



**NEBRASKA STATE GOVERNMENT**

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## HISTORY OF STATE GOVERNMENT ORGANIZATION<sup>1</sup>

**Initial movement for statehood.** The first movement for a Nebraska state constitution resulted in a territorial election on March 5, 1860, in which the proposition was defeated 2,094 to 2,372. Cass, Otoe and Washington counties were among the movement's strongest supporters, while Douglas, Dakota, Richardson and Sarpy counties were its strongest opponents.

**Second movement for statehood.** Civil War political issues prompted and sustained the next movement for statehood. Nebraska had become strongly Republican, and there was a call for more Republican senators and representatives in Washington. The 9th Territorial Legislature, by a joint memorial to Congress approved on Jan. 16, 1864, petitioned for legislation to admit Nebraska as a state. The Democratic Party in Nebraska opposed statehood. Eleven of 35 members in the lower house of the Legislature voted against the memorial. Congress responded quickly by passing the Nebraska Enabling Act on April 19, 1864. Through this act, an election took place on June 6, 1864, for delegates to a constitutional convention. The members chosen were equal in number to the Territorial Legislature membership. The convention met at the Capitol on July 4, 1864, and elected Sterling P. Majors of Nemaha County as its president. After completing its organization, the convention voted to "adjourn sine die, without forming a constitution." A majority of convention members pledged to this action before their election, saying they wanted to avoid the expense of state government. Opposition to statehood by the Democrats also played a role.

**Drafting and adoption of the constitution of 1866.** The assassination of President Abraham Lincoln on April 14, 1865, and the developing controversy between President Andrew Johnson and the Republican leaders in Congress again raised the question of Nebraska statehood. On Feb. 9, 1866, the 11th Territorial Legislature passed a joint resolution calling for a constitution to be submitted to the people. This constitution was hastily drafted by a legislative committee and rushed through both houses. It provided for the most bare framework of government, the fewest possible officers, the lowest salaries and the most meager functions for the new state in order to stop objections to state government's increased expense. Voters approved the constitution on June 2, 1866. The heated campaign resulted in 3,938 to 3,838 approval of the constitution.

**1866 constitution delayed statehood.** The constitution of 1866 limited suffrage to "free white males," as did many other northern free state constitutions before the Civil War. This language delayed the admission of Nebraska into the Union for about a year. Congress passed a bill admitting Nebraska under this constitution on July 27, 1866, just before adjournment. However, President Johnson withheld his signature, and it failed to become law. Congress tried to amend the bill to require Nebraska to include

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<sup>1</sup> Sources: *Nebraska: The Land and the People*, Addison E. Sheldon, 1931; Office of the Nebraska Secretary of State.

voting rights for nonwhite people in its constitution. When Congress reassembled, the bill admitting Nebraska was passed again on Jan. 15, 1867, with the condition that Nebraska should amend its constitution to prevent the "abridgement or denial of the exercise of the elective franchise or any other right to any person by reason of race or color, excepting Indians not taxed." President Johnson vetoed this bill on Jan. 29, 1867. Congress overrode the veto and provided that the Nebraska Legislature should ratify the amendment insisted on by Congress. This was done in a special session on Feb. 20 and 21, 1867. On March 1, 1867, President Johnson proclaimed Nebraska a state.

**Constitutional convention of 1871.** The inadequacy of the 1866 constitution became apparent, and the state Legislature, by joint resolution approved on Feb. 15, 1869, submitted to the electors a proposition to have a constitutional convention. On Oct. 11, 1870, the voters, by a 3,968 to 979 vote, approved the convention. An act approved on March 27, 1871, fixed the date for election of convention members as the first Tuesday in May 1871. The act required them to meet in Lincoln on the second Tuesday in June. On June 13, 1871, Silas A. Strickland of Douglas County was chosen as the convention's permanent president. The 47-day convention covered nearly all the political, social and religious questions of the day. Five different propositions, which most convention members were unwilling to adopt, were submitted separately. They included women's suffrage, prohibition, compulsory education, municipal aid to corporations and liability of stockholders. By a 7,986 to 8,627 vote, the people rejected this constitution, and they also rejected the separately submitted propositions on Sept. 19, 1871. Voters mostly objected to provisions to tax church property of more than \$5,000 in value and to allow railroad right-of-way to revert to the original owners after it was no longer used for railroad transportation. The original shorthand report of the constitutional convention proceedings of 1871 was discovered in a statehouse vault in 1899. In 1905, the Legislature appropriated money to publish these proceedings. The Nebraska State Historical Society printed them in two volumes.

