-3107, and 48-3108, Revised Statutes Cumulative Supplement, 2018.

LEGISLATIVE BILL 742. Introduced by Blood, 3.

A BILL FOR AN ACT relating to offences against animals; to amend sections 28-1009, 28-1012.01, and 28-1019, Reissue Revised Statutes of Nebraska; to change penalty and sentencing provisions as prescribed; to change a deadline for filing a hearing application relating to seized animals; and to repeal the original sections.

LEGISLATIVE BILL 743. Introduced by Blood, 3.

A BILL FOR AN ACT relating to the State Electrical Act; to amend section 81-2104, Revised Statutes Cumulative Supplement, 2018; to adopt updated electrical standards; and to repeal the original section.

LEGISLATIVE BILL 744. Introduced by Blood, 3.

A BILL FOR AN ACT relating to county government; to amend section 23-1901, Revised Statutes Cumulative Supplement, 2018; to authorize appointment of the county engineer in certain counties; to change powers and duties of the county engineer and county surveyor; to eliminate provisions related to election of the county engineer; to repeal the original section; and to outright repeal section 32-526, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 745. Introduced by Blood, 3.

A BILL FOR AN ACT relating to government; to provide duties regarding federal immigration forms relating to victims of certain crimes; and to define terms.

LEGISLATIVE BILL 746. Introduced by Blood, 3.

A BILL FOR AN ACT relating to consumer protection; to adopt the Nebraska Consumer Data Privacy Act.

LEGISLATIVE BILL 747. Introduced by Blood, 3.

A BILL FOR AN ACT relating to the Nebraska Advantage Microenterprise Tax Credit Act; to amend section 77-5903, Reissue Revised Statutes of Nebraska; to include investment adviser representatives within the definition of microbusiness; and to repeal the original section.

LEGISLATIVE BILL 748. Introduced by Blood, 3.

A BILL FOR AN ACT relating to fertility treatment; to amend section 29-110, Revised Statutes Supplement, 2019; to adopt the Fertility Fraud Act; to provide for statutes of limitations; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 749. Introduced by Blood, 3.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2019; to adopt the Nebraska Anti-Terrorism Act; to prohibit poisoning as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 750. Introduced by Blood, 3.

A BILL FOR AN ACT relating to discrimination; to amend sections 18-1724, 20-113, 20-132, 20-134, 20-139, 20-317, 20-318, 20-320, 20-321, 20-322, 20-325, 23-2525, 23-2531, 23-2541, 25-1601.03, 29-401, 45-1056, 48-215, 48-1101, 48-1104, 48-1105, 48-1106, 48-1107, 48-1108, 48-1113, 48-1115, 48-1122, 48-1124, 48-1125, 49-801, 58-216, 68-1605, 75-325, and 76-1495, Reissue Revised Statutes of Nebraska, sections 39-210, 48-628.13, 48-1111, 48-1117, 48-1119, 51-211, 58-808, 58-809, 58-810, and 81-885.24, Revised Statutes Cumulative Supplement, 2018, and sections 32-221 and 32-230, Revised Statutes Supplement, 2019; to prohibit discrimination based upon military or veteran status as prescribed; to define terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 751. Introduced by Blood, 3.

A BILL FOR AN ACT relating to schools; to amend section 79-209, Revised Statutes Supplement, 2019; to change provisions relating to compulsory attendance; and to repeal the original section.

LEGISLATIVE BILL 752. Introduced by Blood, 3.

A BILL FOR AN ACT relating to veterans and servicemembers; to amend sections 38-201 and 71-601, Reissue Revised Statutes of Nebraska, sections 38-1201, 38-2201, 60-4,149.02, 84-946, and 84-948, Revised Statutes Cumulative Supplement, 2018, and sections 38-2001 and 48-203, Revised Statutes Supplement, 2019; to require a review of licensing requirements for certain health professions; to provide duties for, and require submission of reports by, the Board of Advanced Practice Registered Nurses, the Board of Emergency Medical Services, the Board of Medicine and Surgery, the Board of Nursing, and the veterans' program coordinator; to provide duties for the Department of Economic Development and Department of Labor; to provide a duty for the Department of Motor Vehicles relating to an exemption for drivers with military commercial motor vehicle experience; to require a report and the compilation of data concerning veteran suicides; to require a study and report regarding development and implementation of a veteran health care navigator program and a program to end veteran homelessness; to encourage state and local government service providers to inquire regarding military service status as prescribed and provide related duties for the Department of Veterans' Affairs and the Department of Health and Human Services; to require analyses, reports, and programs related to veterans; to change provisions relating to policy and a report under the Occupational Board Reform Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 753. Introduced by Blood, 3.

A BILL FOR AN ACT relating to audiology and speech-language pathology; to amend sections 38-513 and 38-515, Reissue Revised Statutes of Nebraska, and section 38-1509, Revised Statutes Cumulative Supplement, 2018; to adopt the Audiology and Speech-Language Pathology Interstate Compact; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 754. Introduced by Blood, 3.

A BILL FOR AN ACT relating to vital statistics; to amend section 71-604.01, Reissue Revised Statutes of Nebraska; to provide for amendment of a birth certificate; and to repeal the original section.

LEGISLATIVE BILL 755. Introduced by Blood, 3.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 38-10,121, 38-10,160, 71-202.01, and 71-224, Reissue Revised Statutes of Nebraska; to redefine a term; to change provisions relating to the home services permit for certain cosmetology services and the nail technology home services permit; to provide for home barber services permits; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 756. Introduced by Blood, 3.

A BILL FOR AN ACT relating to age of majority; to amend section 43-2101, Revised Statutes Supplement, 2019; to authorize persons eighteen years of age or older to buy and sell stocks and bonds as prescribed; and to repeal the original section.

LEGISLATIVE BILL 757. Introduced by Blood, 3.

A BILL FOR AN ACT relating to insurance; to amend sections 28-631 and 44-6604, Reissue Revised Statutes of Nebraska; to prohibit certain acts under the Nebraska Criminal Code and the Insurance Fraud Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 758. Introduced by Scheer, 19.

A BILL FOR AN ACT relating to the State Capitol; to amend sections 72-2201 and 72-2202, Reissue Revised Statutes of Nebraska; to restate intent; to name the courtyards; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 759. Introduced by Kolterman, 24.

A BILL FOR AN ACT relating to children; to amend sections 43-284, 43-905, 43-1311, 43-1312, and 43-1312.01, Reissue Revised Statutes of Nebraska, and sections 43-285 and 79-215, Revised Statutes Supplement, 2019; to require consultation with school districts regarding placement of children; to state intent; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 760. Introduced by Kolterman, 24.

A BILL FOR AN ACT relating to insurance; to amend section 44-7,107, Revised Statutes Cumulative Supplement, 2018; to require certain insurers to provide coverage for certain services delivered through telehealth; and to repeal the original section.

LEGISLATIVE BILL 761. Introduced by Dorn, 30.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-3,156, Revised Statutes Cumulative Supplement, 2018; to change a fee; to create a fund; to provide for distribution of funds for the simulation in motion program of the University of Nebraska Medical Center; to harmonize provisions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 762. Introduced by Dorn, 30.

A BILL FOR AN ACT relating to the Hall of Fame Trust Fund; to amend section 72-729.01, Reissue Revised Statutes of Nebraska; to provide for transfers of funds from the General Fund; to state intent regarding transfers

of funds; and to repeal the original section.

LEGISLATIVE BILL 763. Introduced by Dorn, 30.

A BILL FOR AN ACT relating to counties under township organization; to amend sections 23-259 and 23-1601, Reissue Revised Statutes of Nebraska; to change provisions relating to certain payments of funds to townships; and to repeal the original sections.

LEGISLATIVE BILL 764. Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to trust companies; to amend sections 8-224.01 and 30-3205, Reissue Revised Statutes of Nebraska; to provide exceptions from certain prohibited investments; to authorize investments in certain securities, shares, and interests; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 765. Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-144.04, Reissue Revised Statutes of Nebraska; to eliminate a duty of the Attorney General with respect to prosecution of certain report violations; and to repeal the original section.

LEGISLATIVE BILL 766. Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to sex offenses; to amend sections 28-319 and 28-320.01, Reissue Revised Statutes of Nebraska, and sections 27-412, 28-318, and 29-110, Revised Statutes Supplement, 2019; to change provisions relating to sexual assault under the Nebraska Evidence Rules; to define a term; to prohibit sexual assault of a minor by an authority figure as prescribed; to change provisions relating to sexual assault of a child in the second or third degree; to change the statute of limitations for failure to make a report of child abuse or neglect; and to repeal the original sections.

