

ONE HUNDRED NINTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 12CA

PROPOSED CONSTITUTIONAL AMENDMENT

Introduced by Kauth, 31.

Read first time January 14, 2025

Committee: Revenue

1 THE MEMBERS OF THE ONE HUNDRED NINTH LEGISLATURE OF NEBRASKA, FIRST
2 SESSION, RESOLVE THAT:

3 **Section 1.** At the general election in November 2026, the following
4 proposed amendment to the Constitution of Nebraska shall be submitted to
5 the electors of the State of Nebraska for approval or rejection:

6 To amend Article VIII, section 1, and add a new section 14 to
7 Article VIII:

8 **VIII-1** The necessary revenue of the state and its governmental
9 subdivisions shall be raised by taxation in such manner as the
10 Legislature may direct. Notwithstanding Article I, section 16, Article
11 III, section 18, or Article VIII, section 4, of this Constitution or any
12 other provision of this Constitution to the contrary: (1) Real property,
13 as defined by the Legislature, not exempted by this Constitution, shall
14 all be taxed in accordance with Article VIII, section 14, of this
15 Constitution ~~Taxes shall be levied by valuation uniformly and~~
16 ~~proportionately upon all real property and franchises as defined by the~~
17 ~~Legislature except as otherwise provided in or permitted by this~~
18 ~~Constitution~~; (2) tangible personal property, as defined by the
19 Legislature, not exempted by this Constitution or by legislation, shall
20 all be taxed at depreciated cost using the same depreciation method with
21 reasonable class lives, as determined by the Legislature, or shall all be
22 taxed by valuation uniformly and proportionately; (3) the Legislature may
23 provide for a different method of taxing motor vehicles and may also

1 establish a separate class of motor vehicles consisting of those owned
2 and held for resale by motor vehicle dealers which shall be taxed in the
3 manner and to the extent provided by the Legislature and may also
4 establish a separate class for trucks, trailers, semitrailers, truck-
5 tractors, or combinations thereof, consisting of those owned by residents
6 and nonresidents of this state, and operating in interstate commerce, and
7 may provide reciprocal and proportionate taxation of such vehicles. The
8 tax proceeds from motor vehicles taxed in each county shall be allocated
9 to the county and the cities, villages, and school districts of such
10 county; ~~(4) the Legislature may provide that agricultural land and~~
11 ~~horticultural land, as defined by the Legislature, shall constitute a~~
12 ~~separate and distinct class of property for purposes of taxation and may~~
13 ~~provide for a different method of taxing agricultural land and~~
14 ~~horticultural land which results in values that are not uniform and~~
15 ~~proportionate with all other real property and franchises but which~~
16 ~~results in values that are uniform and proportionate upon all property~~
17 ~~within the class of agricultural land and horticultural land;~~ (5) the
18 Legislature may enact laws to provide that the value of land actively
19 devoted to agricultural or horticultural use shall for property tax
20 purposes be that value which such land has for agricultural or
21 horticultural use without regard to any value which such land might have
22 for other purposes or uses; ~~(5) (6) the Legislature may prescribe~~
23 ~~standards and methods for the determination of the value of real property~~
24 ~~at uniform and proportionate values;~~ (7) in furtherance of the purposes
25 for which such a law of the United States has been adopted, whenever
26 there exists a law of the United States which is intended to protect a
27 specifically designated type, use, user, or owner of property or
28 franchise from discriminatory state or local taxation, such property or
29 franchise shall constitute a separate class of property or franchise
30 under the laws of the State of Nebraska, and such property or franchise
31 may not be taken into consideration in determining whether taxes are

1 levied by valuation uniformly or proportionately upon any property or
2 franchise, and the Legislature may enact laws which statutorily recognize
3 such class and which tax or exempt from taxation such class of property
4 or franchise in such manner as it determines; and ~~(6)~~ ~~(8)~~ the Legislature
5 may provide that livestock shall constitute a separate and distinct class
6 of property for purposes of taxation and may further provide for
7 reciprocal and proportionate taxation of livestock located in this state
8 for only part of a year. Each actual property tax rate levied for a
9 governmental subdivision shall be the same for all classes of taxed
10 property and franchises. Taxes uniform as to class of property or the
11 ownership or use thereof may be levied by valuation or otherwise upon
12 classes of intangible property as the Legislature may determine, and such
13 intangible property held in trust or otherwise for the purpose of funding
14 pension, profit-sharing, or other employee benefit plans as defined by
15 the Legislature may be declared exempt from taxation. Taxes other than
16 property taxes may be authorized by law. Existing revenue laws shall
17 continue in effect until changed by the Legislature.