**Constitutional convention of 1875.** Agitation for a new constitution grew stronger as settlement extended to western Nebraska. The Legislature, by a joint resolution approved Feb. 26, 1873, again submitted the proposition for a constitutional convention. At an October 1874 election, the proposition carried by a 18,067 to 3,880 vote. On Feb. 20, 1875, the Legislature passed an act to elect members of the constitutional convention on April 6 and require the 69-member convention to meet in Lincoln on May 11. John L. Webster of Douglas County was made permanent president, and Guy A. Brown of Lancaster County was secretary. The convention adjourned on June 12. This constitution, which would be the fundamental law of the state until Jan. 1, 1921, was adopted on Oct. 12, 1875, by a vote of 30,332 to 5,474. Much of the 1875 constitution was the same as the rejected constitution of 1871. The executive, legislative and judicial departments were enlarged, and officers' salaries were increased. State officers were prohibited from appropriating fees for their own use. Supreme Court judges were relieved from duty as district judges. Special legislation was forbidden. Provision was made for regulating corporations, and taxation power was limited. The Nebraska State Historical Society published the journal of the 1875 constitutional convention.

Apparently there was no provision for a shorthand report of the proceedings. If such a report was made, it has been lost.

**Constitutional amendments proposed from 1875 to 1918.**<sup>2</sup> Thirty-nine constitutional amendments — 36 by the Legislature and three by initiative — were submitted to the people from 1875 to 1918. The most persistent subjects were increases in the number and salaries of judges, considered as six amendments at three elections; the creation of a railway commission, considered four times; and legislators' salaries, considered three times.

These 11 amendments were adopted:

- Increased pay of legislators in 1886
- Creation of a Railway Commission in 1906
- Increased number and pay of judges in 1908
- Investment of school funds in 1908
- Initiative and referendum provisions in 1912
- Increased pay of legislators in 1912
- Creation of the Board of Commissioners for State Institutions in 1912
- Establishment of biennial elections in 1912
- Home rule charter provisions for cities of more than 5,000 inhabitants in 1912
- Establishment of prohibition of liquor traffic in 1916
- Forbidding suffrage to aliens in 1918

**Party circle law and primary law.** With the exception of the first increased legislative pay amendment (the Legislature recounted the vote), all successful amendments submitted by the Legislature had the aid of the "party circle" law and the primary law. These laws were passed because the constitution required all proposed amendments to receive a majority of all the votes cast at the election, making it nearly impossible to amend the fundamental law of Nebraska except through the initiative. Thousands of voters were failing to vote on proposed amendments. The party circle law and primary law allowed amendments to be adopted as part of a party ticket. If a party endorsed an amendment at the primary, all the straight party votes at the general election were counted as votes in favor of the amendment.

**Deputyships.** Growth of state government activities and functions was slowed by a provision in the constitution that forbade the creation of additional executive offices. Thus, the burden of all new executive activity was forced on officers elected or appointed under the constitution. This resulted in deputyships, which were official positions that separated power from performance and thrust many dissimilar responsibilities upon constitutional officers, whose duties grew with the state's development.

**Proposals for constitutional conventions.** The need for constitutional revision was felt as early as 1903, and the Legislature, by joint resolution approved on April 6, 1903, submitted to the electors a proposal for a constitutional convention. At the general election of Nov. 8, 1904, the voters approved the convention on a 32,820 to 23,497 vote out of a total of 232,457 votes. However, the measure was defeated because of the constitutional requirement that such proposals must receive a majority of the total votes cast in the election. No other proposal for a convention was submitted until the

<sup>2</sup>For a list of votes on constitutional amendment proposals from 1882 to 2020, see Pages 235-251.

Legislature, by a joint resolution approved April 21, 1917, again gave the electorate a chance to vote on the question. The proposal was adopted at the general election of Nov. 5, 1918, by a 121,830 to 44,941 vote out of a total vote of 225,717. By an act approved March 24, 1919, the Legislature provided for a special election to elect convention members and required them to meet in Lincoln on Dec. 2, 1919.