LEGISLATIVE BILL 767. Introduced by Lindstrom, 18.

A BILL FOR AN ACT relating to real property; to amend sections 25-223, 76-842, 76-844, 76-854, 76-857, 76-859, 76-860, 76-867, 76-869, 76-870, 76-884, and 76-890, Reissue Revised Statutes of Nebraska, and section 76-861, Revised Statutes Supplement, 2019; to change provisions relating to actions on breach of warranty on improvements to real property; to change provisions under the Nebraska Condominium Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 768. Introduced by Albrecht, 17.

A BILL FOR AN ACT relating to the Department of Motor Vehicles; to amend sections 38-129 and 75-362, Reissue Revised Statutes of Nebraska,

sections 4-111, 60-192, 60-484.04, 60-484.05, 60-4,138, 60-4,141, and 60-4,168, Revised Statutes Cumulative Supplement, 2018, and sections 60-107, 60-119.01, 60-302.01, 60-336.01, 60-386, 60-3,113.04, 60-3,193.01, 60-462.01, 60-479.01, 60-4,111.01, 60-4,132, 60-4,134, 60-4,147.02, 60-501, 60-628.01, 60-6,265, 60-2705, 60-2909.01, 75-363, 75-364, 75-366, 75-392, and 75-393, Revised Statutes Supplement, 2019; to update federal references relating to cabin trailers, low-speed vehicles, access aisles, United States Department of Transportation numbers, handicapped or disabled parking permits, the International Registration Plan, operators' licenses and state identification cards, lawful status, financial transactions, the operation of commercial motor vehicles, hazardous materials, commercial learner's permits, occupant protection systems, motor vehicle consumer informal dispute settlement procedures, disclosure of motor vehicle records, motor carrier regulations and enforcement, and the unified carrier registration plan and agreement; to change provisions relating to odometer readings and lifetime disqualifications from operating a commercial motor vehicle; to provide restrictions for a commercial learner's permit; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 769. Introduced by Gragert, 40; Erdman, 47.

A BILL FOR AN ACT relating to the Nebraska Natural Resources Commission; to amend section 2-1504, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to membership; and to repeal the original section.

LEGISLATIVE BILL 770. Introduced by Gragert, 40; Brewer, 43.

A BILL FOR AN ACT relating to game and parks; to amend section 37-438, Reissue Revised Statutes of Nebraska; to change the fees for annual and temporary permits for nonresident motor vehicles; to provide for disabled veteran permits; and to repeal the original section.

LEGISLATIVE BILL 771. Introduced by Gragert, 40.

A BILL FOR AN ACT relating to the Motor Vehicle Registration Act; to amend section 60-3,100, Revised Statutes Supplement, 2019; to change a license plate registration provision relating to the issuance of one license plate; and to repeal the original section.

LEGISLATIVE BILL 772. Introduced by Williams, 36.

A BILL FOR AN ACT relating to physician assistants; to amend sections 38-2008, 38-2014, 38-2017, 38-2018, 38-2023, 38-2046, 38-2047, 38-2050, 38-2053, 38-2054, 38-2055, and 38-2056, Reissue Revised Statutes of Nebraska; to redefine terms; to restate intent; to change the membership of the Board of Medicine and Surgery and the Physician Assistant Committee; to eliminate requirements for delegation and control by supervising

physicians; to require collaboration with health care professionals; to provide, change, and eliminate authorized actions; and to repeal the original sections.

LEGISLATIVE BILL 773. Introduced by Williams, 36.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the Rural Workforce Housing Investment Fund.

LEGISLATIVE BILL 774. Introduced by Williams, 36.

A BILL FOR AN ACT relating to insurance; to amend sections 44-416.06 and 44-416.09, Revised Statutes Cumulative Supplement, 2018; to change requirements regarding credit for reinsurance as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 775. Introduced by Williams, 36.

A BILL FOR AN ACT relating to real property; to amend sections 76-2202, 76-2204, 76-2205.02, 76-2207.01, 76-2207.17, 76-2207.22, 76-2207.26, 76-2212.03, 76-2215, 76-2216, 76-2216.02, 76-2218.02, 76-2219.01, 76-2219.02, 76-2220, 76-2221, 76-2223, 76-2227, 76-2233, 76-2233.01, 76-2233.02, 76-2233.03, 76-2239, 76-2243, 76-2245, 76-2246, 76-2247.01, 76-3207, and 76-3210, Reissue Revised Statutes of Nebraska, and sections 76-2207.27, 76-2207.30, 76-2228.01, 76-2228.02, 76-2230, 76-2231.01, 76-2232, 76-2236, 76-2238, 76-3202, and 76-3203.01, Revised Statutes Supplement, 2019; to change provisions relating to the Real Property Appraiser Act; to harmonize provisions; to repeal the original sections; to outright repeal sections 76-2205.01 and 76-2216.03, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 776. Introduced by DeBoer, 10.

A BILL FOR AN ACT relating to the Nebraska Evidence Rules; to amend section 27-1103, Reissue Revised Statutes of Nebraska; to provide for the admission of expert testimony on eyewitness identification and memory as prescribed; to correct internal references; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 777. Introduced by DeBoer, 10.

A BILL FOR AN ACT relating to the Nebraska Probation Administration Act; to amend section 29-2264, Revised Statutes Cumulative Supplement, 2018; to provide for set-asides of infractions and violations of city and village ordinances and county resolutions as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 778. Introduced by Stinner, 48.

A BILL FOR AN ACT relating to appropriations; to state intent regarding appropriations for the repayment of qualified educational debts owed by eligible health professionals under the Rural Health Systems and Professional Incentive Act.

LEGISLATIVE BILL 779. Introduced by Stinner, 48.

A BILL FOR AN ACT relating to appropriations; to state intent regarding appropriations to the Department of Health and Human Services.

LEGISLATIVE BILL 780. Introduced by Stinner, 48.

A BILL FOR AN ACT relating to the Nebraska Arts Council; to amend section 82-332, Reissue Revised Statutes of Nebraska; to change provisions relating to expenditures for administrative costs for cultural preservation activities; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 781. Introduced by Stinner, 48.

A BILL FOR AN ACT relating to government; to amend sections 14-553, 15-317, and 23-1601, Reissue Revised Statutes of Nebraska, sections 17-605 and 17-606, Revised Statutes Cumulative Supplement, 2018, and sections 16-318 and 84-304, Revised Statutes Supplement, 2019; to provide an annual continuing education requirement for treasurers of certain local governments; to provide a duty for the Auditor of Public Accounts as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 782. Introduced by Stinner, 48.

A BILL FOR AN ACT relating to accountants; to amend section 1-116, Revised Statutes Cumulative Supplement, 2018; to eliminate obsolete provisions; to change provisions relating to the certified public accountant examination; and to repeal the original section.

LEGISLATIVE BILL 783. Introduced by Lowe, 37.

A BILL FOR AN ACT relating to health care facilities; to amend section 71-405, Reissue Revised Statutes of Nebraska; to redefine ambulatory surgical center; and to repeal the original section.

LEGISLATIVE BILL 784. Introduced by Friesen, 34.

A BILL FOR AN ACT relating to the Motor Vehicle Certificate of Title Act; to amend section 60-192, Revised Statutes Cumulative Supplement, 2018; to change provisions regarding odometer statements as prescribed; and to repeal the original section.

LEGISLATIVE BILL 785. Introduced by Friesen, 34.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-6,294 and 60-6,297, Revised Statutes Cumulative Supplement, 2018, and section 60-6,290, Revised Statutes Supplement, 2019; to change provisions relating to vehicle size, weight, and load; to provide for stinger-steered automobile transporters, towaway trailer transporter combinations, and emergency vehicles; to provide duties for the Department of Transportation; to define a term; and to repeal the original sections.

LEGISLATIVE BILL 786. Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to the Nebraska Treatment and Corrections Act; to amend section 83-179, Reissue Revised Statutes of Nebraska, sections 83-170 and 83-1,135, Revised Statutes Cumulative Supplement, 2018, and section 83-173.03, Revised Statutes Supplement, 2019; to define terms; to change provisions relating to the use of restrictive housing; to require screening for serious mental illnesses, developmental disabilities, and traumatic brain injuries as prescribed; to require a report; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 787. Introduced by Lathrop, 12.