18 VIII-14 (1) Beginning January 1, 2027, the maximum amount of any ad
19 valorem tax on real property shall not exceed one and one-half percent of
20 the full cash value of such property. Such tax shall be collected by the
21 counties and apportioned as prescribed by the Legislature to the
22 political subdivisions within the counties.

23 (2) The limitation provided for in subsection (1) of this section
24 shall not apply to ad valorem taxes or special assessments to pay the
25 interest and redemption charges on any of the following:

26 (a) Bonded indebtedness approved by the voters prior to January 1,
27 2027;

28 (b) Bonded indebtedness for the acquisition or improvement of real
29 property approved on or after January 1, 2027, by two-thirds of the votes
30 cast by the voters voting on the proposition; or

31 (c) Bonded indebtedness incurred by a school district or community

1 college area for the construction, reconstruction, rehabilitation, or
2 replacement of school or community college facilities, including the
3 furnishing and equipping of such facilities, or the acquisition or lease
4 of real property for such facilities, approved on or after January 1,
5 2027, by fifty-five percent of the votes cast by the voters voting on the
6 proposition. This subdivision shall apply only if the proposition
7 approved by the voters and resulting in the bonded indebtedness includes
8 all of the following accountability requirements:

9 (i) A requirement that the proceeds from the sale of the bonds be
10 used only for the purposes specified in this subdivision;

11 (ii) A list of the specific school or community college facility
12 projects to be funded and a requirement that the school board or
13 community college board of governors conduct an annual independent
14 performance audit to ensure that the funds have been expended only on the
15 specific projects listed; and

16 (iii) A requirement that the school board or community college board
17 of governors conduct an annual independent financial audit of the
18 proceeds from the sale of the bonds until all of those proceeds have been
19 expended for the applicable school or community college facility project.

20 (3)(a) For purposes of this section, full cash value means the
21 county assessor's valuation of real property for 2027 or, thereafter, the
22 appraised value of real property when purchased, when newly constructed,
23 or when a change in ownership has occurred after the 2027 assessment.

24 (b) Full cash value shall be adjusted from year to year by the
25 inflationary rate, not to exceed two percent for any given year, or the
26 deflationary rate, if applicable, as shown in the consumer price index or
27 comparable data for the area subject to taxation, and may also be reduced
28 to reflect substantial damage, destruction, or other factors causing a
29 decline in value.

30 (4) Subject to applicable procedures and definitions as provided by
31 statute, an individual who is over fifty-five years of age, severely

1 disabled, or a victim of a natural disaster may transfer the full cash
2 value of the individual's primary residence to a replacement primary
3 residence located in this state so long as the replacement primary
4 residence:

5 (a) Is similar in size, utility, and function to the original
6 primary residence;

7 (b) Has a fair market value that is comparable to the fair market
8 value of the original primary residence; and

9 (c) Is purchased or newly constructed by such individual within two
10 years after the sale of the original primary residence.

11 (5) For purposes of subsection (3) of this section, the term "newly
12 constructed" does not include the construction, installation, removal, or
13 modification of any portion or structural component of an existing
14 building or structure if the construction, installation, removal, or
15 modification is for the purpose of making the building more accessible
16 to, or more usable by, a disabled person.

17 (6) For purposes of subsection (3) of this section, the term "change
18 in ownership" does not include the acquisition of real property as a
19 replacement for comparable property if the person acquiring the real
20 property has been displaced from the property replaced by eminent domain
21 proceedings, by acquisition by a public entity, or by governmental action
22 that has resulted in a judgment of inverse condemnation. The real
23 property acquired shall be deemed comparable to the property replaced if
24 it is similar in size, utility, and function.