**Constitutional convention of 1919-1920.** The constitutional convention lasted from Dec. 2, 1919, to March 25, 1920. It submitted 41 amendments to the people, and at a special election on Sept. 21, 1920, all 41 amendments were adopted.<sup>3</sup> A committee had been appointed by the convention before it adjourned to incorporate the adopted amendments into the constitution of 1875. On Oct. 19, 1920, the convention met and signed the amended document.

**Constitutional amendments adopted since 1920.** Since the constitutional convention of 1919-20, 180 amendments have been adopted and incorporated into the state constitution.<sup>4</sup>

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<sup>3</sup>See Pages 233-235 for a list of these amendments and vote totals for the special election.

<sup>4</sup>For a list of amendments proposed from 1882 to 2020, see Pages 236-251.

# Constitution of Nebraska

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# CONSTITUTION OF THE STATE OF NEBRASKA OF 1875 (as amended through December, 2020)

## PREAMBLE.

We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the Constitution of the State of Nebraska.

## ARTICLE I: BILL OF RIGHTS

Sec. 1. All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed. (Amended 1988.)

Sec. 2. There shall be neither slavery nor involuntary servitude in this state. (Amended 2020.)

Sec. 3. No person shall be deprived of life, liberty, or property, without due process of law, nor be denied equal protection of the laws. (Amended 1998.)

Sec. 4. All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious beliefs; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

Sec. 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth when published with good motives, and for justifiable ends, shall be a sufficient defense.

Sec. 6. The right of trial by jury shall remain inviolate, but the Legislature may authorize trial by a jury of a less number than twelve in courts inferior to the District Court, and may by general law authorize a verdict in civil cases in any court by not less than five-sixths of the jury. (Amended 1920.)

Sec. 7. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

Sec. 8. The privilege of the writ of habeas corpus shall not be suspended. (Amended 1998.)

Sec. 9. All persons shall be bailable by sufficient sureties, except for treason, sexual offenses involving penetration by force or against the will of the victim, and murder, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. (Amended 1978.)

Sec. 10. No person shall be held to answer for a criminal offense, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in case of im-

peachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, unless on a presentment or indictment of a grand jury; *Provided*, That the Legislature may by law provide for holding persons to answer for criminal offenses on information of a public prosecutor; and may by law, abolish, limit, change, amend, or otherwise regulate the grand jury system.

Sec. 11. In all criminal prosecutions the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Sec. 12. No person shall be compelled, in any criminal case, to give evidence against himself, or be twice put in jeopardy for the same offense.

Sec. 13. All courts shall be open, and every person, for any injury done him or her in his or her lands, goods, person, or reputation, shall have a remedy by due course of law and justice administered without denial or delay, except that the Legislature may provide for the enforcement of mediation, binding arbitration agreements, and other forms of dispute resolution which are entered into voluntarily and which are not revocable other than upon such grounds as exist at law or in equity for the revocation of any contract. (Amended 1996.)

Sec. 14. Treason against the state shall consist only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 15. All penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offense committed within the state.

Sec. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities shall be passed.

Sec. 17. The military shall be in strict subordination to the civil power.

Sec. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

Sec. 19. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

Sec. 20. No person shall be imprisoned for debt in any civil action on mesne or final process. (Amended 1998.)

Sec. 21. The property of no person shall be taken or damaged for public use without just compensation therefor.

Sec. 22. All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.

Sec. 23. In all capital cases, appeal directly to the Supreme Court shall be as a matter of right and shall operate as a supersedeas to stay the execution of the sentence of death until further order of the Supreme Court. In all other cases, criminal or civil, an aggrieved party shall be entitled to one appeal to the appellate court created pursuant to Article V, section 1, of this Constitution or to the Supreme Court as may be provided by law. (Amended 1972, 1990.)

Sec. 24. Repealed 1990.

Sec. 25. There shall be no discrimination between citizens of the United States in respect to the acquisition, ownership, possession, enjoyment or descent of property. The right of aliens in respect to the acquisition, enjoyment and descent of property may be regulated by law. (Amended 1920.)