A BILL FOR AN ACT relating to insurance; to amend section 44-6408, Reissue Revised Statutes of Nebraska; to construe applicability relating to certain uninsured and underinsured motor vehicle insurance coverages; and to repeal the original section.

LEGISLATIVE BILL 788. Introduced by Slama, 1.

A BILL FOR AN ACT relating to labor; to amend section 48-2107, Revised Statutes Cumulative Supplement, 2018, and section 48-622.03, Revised Statutes Supplement, 2019; to change provisions relating to a report by the Department of Labor and a fee under the Contractor Registration Act; to eliminate provisions relating to service letters, overhead high voltage conductors, and private employment agencies; to repeal the original sections; to outright repeal sections 48-209, 48-210, 48-211, 48-440, 48-501.01, 48-503, 48-504, 48-505, 48-506, 48-507, 48-508, 48-510, 48-511, 48-512, 48-513, 48-514, 48-515, 48-516, 48-517, 48-518, 48-519, 48-520, 48-521, 48-523, and 48-524, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 789. Introduced by Slama, 1.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-601, Revised Statutes Supplement, 2019; to change provisions relating to school bus stop signal arm violations; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 790. Introduced by Slama, 1.

A BILL FOR AN ACT relating to state purchasing; to amend sections 73-507, 81-153, and 81-1118.06, Reissue Revised Statutes of Nebraska; to provide exceptions to certain bidding requirements and contract approval procedures; to provide and change powers and duties of the materiel division of the Department of Administrative Services; and to repeal the original sections.

LEGISLATIVE BILL 791. Introduced by Slama, 1.

A BILL FOR AN ACT relating to the Livestock Animal Welfare Act; to amend section 54-909, Reissue Revised Statutes of Nebraska; to change provisions relating to ownership, possession, or seizure of animals after conviction or violation of a court order under the act; and to repeal the original section.

LEGISLATIVE BILL 792. Introduced by Slama, 1.

A BILL FOR AN ACT relating to the Uniform Controlled Substances Act; to amend section 28-416, Revised Statutes Cumulative Supplement, 2018; to allow for the combination or aggregation of cocaine, base cocaine, heroin, or amphetamine or methamphetamine amounts for two or more controlled substances violations as prescribed; and to repeal the original section.

LEGISLATIVE BILL 793. Introduced by Slama, 1.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 68-1017, Reissue Revised Statutes of Nebraska, and section 29-110, Revised Statutes Supplement, 2019; to change penalty and statute of limitation provisions relating to public assistance violations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 794. Introduced by Hansen, M., 26.

A BILL FOR AN ACT relating to cities; to amend sections 14-403 and 15-902, Reissue Revised Statutes of Nebraska, and sections 19-901 and 19-902, Revised Statutes Supplement, 2019; to adopt the Missing Middle Housing Act; to provide zoning regulation requirements for certain cities; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 795. Introduced by Hansen, M., 26.

A BILL FOR AN ACT relating to the Enterprise Zone Act; to amend section 13-2102, Reissue Revised Statutes of Nebraska; to change provisions relating to enterprise zones; and to repeal the original section.

LEGISLATIVE BILL 796. Introduced by Hansen, M., 26.

A BILL FOR AN ACT relating to cities of the primary class; to amend sections 15-840, 15-841, 15-1201, and 15-1205, Reissue Revised Statutes of Nebraska; to change provisions relating to allowance, disallowance, and appeals of claims against a city; and to repeal the original sections.

LEGISLATIVE BILL 797. Introduced by Hansen, M., 26.

A BILL FOR AN ACT relating to cities and villages; to amend section 19-3052, Revised Statutes Supplement, 2019; to change restrictions on annexation as prescribed; and to repeal the original section.

LEGISLATIVE BILL 798. Introduced by Brandt, 32.

A BILL FOR AN ACT relating to the state lottery; to amend sections 9-823 and 84-712.05, Revised Statutes Supplement, 2019; to provide for the anonymity of winners of certain prizes; to change public records disclosure provisions as prescribed; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 799. Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Arch, 14; Briese, 41; Crawford, 45; Hansen, M., 26; Hunt, 8; Lowe, 37.

A BILL FOR AN ACT relating to cities of the primary class; to amend sections 15-103, 15-104, 15-105, 15-106, 15-106.01, 15-106.02, 15-108, 15-110, 15-111, 15-112, 15-113, 15-115, 15-116, 15-117, 15-118, 15-201, 15-201.01, 15-204, 15-205, 15-207, 15-208, 15-209, 15-210, 15-212, 15-215, 15-216, 15-217, 15-218, 15-219, 15-220, 15-221, 15-222, 15-223, 15-224, 15-225, 15-228, 15-229, 15-229.01, 15-229.02, 15-230, 15-231, 15-234, 15-235, 15-235.01, 15-235.03, 15-236, 15-237, 15-238, 15-239, 15-240, 15-242, 15-243, 15-244, 15-247, 15-250, 15-252, 15-254, 15-255, 15-256, 15-257, 15-258, 15-259, 15-261, 15-262, 15-263, 15-264, 15-265, 15-266, 15-268.01, 15-269, 15-270, 15-271, 15-272, 15-273, 15-274, 15-307, 15-308, 15-309, 15-309.01, 15-310, 15-311, 15-314, 15-315, 15-316, 15-317, 15-322, 15-326, 15-332, 15-401, 15-402, 15-403, 15-406, 15-501, 15-502, 15-701, 15-701.01, 15-701.02, 15-702.01, 15-702.02, 15-702.03, 15-702.04, 15-708, 15-717, 15-720, 15-724, 15-725, 15-726, 15-727, 15-728, 15-729, 15-734, 15-735, 15-751, 15-752, 15-753, 15-754, 15-807, 15-808, 15-809, 15-810, 15-811, 15-812, 15-813, 15-814, 15-816, 15-817, 15-818, 15-819, 15-821, 15-822, 15-823, 15-824, 15-834, 15-835, 15-840, 15-841, 15-842.01, 15-845, 15-848, 15-901, 15-902, 15-1101, 15-1102, 15-1103, 15-1104, 15-1105, 15-1106, 15-1201, 15-1204, 15-1205, and 15-1305, Reissue Revised Statutes of Nebraska, sections 15-102, 15-202, 15-211, 15-241, 15-268, 15-404, 15-709, 15-713, 15-718, 15-905, 15-1017, 15-1202, and 15-1203, Revised Statutes Cumulative Supplement, 2018, and section 84-304, Revised Statutes Supplement, 2019; to change provisions relating to cities of the primary class; to correct and include references as prescribed; to define extraterritorial zoning jurisdiction for

public health and city planning purposes; to restate findings relating to offstreet parking; to change and eliminate certain provisions relating to street railways; to harmonize provisions; to repeal the original sections; and to outright repeal sections 15-730, 15-731, 15-732, and 15-733, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 800. Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Arch, 14; Briese, 41; Crawford, 45; Hansen, M., 26; Hunt, 8; Lowe, 37.

A BILL FOR AN ACT relating to building codes; to amend section 71-6405, Reissue Revised Statutes of Nebraska, and section 71-6406, Revised Statutes Supplement, 2019; to provide for the applicability of the state building code and local building or construction codes as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 801. Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Arch, 14; Briese, 41; Crawford, 45; Hansen, M., 26; Hunt, 8; Lowe, 37.

A BILL FOR AN ACT relating to municipalities; to amend sections 18-2109, 18-2115, 18-2117.02, 18-2117.03, and 18-2142.05, Revised Statutes Cumulative Supplement, 2018, and sections 18-2101.02, 18-2103, and 18-2115.01, Revised Statutes Supplement, 2019; to change and eliminate provisions of the Community Development Law; and to repeal the original sections.

LEGISLATIVE BILL 802. Introduced by Hughes, 44.

A BILL FOR AN ACT relating to water; to state a legislative finding and declaration relating to the right to use ground water; and to provide certain exemptions.

LEGISLATIVE BILL 803. Introduced by Hughes, 44.

A BILL FOR AN ACT relating to agriculture; to amend sections 2-3740 and 49-1499.02, Reissue Revised Statutes of Nebraska, and sections 52-1308 and 60-6,298, Revised Statutes Cumulative Supplement, 2018; to adopt the Pulse Crop Resources Act; to redefine terms under the Dry Bean Resources Act, the Nebraska Political Accountability and Disclosure Act, and for purposes of a filing system for farm product security interests; to change provisions relating to a distance limitation exception for certain vehicle weight and length permits; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 804. Introduced by Wayne, 13.

