

One Hundred Sixth Legislature - Second Session - 2020

Introducer's Statement of Intent

LB889

Chairperson: Senator Tom Brewer

Committee: Government, Military and Veterans Affairs

Date of Hearing: January 31, 2020

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Nebraska Revised Statute 84-917 provides that any person aggrieved by a final decision of an administrative agency in a contested case shall be entitled to judicial review. LB889 clarifies two provisions regarding an appeal from an administrative agency to a state district court under the Administrative Procedures Act (“APA”).

First, LB 889 clarifies that when service of summons on a party that is a private person or nongovernmental entity is necessary that such service shall be made in the same manner provided for service of summons in a civil action. LB889 does not change the existing statutory requirement for service of summons on any governmental entity which is service upon the Attorney General’s Office in accordance with Neb. Rev. Stat. §25-510.02.

When judicial review occurs on appeal from a final decision in a contested case the APA requires the agency to prepare and transmit to the court a certified copy of the official record of the proceedings had before the agency, and that the district court’s review is de novo on the record of the agency. The Nebraska Supreme Court has held that it is not necessary to have the agency record marked and offered in evidence in an appeal of a final order in a contested case. *Maurer v. Weaver*, 213 Neb. 157, 328 N.W.2d 747 (1982). LB889 simply codifies the Nebraska Supreme Court’s holding in *Maurer*.

Lastly, LB889 simply removes obsolete language that references petitions for review filed before July 1, 1989.

Principal Introducer: _____

Senator Mike Hilgers