Sec. 26. This enumeration of rights shall not be construed to impair or deny others, retained by the people, and all powers not herein delegated, remain with the people.

Sec. 27. The English language is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be in such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools. (Adopted 1920.)

Sec. 28. (1) A victim of a crime, as shall be defined by law, or his or her guardian or representative shall have: The right to be informed of all criminal court proceedings; the right to be present at trial unless the trial court finds sequestration necessary for a fair trial for the defendant; and the right to be informed of, be present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings. This enumeration of certain rights for crime victims shall not be construed to impair or deny others provided by law or retained by crime victims.

(2) The Legislature shall provide by law for the implementation of the rights granted in this section. There shall be no remedies other than as specifically provided by the Legislature for the enforcement of the rights granted by this section.

(3) Nothing in this section shall constitute a basis for error in favor of a defendant in any criminal proceeding, a basis for providing standing to participate as a party to any criminal proceeding, or a basis to contest the disposition of any charge. (Adopted 1996.)

Sec. 29. Only marriage between a man and a woman shall be valid or recognized in Nebraska. The uniting of two persons of the same sex in a civil union, domestic partnership, or other similar same-sex relationship shall not be valid or recognized in Nebraska. (Amended 2000.)

Sec. 30. (1) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) This section shall apply only to action taken after the section's effective date.

(3) Nothing in this section prohibits bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(4) Nothing in this section shall invalidate any court order or consent decree that is in force as of the effective date of this section.

(5) Nothing in this section prohibits action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(6) For purposes of this section, state shall include, but not be limited to: (a) the State of Nebraska; (b) any agency, department, office, board, commission, committee, division, unit, branch, bureau, council, or sub-unit of the state; (c) any public institution of higher education; (d) any political subdivision of or within the state; and (e) any government institution or instrumentally of or within the state.

(7) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Nebraska's antidiscrimination law.

(8) This section shall be self executing. If any part or parts of this section are found to be in conflict with federal law or the Constitution of the United States, this section shall be implemented to the maximum extent that federal law and the Constitution of the United States permit. Any provision held invalid shall be severable from the remaining portions of this section. (Adopted 2008).

## ARTICLE II: DISTRIBUTION OF POWERS

Sec. 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. (Amended 2006.)

**ARTICLE III: LEGISLATIVE POWER**

Sec. 1. The legislative authority of the state shall be vested in a Legislature consisting of one chamber. The people reserve for themselves the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls, independent of the Legislature, which power shall be called the power of initiative. The people also reserve power at their own option to approve or reject at the polls any act, item, section, or part of any act passed by the Legislature, which power shall be called the power of referendum. (Amended 1912, 1934, 2000.)

Sec. 2. The first power reserved by the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. This power may be invoked by petition wherein the proposed measure shall be set forth at length. If the petition be for the enactment of a law, it shall be signed by seven percent of the registered voters of the state, and if the petition be for the amendment of the Constitution, the petition therefor shall be signed by ten percent of such registered voters. In all cases the registered voters signing such petition shall be so distributed as to include five percent of the registered voters of each of two-fifths of the counties of the state, and when thus signed, the petition shall be filed with the Secretary of State who shall submit the measure thus proposed to the electors of the state at the first general election held not less than four months after such petition shall have been filed. The same measure, either in form or in essential substance, shall not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once in three years. If conflicting measures submitted to the people at the same election be approved, the one receiving the highest number of affirmative votes shall thereby become law as to all conflicting provisions. The constitutional limitations as to the scope and subject matter of statutes enacted by the Legislature shall apply to those enacted by the initiative. Initiative measures shall contain only one subject. The Legislature shall not amend, repeal, modify, or impair a law enacted by the people by initiative, contemporaneously with the adoption of this initiative measure or at any time thereafter, except upon a vote of at least two-thirds of all the members of the Legislature. (Adopted 1912. Amended 1920, 1988, 1998, 2004.)