A BILL FOR AN ACT relating to insurance; to require coverage for prescription epinephrine autoinjectors for persons eighteen years of age or

younger; and to provide a duty for the Revisor of Statutes.

LEGISLATIVE BILL 805. Introduced by Wayne, 13.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Supplement, 2019; to provide an income tax deduction for certain wages paid to individuals convicted of a felony; and to repeal the original section.

LEGISLATIVE BILL 806. Introduced by Wayne, 13.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Supplement, 2019; to exempt social security benefits and retirement benefits from taxation as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 807. Introduced by La Grone, 49.

A BILL FOR AN ACT relating to the Auditor of Public Accounts; to amend section 84-304, Revised Statutes Supplement, 2019; to change a provision relating to government auditing standards as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 808. Introduced by La Grone, 49; Kolterman, 24.

A BILL FOR AN ACT relating to the Nebraska Model Business Corporation Act; to amend section 21-201, Revised Statutes Cumulative Supplement, 2018; to define terms; to provide for the ratification of defective corporate actions; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 809. Introduced by Wayne, 13.

A BILL FOR AN ACT relating to plumbing codes; to amend section 18-1915, Reissue Revised Statutes of Nebraska, and sections 18-132 and 23-172, Revised Statutes Cumulative Supplement, 2018; to provide for the applicability of the 2018 Uniform Plumbing Code in certain cities, villages, and counties; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 810. Introduced by McCollister, 20.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-2704.24 and 77-27,132, Reissue Revised Statutes of Nebraska, and section 71-7611, Revised Statutes Supplement, 2019; to impose sales and use taxes on bottled water, candy, and soft drinks and provide for the use of the additional revenue; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 811. Introduced by McCollister, 20; Howard, 9;

Kolterman, 24; Walz, 15.

A BILL FOR AN ACT relating to the Parkinson's Disease Registry Act; to amend section 81-6,103, Reissue Revised Statutes of Nebraska; to change reporting requirements for pharmacists as prescribed; and to repeal the original section.

LEGISLATIVE BILL 812. Introduced by McCollister, 20; Erdman, 47.

A BILL FOR AN ACT relating to the Tax Equalization and Review Commission Act; to amend sections 77-5001, 77-5017, and 77-5023, Reissue Revised Statutes of Nebraska; to authorize the commission to order a reconsideration or rehearing as prescribed; to change provisions relating to acceptable ranges; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 813. Introduced by Bolz, 29; McDonnell, 5.

A BILL FOR AN ACT relating to appropriations; to state intent relating to appropriations for apprenticeships; and to provide powers and duties for the Department of Labor.

LEGISLATIVE BILL 814. Introduced by Geist, 25; Albrecht, 17; Arch, 14; Bostelman, 23; Brandt, 32; Brewer, 43; Clements, 2; Erdman, 47; Gragert, 40; Groene, 42; Halloran, 33; Hansen, B., 16; Hilgers, 21; Kolterman, 24; La Grone, 49; Linehan, 39; Lowe, 37; McDonnell, 5; Moser, 22; Murman, 38; Slama, 1.

A BILL FOR AN ACT relating to abortion; to amend sections 28-326 and 38-2021, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2019; to define a term; to prohibit dismemberment abortion; to provide for a hearing, immunity from liability, causes of action, injunctions, damages, attorney's fees, a penalty, and anonymity; to state intent; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 815. Introduced by Morfeld, 46.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-992, Revised Statutes Supplement, 2019; to prohibit pursuit of, application for, or implementation of a federal waiver as prescribed; and to repeal the original section.

LEGISLATIVE BILL 816. Introduced by McCollister, 20.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 69-2401, 69-2402, 69-2403, 69-2404, 69-2405, 69-2406, 69-2407, 69-2408, 69-2409, 69-2409.01, 69-2410, 69-2411, 69-2412, 69-2414, 69-2417, 69-2420, 69-2421, 69-2422, 69-2423, 69-2424, 69-2425, 69-2426,

69-2432, 71-904.01, and 71-963, Reissue Revised Statutes of Nebraska; to provide for dissemination of information regarding firearm safety and suicide prevention and require suicide prevention training; to require a certificate and provide for other requirements and restrictions on transfers of certain firearms as prescribed; to change provisions relating to issuance of a certificate and an appeal; to provide penalties; to name an act; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 817. Introduced by Stinner, 48.

A BILL FOR AN ACT relating to the Psychology Practice Act; to amend sections 38-2838, 38-2850, 38-3112, 71-2445, and 71-2473, Reissue Revised Statutes of Nebraska, sections 38-3101 and 38-3111, Revised Statutes Cumulative Supplement, 2018, and section 28-401, Revised Statutes Supplement, 2019; to adopt the Prescribing Psychologist Practice Act; to define and redefine terms; to provide for the use of certain terms; to change the membership of the Board of Psychology; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 818. Introduced by Brewer, 43; Bostelman, 23; Friesen, 34.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-6203, Revised Statutes Supplement, 2019; to adjust the nameplate capacity tax for inflation as prescribed; and to repeal the original section.

LEGISLATIVE BILL 819. Introduced by Brewer, 43; La Grone, 49; Lindstrom, 18.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2716, Revised Statutes Supplement, 2019; to change provisions relating to the taxation of benefits received under the federal Social Security Act; and to repeal the original section.

LEGISLATIVE BILL 820. Introduced by Brewer, 43.

A BILL FOR AN ACT relating to voter registration; to amend section 32-312, Revised Statutes Cumulative Supplement, 2018; to change requested information on the registration application; and to repeal the original section.

LEGISLATIVE BILL 821. Introduced by Brewer, 43.

A BILL FOR AN ACT relating to cities and villages; to amend section 19-927, Revised Statutes Supplement, 2019; to change provisions relating to planning commission meetings; and to repeal the original section.

LEGISLATIVE BILL 822. Introduced by Brewer, 43.

A BILL FOR AN ACT relating to recall elections; to amend section 32-1305, Reissue Revised Statutes of Nebraska, and section 32-1306, Revised Statutes Supplement, 2019; to change provisions regarding counting petition signatures and ordering and holding a recall election; and to repeal the original sections.

LEGISLATIVE BILL 823. Introduced by Brewer, 43.

A BILL FOR AN ACT relating to public power; to amend sections 15-229, 18-2441, 25-2503, 70-501, 70-667, and 70-670, Reissue Revised Statutes of Nebraska, section 25-2501, Revised Statutes Cumulative Supplement, 2018, and section 19-701, Revised Statutes Supplement, 2019; to require a special election prior to the use of eminent domain for transmission lines in certain circumstances; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 824. Introduced by Hunt, 8.

A BILL FOR AN ACT relating to building codes; to amend sections 71-6403 and 71-6406, Revised Statutes Supplement, 2019; to remove redundant language; to correct a reference to the Department of Environment and Energy; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 825. Introduced by Hilkemann, 4; DeBoer, 10.

A BILL FOR AN ACT relating to infants; to amend section 71-519, Reissue Revised Statutes of Nebraska; to require screening of infants for spinal muscular atrophy; and to repeal the original section.

LEGISLATIVE BILL 826. Introduced by Hilkemann, 4.

A BILL FOR AN ACT relating to gambling; to amend section 9-1,101, Revised Statutes Supplement, 2019; to provide for and eliminate transfers from the Charitable Gaming Operations Fund; and to repeal the original section.

LEGISLATIVE BILL 827. Introduced by Hilkemann, 4.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to the Department of Health and Human Services.

LEGISLATIVE BILL 828. Introduced by Hilkemann, 4; Hansen, B., 16; Howard, 9.

A BILL FOR AN ACT relating to the Optometry Practice Act; to amend sections 38-2604, 38-2605, 38-2614, and 38-2615, Reissue Revised Statutes of Nebraska; to redefine terms; to provide requirements for use of injections and surgical procedures; to provide for applicability; and to repeal the original sections.

LEGISLATIVE BILL 829. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the Game and Parks Commission; to amend section 37-335, Reissue Revised Statutes of Nebraska; to change provisions relating to certain payments in lieu of taxes; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 830. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,190, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to the establishment of state speed limits by local authorities; and to repeal the original section.