25 (7) For purposes of subsection (3) of this section, the terms
26 "purchased" and "change in ownership" do not include the purchase or
27 transfer of real property between spouses since January 1, 2027,
28 including, but not limited to, all of the following:

29 (a) Transfers to a trustee for the beneficial use of a spouse, or
30 the surviving spouse of a deceased transferor, or by a trustee of such a
31 trust to the spouse of the trustor;

1 (b) Transfers to a spouse that take effect upon the death of a
2 spouse;

3 (c) Transfers to a spouse or former spouse in connection with a
4 property settlement agreement or decree of dissolution of a marriage or
5 legal separation;

6 (d) The creation, transfer, or termination, solely between spouses,
7 of any co-owner's interest; or

8 (e) The distribution of a legal entity's property to a spouse or
9 former spouse in exchange for the interest of the spouse in the legal
10 entity in connection with a property settlement agreement or a decree of
11 dissolution of a marriage or legal separation.

12 (8)(a) The full cash value of qualified contaminated property may be
13 transferred to a replacement property that is acquired or newly
14 constructed as a replacement for the qualified contaminated property, if
15 the replacement real property has a fair market value that is comparable
16 to the fair market value of the qualified contaminated property if that
17 property were not contaminated. This subdivision applies only to
18 replacement property that is acquired or newly constructed within five
19 years after ownership in the qualified contaminated property is sold or
20 otherwise transferred.

21 (b) If the remediation of the environmental problems on qualified
22 contaminated property requires the destruction of, or results in
23 substantial damage to, a structure located on that property, the term
24 "new construction" does not include the repair of a substantially damaged
25 structure, or the construction of a structure replacing a destroyed
26 structure on the qualified contaminated property, that is performed after
27 the remediation of the environmental problems on that property, provided
28 that the repaired or replacement structure is similar in size, utility,
29 and function to the original structure.

30 (c) For purposes of this subsection, the term "qualified
31 contaminated property" means residential or nonresidential real property

1 that:

2 (i) In the case of residential real property, is rendered
3 uninhabitable, and in the case of nonresidential real property, is
4 rendered unusable, as the result of either environmental problems, in the
5 nature of and including, but not limited to, the presence of toxic or
6 hazardous materials, or the remediation of those environmental problems,
7 except where the existence of the environmental problems was known to the
8 owner, or to a related individual or entity as described in subdivision
9 (8)(d) of this section, at the time the real property was acquired or
10 constructed. For purposes of this subdivision, residential real property
11 is uninhabitable if that property, as a result of health hazards caused
12 by or associated with the environmental problems, is unfit for human
13 habitation, and nonresidential real property is unusable if that
14 property, as a result of health hazards caused by or associated with the
15 environmental problems, is unhealthy and unsuitable for occupancy;

16 (ii) Is located on a site that has been designated as a toxic or
17 environmental hazard or as an environmental cleanup site by an agency of
18 the State of Nebraska or the federal government; and

19 (iii) Has not been rendered uninhabitable or unusable, as described
20 in subdivision (8)(c)(i) of this section, by any act or omission in which
21 an owner of that real property participated or acquiesced.

22 (d) It shall be rebuttably presumed that an owner of the real
23 property participated or acquiesced in an act or omission that rendered
24 the real property uninhabitable or unusable, as applicable, if that owner
25 is related to any individual or entity that committed that act or
26 omission in any of the following ways:

27 (i) Is a spouse, parent, child, grandparent, grandchild, or sibling
28 of that individual;

29 (ii) Is a corporate parent, subsidiary, or affiliate of that entity;

30 (iii) Is an owner of, or has control of, that entity; or

31 (iv) Is owned or controlled by that entity.

1 (e) If the presumption in subdivision (8)(d) of this section is not
2 overcome, the owner shall not receive the relief provided for in
3 subdivision (8)(a) or (b) of this section. The presumption may be
4 overcome by presentation of satisfactory evidence to the county assessor.

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

8 A constitutional amendment to impose a limit on ad valorem taxes for
9 real property, provide a new method of valuing real property for tax
10 purposes, provide certain exceptions, and eliminate conflicting
11 constitutional provisions.

12 For

13 Against.