Sec. 3. The second power reserved is the referendum which may be invoked, by petition, against any act or part of an act of the Legislature, except those making appropriations for the expense of the state government or a state institution existing at the time of the passage of such act. Petitions invoking the referendum shall be signed by not less than five percent of the registered voters of the state, distributed as required for initiative petitions, and filed in the office of the Secretary of State within ninety days after the Legislature at which the act sought to be referred was passed shall have adjourned sine die or for more than ninety days. Each such petition shall set out the title of the act against which the referendum is invoked and, in addition thereto, when only a portion of the act is sought to be referred, the number of the section or sections or portion of sections of the act designating such portion. No more than one act or portion of an act of the Legislature shall be the subject of each referendum petition. When the referendum is thus invoked, the Secretary of State shall refer the same to the electors for approval or rejection at the first general election to be held not less than thirty days after the filing of such petition.

When the referendum is invoked as to any act or part of act, other than emergency acts or those for the immediate preservation of the public peace, health, or safety, by petition signed by not less than ten percent of the registered voters of the state distributed as aforesaid, it shall suspend the taking effect of such act or part of act until the same has been approved by the electors of the state. (Adopted 1912. Amended 1920, 1988, 1998.)

Sec. 4. The whole number of votes cast for Governor at the general election next preceding the filing of an initiative or referendum petition shall be the basis on which the number of signatures to such petition shall be computed. The veto power of the Governor shall not extend to measures initiated by or referred to the people. A measure initiated shall become a law or part of the Constitution, as the case may be, when a majority of the votes cast thereon, and not less than thirty-five per cent of the total vote cast at the election at which the same was submitted, are cast in favor thereof, and shall take effect upon proclamation by the Governor which shall be made within ten days after the official canvass of such votes. The vote upon initiative and

referendum measures shall be returned and canvassed in the manner prescribed for the canvass of votes for president. The method of submitting and adopting amendments to the Constitution provided by this section shall be supplementary to the method prescribed in the article of this Constitution, entitled, "Amendments" and the latter shall in no case be construed to conflict herewith. The provisions with respect to the initiative and referendum shall be self-executing, but legislation may be enacted to facilitate their operation. All propositions submitted in pursuance hereof shall be submitted in a non-partisan manner and without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization. Only the title or proper descriptive words of measures shall be printed on the ballot and when two or more measures have the same title they shall be numbered consecutively in the order of filing with the Secretary of State and the number shall be followed by the name of the first petitioner on the corresponding petition. (Adopted 1912. Amended 1920.)

Sec. 5. The Legislature shall by law determine the number of members to be elected and divide the state into legislative districts. In the creation of such districts, any county that contains population sufficient to entitle it to two or more members of the Legislature shall be divided into separate and distinct legislative districts, as nearly equal in population as may be and composed of contiguous and compact territory. One member of the Legislature shall be elected from each such district. The basis of apportionment shall be the population excluding aliens, as shown by the next preceding federal census. The Legislature shall redistrict the state after each federal decennial census. In any such redistricting, county lines shall be followed whenever practicable, but other established lines may be followed at the discretion of the Legislature. (Amended 1920, 1934, 1962, 1966, 2000.)

Sec. 6. The Legislature shall consist of not more than 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. (Amended 1920, 1934, 1970.)

Sec. 7. At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. Each member of the Legislature shall receive a salary of not to exceed one thousand dollars per month during the term of his or her office. In addition to his or her salary, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than his or her salary and expenses, and employees of the Legislature shall receive no compensation other than their salary or per diem. (Amended 1886, 1912, 1920, 1934, 1960, 1962, 1966, 1968, 1988.)

Sec. 8. No person shall be eligible to the office of member of the Legislature unless on the date of the general election at which he is elected, or on the date of his appointment he is a registered voter, has attained the age of twenty-one years and has resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States or of this State. And no person elected as aforesaid shall hold his office after he shall have removed from such district. (Amended 1972, 1992, 1994.)<sup>1</sup>

Sec. 9. No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to, or have a seat in the Legislature. No

<sup>1</sup>The changes made to Article III, section 8, of the Constitution of Nebraska by Initiative 408 in 1994 have been omitted because of the decision of the Nebraska Supreme Court in *Duggan v. Beermann*, 249 Neb. 411, 544 N.W.2d 68 (1996).

person elected or appointed to the Legislature shall receive any civil appointment to a state office while holding membership in the Legislature or while the Legislature is in session, and all such appointments shall be void. Except as otherwise provided by law, a member of the Legislature who is elected to any other state or local office prior to the end of his or her term in the Legislature shall resign from the Legislature prior to the commencement of the legislative session during which the term of the state or local office will begin. (Amended 1972, 2000.)