LEGISLATIVE BILL 831. Introduced by Bostelman, 23; Brewer, 43.

A BILL FOR AN ACT relating to the Motor Vehicle Certificate of Title Act; to amend section 60-142.01, Reissue Revised Statutes of Nebraska, and section 60-144, Revised Statutes Supplement, 2019; to change provisions relating to a certificate of title for a junked vehicle; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 832. Introduced by Bostelman, 23.

A BILL FOR AN ACT relating to children; to amend section 28-101, Revised Statutes Supplement, 2019; to provide for immunity from criminal and civil liability for removal of a child from a motor vehicle by forcible entry as prescribed; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 833. Introduced by Crawford, 45.

A BILL FOR AN ACT relating to the Health Care Facility Licensure Act; to amend section 71-432, Reissue Revised Statutes of Nebraska; to change provisions relating to licensure; and to repeal the original section.

LEGISLATIVE BILL 834. Introduced by Arch, 14.

A BILL FOR AN ACT relating to the Engineers and Architects Regulation Act; to amend sections 81-3401, 81-3403, 81-3416.01, 81-3428, 81-3429, 81-3432, 81-3433, 81-3438, 81-3448, and 81-3451, Revised Statutes Cumulative Supplement, 2018, and section 81-3453, Revised Statutes Supplement, 2019; to define and redefine terms; to change and eliminate provisions related to the Board of Engineers and Architects, credentials issued under the act, and the practice of engineering; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 835. Introduced by Halloran, 33; Brandt, 32;

Brewer, 43; Gragert, 40; Hansen, B., 16; Moser, 22; Murman, 38; Slama, 1.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend section 81-2,288.01, Reissue Revised Statutes of Nebraska, and sections 81-2,244.01, 81-2,257, and 81-2,270, Revised Statutes Cumulative Supplement, 2018; to change and eliminate definitions; to provide a priority item designation; to eliminate obsolete references; to change regulatory authority inspection reporting requirements; to repeal the original sections; and to outright repeal section 81-2,243.01, Revised Statutes Cumulative Supplement, 2018.

LEGISLATIVE BILL 836. Introduced by Arch, 14.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend sections 71-801 and 71-831, Reissue Revised Statutes of Nebraska, and section 68-901, Revised Statutes Supplement, 2019; to change provisions governing certain contracts and agreements; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 837. Introduced by Arch, 14.

A BILL FOR AN ACT relating to child care; to amend sections 71-1912 and 71-1928.01, Revised Statutes Supplement, 2019; to change provisions relating to funding of a national criminal history record information check as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 838. Introduced by Arch, 14.

A BILL FOR AN ACT relating to the practice of medicine; to amend section 38-2025, Revised Statutes Cumulative Supplement, 2018; to provide an exemption from licensure as prescribed; and to repeal the original section.

LEGISLATIVE BILL 839. Introduced by Wishart, 27; Brewer, 43; Briese, 41; Crawford, 45; DeBoer, 10; Howard, 9; Hunt, 8; Kolowski, 31; Kolterman, 24; Linehan, 39; McDonnell, 5; Morfeld, 46; Murman, 38; Pansing Brooks, 28; Stinner, 48; Vargas, 7; Walz, 15; Williams, 36.

A BILL FOR AN ACT relating to deaf or hard of hearing persons; to recognize American Sign Language as a distinct and separate language; and to authorize schools to offer courses in American Sign Language as prescribed.

LEGISLATIVE BILL 840. Introduced by Quick, 35; Crawford, 45; Hansen, M., 26; Pansing Brooks, 28; Walz, 15.

A BILL FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend sections 71-5716, 71-5718, 71-5727, and 71-5735, Reissue Revised Statutes of Nebraska; to prohibit the use of electronic smoking devices as

prescribed; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 841. Introduced by Crawford, 45; Blood, 3; Walz, 15.

A BILL FOR AN ACT relating to homestead exemptions; to amend sections 77-3506 and 77-3508, Revised Statutes Supplement, 2019; to change provisions relating to certain certifications; and to repeal the original sections.

LEGISLATIVE BILL 842. Introduced by Crawford, 45; Blood, 3; Walz, 15.

A BILL FOR AN ACT relating to the Motor Vehicle Registration Act; to amend section 60-3,185, Revised Statutes Cumulative Supplement, 2018; to change an exemption from motor vehicle taxes and fees as prescribed; and to repeal the original section.

LEGISLATIVE BILL 843. Introduced by Cavanaugh, 6; Hansen, M., 26; Howard, 9.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-301, 60-393, 60-395, 60-396, 60-3,104, 60-3,130.04, and 60-495, Revised Statutes Supplement, 2019; to provide for Donate Life Plates; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 844. Introduced by Clements, 2.

A BILL FOR AN ACT relating to construction liens; to amend section 52-146, Reissue Revised Statutes of Nebraska; to eliminate certain notice requirements; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 845. Introduced by Groene, 42.

A BILL FOR AN ACT relating to ground water management and protection; to amend section 46-715, Revised Statutes Cumulative Supplement, 2018; to change procedures relating to augmentation projects under an integrated management plan; and to repeal the original section.

LEGISLATIVE BILL 846. Introduced by Quick, 35.

A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-119, Reissue Revised Statutes of Nebraska; to change provisions relating to compensation; and to repeal the original section.

LEGISLATIVE BILL 847. Introduced by Arch, 14; Williams, 36.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 38-2826, 38-28,107, 71-401, 71-2411, 71-2412, 71-2413, 71-2457, 71-2458, 71-2468, and 71-2479, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to dispensed drugs and devices and emergency box drugs; to provide requirements for assisted-living facilities, nursing facilities, and skilled nursing facilities; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 848. Introduced by Pansing Brooks, 28; Brewer, 43; Linehan, 39; McCollister, 20; Scheer, 19; Vargas, 7.

A BILL FOR AN ACT relating to government; to amend sections 25-2221 and 62-301, Reissue Revised Statutes of Nebraska; to rename Columbus Day as Indigenous Peoples' Day; and to repeal the original sections.

LEGISLATIVE BILL 849. Introduced by Pansing Brooks, 28; Bolz, 29; Brewer, 43; Howard, 9; Scheer, 19; Walz, 15.

A BILL FOR AN ACT relating to children; to amend sections 43-4502, 43-4503, 43-4510, 43-4511, and 43-4512, Reissue Revised Statutes of Nebraska, and section 43-4504, Revised Statutes Supplement, 2019; to change provisions relating to eligibility for participating in certain programs under the Young Adult Bridge to Independence Act; to restate intent; to define and redefine terms; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 850. Introduced by Pansing Brooks, 28; Bostelman, 23; Brewer, 43; Linehan, 39; Lowe, 37; Scheer, 19; Williams, 36.

A BILL FOR AN ACT relating to government; to authorize placement of a monument to the First Regiment Nebraska Volunteer Infantry at the Fort Donelson National Battlefield; to provide a duty for the Secretary of State; to create a committee; to provide for termination; and to declare an emergency.

LEGISLATIVE BILL 851. Introduced by McCollister, 20; Chambers, 11; Crawford, 45; Howard, 9; Hunt, 8; Kolowski, 31; Morfeld, 46; Pansing Brooks, 28; Walz, 15; Wishart, 27.

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-949, Reissue Revised Statutes of Nebraska, and section 68-915, Revised Statutes Supplement, 2019; to provide for eligibility for certain children; to require a waiver application related to eligibility for certain groups; to provide duties; to harmonize provisions; and to repeal the original sections.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 734A. Introduced by Hunt, 8.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 734, One Hundred Sixth Legislature, Second Session, 2020.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 279CA. Introduced by Scheer, 19.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 6:

III-6 The Legislature shall consist of not more than ~~fifty-five~~^{fifty} members and not less than thirty members. The sessions of the Legislature shall be annual except as otherwise provided by this constitution or as may be otherwise provided by law.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to authorize an increase in the maximum number of members of the Legislature not to exceed fifty-five members. Any increase to the current number of forty-nine members will require an act of the Legislature as provided by law.

For

Against.

LEGISLATIVE RESOLUTION 280CA. Introduced by Wayne, 13.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 12:

III-12 (1) No person shall be eligible to serve as a member of the Legislature for four years next after the expiration of ~~threetwo~~ consecutive terms regardless of the district represented.

(2) Service prior to January 1, 2001, as a member of the Legislature shall not be counted for the purpose of calculating consecutive terms in subsection (1) of this section.

(3) For the purpose of this section, service in office for more than one-half of a term shall be deemed service for a term.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change the limit on legislative terms from two consecutive terms to three consecutive terms.

For

Against.

LEGISLATIVE RESOLUTION 281CA. Introduced by McCollister, 20.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article II, section 1:

II-1 (1) The powers of the government of this state are divided into three distinct departments, the legislative, executive, and judicial, and no person or collection of persons being one of these departments shall exercise any power properly belonging to either of the others except as expressly directed or permitted in this Constitution.

(2) Notwithstanding the provisions of subsection (1) of this section, supervision of individuals sentenced to probation, released on parole, or enrolled in programs or services established within a court may be undertaken by either the judicial or executive department, or jointly, as provided by the Legislature.

(3) Notwithstanding the provisions of subsection (1) of this section and Article IV, section 13, of this Constitution, the Legislature may enact legislation authorizing courts to reduce sentences that have become final.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to allow the Legislature to enact legislation authorizing courts to reduce sentences that have become final.

For

Against.

LEGISLATIVE RESOLUTION 282. Introduced by Erdman, 47.

WHEREAS, the Potter Sundry is located at 324 Chestnut Street in Potter; and

WHEREAS, the building was originally constructed with an oak back bar, leaded glass, a full mirror, and a tin roof in 1914; and

WHEREAS, the Potter Drug Company opened a drug store inside the building in 1916; and

WHEREAS, James Earl Thayer lived above the drug store, ran the pharmacy, and raised a family there; and

WHEREAS, James Earl Thayer's son, Harold Dean Thayer, acquired the nickname Pinky due to his bright red, wavy hair; and

WHEREAS, Pinky Thayer enjoyed concocting spectacular sundaes in the early 1930s; and

WHEREAS, Pinky Thayer created the first Tin Roof Sundae at the age of fourteen while working as a soda jerk and named the treat after the tin ceiling of the Potter Sundry; and

WHEREAS, the Tin Roof Sundae is an original ice cream creation made in a soda glass with vanilla ice cream topped with a generous amount of chocolate syrup, then chocolate ice cream covered with marshmallow sauce, and whole roasted Spanish peanuts on top; and

WHEREAS, in 2018 the Food Network formally recognized the Tin Roof Sundae as an iconic Nebraska dessert; and

WHEREAS, several companies have marketed ice cream flavors attempting to replicate the original Tin Roof Sundae; and

WHEREAS, the Tin Roof Sundae has also inspired the creation of new desserts; and

WHEREAS, the Tin Roof Sundae is a unique dessert combining salty and sweet, marshmallow sauce and whole roasted Spanish peanuts, setting it apart as a truly special sundae; and

WHEREAS, the Tin Roof Sundae is still being served at the Potter Sundry.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature recognizes Harold Dean Thayer as the original creator of the Tin Roof Sundae.

2. That the Legislature declares the Tin Roof Sundae to be the sundae of the State of Nebraska.

3. That a copy of this resolution be sent to Kendra Mitchell, the current owner of the Potter Sundry.

Laid over.

LEGISLATIVE RESOLUTION 283CA. Introduced by Brewer, 43; Halloran, 33; Hilgers, 21; La Grone, 49; Lowe, 37.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VI, section 1:

VI-1 ~~Only a~~Every citizen of the United States who has attained the age of eighteen years on or before the first Tuesday after the first Monday in November and has resided within the state and the county and voting precinct for the terms provided by law shall, except as provided in section 2 of this article, be an elector for the calendar year in which such citizen has attained the age of eighteen years and for all succeeding calendar years.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to change qualifications of electors.

For

Against.

LEGISLATIVE RESOLUTION 284CA. Introduced by Brewer, 43; La Grone, 49.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VIII, section 1, and Article VIII, section 1B:

VIII-1 The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 4, of this Constitution or any other provision of this Constitution to the contrary: (1) Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution; (2) tangible personal property, as defined by the Legislature, not exempted by this Constitution or by legislation, shall all be taxed at depreciated cost using the same depreciation method with reasonable class lives, as determined by the Legislature, or shall all be taxed by valuation uniformly and proportionately; (3) the Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles. The tax proceeds from motor vehicles taxed in each county shall be allocated to the county and the cities, villages, and school districts of such county; (4) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land; (5) the Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses; (6) the Legislature

may prescribe standards and methods for the determination of the value of real property at uniform and proportionate values; (7) in furtherance of the purposes for which such a law of the United States has been adopted, whenever there exists a law of the United States which is intended to protect a specifically designated type, use, user, or owner of property or franchise from discriminatory state or local taxation, such property or franchise shall constitute a separate class of property or franchise under the laws of the State of Nebraska, and such property or franchise may not be taken into consideration in determining whether taxes are levied by valuation uniformly or proportionately upon any property or franchise, and the Legislature may enact laws which statutorily recognize such class and which tax or exempt from taxation such class of property or franchise in such manner as it determines; and (8) the Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. Each actual property tax rate levied for a governmental subdivision shall be the same for all classes of taxed property and franchises. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law, except as provided in Article VIII, section 1B, of this Constitution. Existing revenue laws shall continue in effect until changed by the Legislature.

VIII-1B (1) When an income tax is adopted by the Legislature, the Legislature may adopt an income tax law based upon the laws of the United States.

(2) The State of Nebraska shall be prohibited from imposing an income tax for all taxable years beginning or deemed to begin on or after January 1, 2024.

(3) In order to comply with subsection (2) of this section, the Legislature shall eliminate the income tax over a four-year period as follows:

(a) For taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, income tax rates shall be reduced to seventy-five percent of their pre-adjustment level;

(b) For taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, income tax rates shall be reduced to fifty percent of their pre-adjustment level;

(c) For taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024, income tax rates shall be reduced to twenty-five percent of their pre-adjustment level; and

(d) For taxable years beginning or deemed to begin on or after January 1, 2024, no income tax shall be imposed.

(4) For purposes of this section, pre-adjustment level means the income tax rates in effect immediately prior to the reduction required in subdivision (3)(a) of this section.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to prohibit the state from imposing an income tax for all taxable years beginning or deemed to begin on or after January 1, 2024, and to require the Legislature to eliminate the income tax over a four-year period.

For

Against.

LEGISLATIVE RESOLUTION 285CA. Introduced by Brewer, 43.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 24:

III-24 (1) Except as provided in this section, the Legislature shall not authorize any game of chance or any lottery or gift enterprise when the consideration for a chance to participate involves the payment of money for the purchase of property, services, or a chance or admission ticket or requires an expenditure of substantial effort or time.

(2) The Legislature may authorize and regulate a state lottery pursuant to subsection (3) of this section and other lotteries, raffles, and gift enterprises which are intended solely as business promotions or the proceeds of which are to be used solely for charitable or community betterment purposes without profit to the promoter of such lotteries, raffles, or gift enterprises.

(3)(a) The Legislature may establish a lottery to be operated and regulated by the State of Nebraska. The proceeds of the lottery shall be appropriated by the Legislature for the costs of establishing and maintaining the lottery and for the following purposes, as directed by the Legislature:

(i) The first five hundred thousand dollars after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund;

(ii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall first be used to address prison overcrowding as the Legislature may direct and any remaining money shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act;

(iii) Forty-four and one-half percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be used for education as the Legislature may direct;

(iv) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides

matching funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

(v) One percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers Assistance Fund.

(b) No lottery game shall be conducted as part of the lottery unless the type of game has been approved by a majority of the members of the Legislature.

(4) Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of horseraces, wherever run, either within or outside of the state, by the parimutuel method, when such wagering is conducted by licensees within a licensed racetrack enclosure or (b) the enactment of laws providing for the licensing and regulation of bingo games conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for license, except that bingo games cannot be conducted by agents or lessees of such associations on a percentage basis.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide for use of a portion of the proceeds of the state lottery to first address prison overcrowding and the remaining money of such portion to carry out the Nebraska Environmental Trust Act.

For

Against.

LEGISLATIVE RESOLUTION 286CA. Introduced by Cavanaugh, 6; Chambers, 11; Hunt, 8.

THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 2020, the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VI, section 2:

VI-2 No person shall be qualified to vote who is non compos mentis, or who has been convicted of treason ~~or felony~~ under the laws of the state or of the United States, unless restored to civil rights.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to remove felony convictions other than treason from being a disqualification for voting.

For
Against.

LEGISLATIVE RESOLUTION 287. Introduced by Erdman, 47.

WHEREAS, King Robert Rhiley, Jr., was born the son of a Pikes Peak-winning race car driver, grew to love fast cars, and drove a Camero Z28 at the age of ninety; and

WHEREAS, King Rhiley Jr.'s true passion was flying; and

WHEREAS, King Rhiley Jr. took his first dual flight on July 31, 1947, and took his first solo flight four months later; and

WHEREAS, King Rhiley Jr. accumulated an estimated thirty thousand hours of total flying time before his retirement in 2009; and

WHEREAS, King Rhiley Jr. taught his sons and friends how to fly and to operate an aerial applicator, offered pilot services to aircraft owners, and served as a volunteer pilot for flights transporting critically ill patients from small rural hospitals to larger urban hospitals; and

WHEREAS, King Rhiley Jr. became the first manager of the Garden County Airport in 1957, made the airport accessible twenty-four hours a day in the early 1960s, and extended the runway to four thousand six hundred ninety-nine feet to make it possible for private jets to take off and land; and

WHEREAS, King Rhiley Jr. received a commercial flight rating on March 19, 1960, and became a Certified Flight Instructor in June of that same year; and

WHEREAS, King Rhiley Jr. learned the art of crop dusting and received his Instrument and Multi-engine Land rating in December 1962. He later earned his Rotorcraft Helicopter Instructor rating in January 1966; and

WHEREAS, King Rhiley Jr. taught his grandson how to fly in the same Piper Cub in which he learned to fly back in 1947; and

WHEREAS, King Rhiley Jr. made his final landing in 2009 and received a Certificate of Achievement from the Aircraft Owner and Pilots Association for sixty years of active membership; and

WHEREAS, the Federal Aviation Administration renamed the Garden County Airport "King Rhiley Field" on June 20, 2019; and

WHEREAS, King Rhiley Jr. will be inducted into the Nebraska Aviation Hall of Fame on January 23, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature recognizes the outstanding aviation achievements of King Robert Rhiley, Jr., and honors King Robert Rhiley, Jr., as a model citizen, husband, father, and grandfather.

2. That a copy of this resolution be sent to the family of King Robert Rhiley, Jr.

Laid over.

LEGISLATIVE RESOLUTION 288. Introduced by Slama, 1; Albrecht, 17; Clements, 2; Crawford, 45; Dorn, 30; Gragert, 40; Hansen, B., 16; Wayne, 13.

WHEREAS, Nebraska has experienced severe flooding in the past several years; and

WHEREAS, the frequency of severe flood events due to anthropogenic factors and releases from Gavins Point Dam is increasing; and

WHEREAS, Nebraska's preliminary assessment of damage to bridges, roads, and other infrastructure caused by the 2019 severe flood event reached approximately four hundred and fifty million dollars; and

WHEREAS, states rely on the Federal Emergency Management Agency to pay for the majority of recovery efforts related to flood damaged infrastructure; and

WHEREAS, because of the increasing frequency of flooding in Nebraska, the subsequent failure of dams, levees, and dikes caused by high water levels, and the increase in expenses for recovery efforts to restore damaged infrastructure, it is imperative that flood control be a top priority; and

WHEREAS, the Flood Control Act of 1936, an act passed by Congress and signed by President Franklin Delano Roosevelt, authorized civil engineering projects such as dams, levees, dikes, and other flood control measures to be managed by the United States Army Corps of Engineers; and

WHEREAS, the United States Army Corps of Engineers has authority over many of the levee systems in Nebraska as well as management of water flows in the Missouri River basin using a network of six dams; and

WHEREAS, as a result of a lawsuit the United States Army Corps of Engineers was ordered to address a U.S. Fish and Wildlife Service biological opinion outlining measures that must be taken by the Corps to come into compliance with the Endangered Species Act, which led to a revision of the Missouri River Mainstem Reservoir System Master Water Control Manual for the Missouri River Basin; and

WHEREAS, the Master Water Control Manual for the Missouri River Basin issued in 2004 provided that the Corps, in consultation with affected interests and other agencies, would appropriately consider endangered species protection in order to obtain the optimum development and utilization of the water resources of the Missouri River basin to best serve the needs of the people; and

WHEREAS, while development along and downstream of the Missouri River has increased, the standards put in place by the Corps for levee design, construction, and maintenance have not been updated in over twenty years; and

WHEREAS, the Corps should consider the impact of flooding on people and agricultural land and economies and prioritize flood control over fish and wildlife under the authority of the federal Endangered Species Act when creating future Missouri River Mainstem Reservoir System Master Water Control Manuals and updating levee standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature respectfully urges Congress and the United States Army Corps of Engineers to prioritize flood control as a top priority for the management of water systems under their authority in the Missouri River Mainstem Reservoir System Master Water Control Manual for the Missouri River Basin.

2. That a copy of this resolution be sent to each member of Nebraska's congressional delegation and the United States Army Corps of Engineers.

Laid over.

AMENDMENT(S) - Print in Journal

Senator Wayne filed the following amendment to LB68:

AM1988

1 1. Strike the original sections and all amendments thereto and
 2 insert the following new sections:
 3 Section 1. Section 19-4021, Revised Statutes Supplement, 2019, is
 4 amended to read:
 5 19-4021 The mayor, with the approval of the city council, shall
 6 appoint a business improvement board consisting of property owners,
 7 residents, business operators, or users of space within the business area
 8 to be improved. The boundaries of the business area shall be declared by
 9 resolution of the city council at or prior to the time of the appointment
 10 of the business improvement board. The business improvement board shall
 11 make recommendations to the city council for the establishment of a plan
 12 or plans for improvements in the business area. If it is found that the
 13 improvements to be included in one business area offer benefits that
 14 cannot be equitably assessed together under the Business Improvement
 15 District Act, more than one business improvement district as part of the
 16 same plan for improvements for that business area may be proposed. The
 17 business improvement board may make recommendations to the city as to the
 18 use of any occupation tax funds collected, and may administer such funds
 19 if so directed by the mayor and city council. The business improvement
 20 board shall also review and make recommendations to the city regarding
 21 ~~changing expansion of the boundaries or the functions or ordinance~~
 22 provisions of the business improvement district under sections 19-4029.02
 23 to 19-4029.05.
 24 Sec. 2. Section 19-4027, Revised Statutes Supplement, 2019, is
 25 amended to read:
 26 19-4027 Whenever a hearing is held under section 19-4026 or 19-4029,
 27 the city council shall:
 1 (1) Hear all protests and receive evidence for or against the
 2 proposed action;
 3 (2) Rule upon all written protests received prior to the close of
 4 the hearing, which ruling shall be final; and
 5 (3) Continue the hearing from time to time as the city council may
 6 deem necessary.
 7 If a special assessment is to be used, proceedings shall terminate
 8 if written protest is made prior to the close of the hearing by the
 9 record owners of over fifty percent of the assessable units in the
 10 proposed business improvement district. If an occupation tax is to be
 11 used, proceedings shall terminate if protest is made by users of over
 12 fifty percent of the space in the proposed business improvement district.
 13 Sec. 3. Section 19-4029.01, Revised Statutes Supplement, 2019, is
 14 amended to read:
 15 19-4029.01 (1) At least ten days prior to the date of any hearing
 16 under sections 19-4026, 19-4029, 19-4029.02, and 19-4029.03, notice of

17 such hearing shall be given by:

18 (a) One publication of the notice of hearing in a legal newspaper in
19 or of general circulation in the city;

20 (b) Mailing a copy of the notice of hearing to each owner of taxable
21 property in the proposed, modified, or expanded business improvement
22 district as shown on the latest tax rolls of the county treasurer for
23 such county;

24 (c) Providing a copy of the notice of hearing to any neighborhood
25 association registered pursuant to subsection (2) of this section in the
26 manner requested by such neighborhood association; and

27 (d) If an occupation tax is to be imposed, mailing a copy of the
28 notice of hearing to each user of space in the proposed, modified, or
29 expanded business improvement district.

30 (2) The notice required by subdivision (1)(c) of this section shall
31 be provided to any neighborhood association which is registered pursuant
1 to this subsection and whose area of representation is located, in whole
2 or in part, within a one-mile radius of the existing or proposed,
3 modified, or expanded boundaries of the business improvement district.

4 Each neighborhood association desiring to receive such notice shall
5 register with the city the area of representation of such association and
6 provide the name of and contact information for the individual designated
7 to receive notice on behalf of such association and the requested manner
8 of service, whether by email or first-class or certified mail. The
9 registration shall be in accordance with any rules and regulations
10 adopted and promulgated by the city.

11 (3) Any notice of hearing for any hearing required by sections
12 19-4026 and section 19-4029 shall contain the following information:

13 (a) A description of the boundaries of the proposed business
14 improvement district;

15 (b) The time and place of a hearing to be held by the city council
16 to consider establishment of the business improvement district;

17 (c) The proposed public facilities and improvements to be made or
18 maintained within any business improvement district; and

19 (d) The proposed or estimated costs for improvements and facilities
20 within the proposed business improvement district and the method by which
21 the revenue shall be raised. If a special assessment is proposed, the
22 notice shall also state the proposed method of assessment.

23 (4) Any notice of hearing for any hearing required by sections
24 19-4029.02 and 19-4029.03 shall contain the following information:

25 (a) A description of the boundaries of the area to be added to or
26 removed from the existing business improvement district and a description
27 of the new boundaries of the modified business improvement district;

28 (b) The time and place of a hearing to be held by the city council
29 to consider establishment of the modified business improvement district;

30 (c) The new public facilities and improvements, if any, to be made
31 or maintained within any business improvement district; and

1 (d) The proposed or estimated costs for new and existing
2 improvements and facilities within the proposed, modified, or expanded
3 business improvement district and the method by which the revenue shall
4 be raised. If a special assessment is proposed, the notice shall also
5 state the proposed method of assessment.

6 Sec. 4. Section 19-4029.02, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 19-4029.02 Upon receiving a ~~the~~ recommendation to change ~~expand~~ the
9 boundaries or the functions or ordinance provisions of an existing
10 business improvement district from the business improvement board, the
11 city council may change ~~expand~~ the boundaries or the functions or
12 ordinance provisions of one or more business improvement districts by
13 adopting an ordinance to that effect ~~expand the boundaries of a district~~
14 ~~or districts~~. Prior to adopting the ordinance, a hearing shall be held to

15 consider the ordinance.

16 Sec. 5. Section 19-4029.03, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 19-4029.03 ~~If in the event that the city council has not acted to~~
19 call a hearing to change the ~~expand~~ district boundaries or the functions
20 or ordinance provisions of an existing business improvement district as
21 provided in section 19-4029.02, it shall do so when presented with a
22 petition signed (1) by the users of thirty percent of space in a business
23 area proposed to be added to or removed from an existing business
24 improvement district where an occupation tax is imposed, (2) or by the
25 record owners of thirty percent of the assessable front footage in a
26 portion of a business area proposed to be added to or removed from an
27 existing business improvement district, or (3) if the recommendation is
28 to change the functions or ordinance provisions of an existing business
29 improvement district, by the record owners of thirty percent of the
30 existing business improvement district.

31 Sec. 6. Section 19-4029.04, Revised Statutes Supplement, 2019, is
1 amended to read:

2 19-4029.04 Whenever a hearing is held to change the ~~expand~~ business
3 improvement district boundaries or the functions or ordinance provisions
4 of an existing business improvement district under section 19-4029.02 or
5 19-4029.03, the city council shall:

6 (1) Hear all protests and receive evidence for or against the
7 proposed action;

8 (2) Rule upon all written protests received prior to the close of
9 the hearing, which ruling shall be final; and

10 (3) Continue the hearing from time to time as the city council may
11 deem necessary.

12 If a special assessment is to be used, proceedings shall terminate
13 if written protest is made prior to the close of the hearing by the
14 record owners of over fifty percent of the assessable units in the
15 modified business improvement district as proposed. If an occupation tax
16 is to be used, proceedings shall terminate if protest is made by users of
17 over fifty percent of space in the modified business improvement district
18 as proposed.

19 Sec. 7. Section 19-4029.05, Revised Statutes Supplement, 2019, is
20 amended to read:

21 19-4029.05 (1) The city council, following a hearing under section
22 19-4029.02 or 19-4029.03, may change ~~expand~~ the boundaries or the
23 functions or ordinance provisions of any business improvement district or
24 districts. If the city council decides to change ~~expand~~ the boundaries or
25 the functions or ordinance provisions of any business improvement
26 district or districts, it shall adopt an ordinance to that effect. This
27 ordinance shall contain the following information:

28 (a) (1) The name of the business improvement district whose
29 boundaries, functions, or ordinance provisions will be changed ~~expanded~~;

30 (b) (2) A statement that notice of hearing was given, including the
31 date or dates on which it was given, in accordance with section
1 19-4029.01;

2 (c) (3) The time and place the hearing was held concerning the new
3 boundaries or changed functions or ordinance provisions of the business
4 improvement district;

5 (d) (4) The purposes of the changed boundary, functions, or
6 ordinance provisions expansion and any new public improvements and
7 facilities to be included in the business improvement district;

8 (e) (5) The description of the changed new boundaries, functions, or
9 ordinance provisions of the business improvement district;

10 (f) (6) A statement that the businesses and users of space in the
11 modified business improvement district established by the ordinance shall
12 be subject to the general business occupation tax or that the real

13 property in the modified business improvement district will be subject to
 14 the special assessment authorized by the Business Improvement District
 15 Act;
 16 (g) (7) The proposed method of assessment to be imposed within the
 17 business improvement district or the initial rate of the occupation tax
 18 to be imposed; and
 19 (h) (8) Any penalties to be imposed for failure to pay the tax or
 20 special assessment.
 21 (2) The ordinance shall recite that the method of raising revenue
 22 shall be fair and equitable. In the use of a general occupation tax, the
 23 tax shall be based primarily on the square footage of the owner's and
 24 user's place of business. In the use of a special assessment, the
 25 assessment shall be based upon the special benefit to the property within
 26 the business improvement district.
 27 Sec. 8. Original sections 19-4029.02 and 19-4029.03, Revised
 28 Statutes Cumulative Supplement, 2018, and sections 19-4021, 19-4027,
 29 19-4029.01, 19-4029.04, and 19-4029.05, Revised Statutes Supplement,
 30 2019, are repealed.

Senator Stinner filed the following amendment to LB4A:
AM1990

(Amendments to Final Reading copy)

1 1. Strike original section 1 and insert the following new sections:
 2 Section 1. There is hereby appropriated (1) \$41,789 from the Tax
 3 Equalization and Review Commission Cash Fund for FY2020-21 and (2)
 4 \$41,789 from the Tax Equalization and Review Commission Cash Fund for
 5 FY2021-22 to the Tax Equalization and Review Commission, for Program 115,
 6 to aid in carrying out the provisions of Legislative Bill 4, One Hundred
 7 Sixth Legislature, Second Session, 2020.
 8 No expenditures for permanent and temporary salaries and per diems
 9 for state employees shall be made from funds appropriated in this
 10 section.
 11 Sec. 2. Since an emergency exists, this act takes effect when passed
 12 and approved according to law.
 13 2. On page 1, line 3, strike "First Session, 2019" and insert
 14 "Second Session, 2020; and to declare an emergency".

CONFLICT OF INTEREST STATEMENT

Pursuant to Rule 1, Sec. 19, Senator Brewer has filed a Potential Conflict of Interest Statement under the Nebraska Political Accountability and Disclosure Act. The statement is on file in the Clerk of the Legislature's Office.

VISITOR(S)

Visitors to the Chamber were Nawaf Haskan and Laila Saleh from Lincoln; Senator Brandt's wife, Sandra; Senator Groene's wife, Barb; Senator Hunt's mom, Mary Beth, brother, Matt, and daughter, Alice Homan; Deena Keilany from Lincoln; Senator Albrecht's husband, Michael; Senator Erdman's wife, Cathy; Senator Clement's wife, Peggy; Senator Pansing Brooks' husband, Loel Brooks; Aker Marco Ajak from Omaha; Senator Hughes' wife, Josie; Senator Stinner's wife, Rita; and Senator Crawford's husband, David.

The Doctor of the Day was Dr. Dale Michels from Walton.

ADJOURNMENT

At 11:28 a.m., on a motion by Senator Kolowski, the Legislature adjourned until 10:00 a.m., Thursday, January 9, 2020.

Patrick J. O'Donnell
Clerk of the Legislature