Sec. 10. Beginning with the year 1975, regular sessions of the Legislature shall be held annually, commencing at 10 a.m. on the first Wednesday after the first Monday in January of each year. The duration of regular sessions held shall not exceed ninety legislative days in odd-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature, and shall not exceed sixty legislative days in even-numbered years unless extended by a vote of four-fifths of all members elected to the Legislature. Bills and resolutions under consideration by the Legislature upon adjournment of a regular session held in an odd-numbered year may be considered at the next regular session, as if there had been no such adjournment. The Lieutenant Governor shall preside, but shall vote only when the Legislature is equally divided. A majority of the members elected to the Legislature shall constitute a quorum; the Legislature shall determine the rules of its proceedings and be the judge of the election, returns, and qualifications of its members, shall choose its own officers, including a Speaker to preside when the Lieutenant Governor shall be absent, incapacitated, or shall act as Governor. No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense. The Legislature may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the Legislature by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior. (Amended 1934, 1970, 1974.)

Sec. 11. The Legislature shall keep a journal of its proceedings and publish them, except such parts as may require secrecy, and the yeas and nays of the members on any question shall at the desire of anyone of them be entered on the journal. All votes shall be viva voce. The doors of the Legislature and of the committees of the Legislature shall be open, except when the business shall be such as ought to be kept secret. The yeas and nays of each member of any committee of the Legislature shall be recorded and published on any question in committee to advance or to indefinitely postpone any bill. (Amended 1934, 1998.)

Sec. 12. (1) No person shall be eligible to serve as a member of the Legislature for four years next after the expiration of two 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. (Amended 2000.)

Sec. 13. The style of all bills shall be, Be it enacted by the people of the State of Nebraska, and no law shall be enacted except by bill. No bill shall be passed by the Legislature unless by the assent of a majority of all members elected and the yeas and nays on the question of final passage of any bill shall be entered upon the journal. (Amended 1912, 1920, 1972.)

Sec. 14. Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member. The bill and all amendments thereto shall be printed and presented before the vote is taken upon its final passage and shall be read at large unless three-fifths of all the members elected to the Legislature vote not to read the bill and all amendments at large. No vote upon the final passage of any bill shall be taken until five legislative days after its introduction nor until it has been on file for final reading and passage for at least one legislative day. No bill shall contain more than one subject, and the subject shall be clearly expressed in the title. No law shall be amended unless the new act contains the section or sections as amended and the section or sections so amended shall be repealed. The Lieutenant Governor, or the Speaker if acting as presiding officer, shall sign, in the presence of the Legislature while it is in session and capable of transacting business, all bills and resolutions passed by the Legislature. (Amended 1920, 1934, 1996.)

Sec. 15. Members of the Legislature in all cases except treason, felony or breach of the peace, shall be privileged from arrest during the session of the Legislature, and for fifteen days next before the commencement and after the termination thereof.

Sec. 16. No member of the Legislature or any state officer shall have a conflict of interest, as defined by the Legislature, directly in any contract, with the state or any county or municipality thereof, authorized by any law enacted during the term for which he shall have been elected or appointed, or within one year after the expiration of such term. The Legislature shall prescribe standards and definitions for determining the existence of such conflicts of interest in contracts, and it shall prescribe sanctions for enforcing this section. (Amended 1920, 1968, 1972.)

Sec. 17. The Legislature shall have the sole power of impeachment, but a majority of the members elected must concur therein. Proceedings may be initiated in either a regular session or a special session of the Legislature. Upon the adoption of a resolution of impeachment, which resolution shall give reasonable notice of the acts or omissions alleged to constitute impeachable offenses but need not conform to any particular style, a notice of an impeachment of any officer, other than a Judge of the Supreme Court, shall be forthwith served upon the Chief Justice, by the Clerk of the Legislature, who shall thereupon call a session of the Supreme Court to meet at the Capitol in an expeditious fashion after such notice to try the impeachment. A notice of an impeachment of the Chief Justice or any Judge of the Supreme Court shall be served by the Clerk of the Legislature, upon the clerk of the judicial district within which the Capitol is located, and he or she thereupon shall choose, at random, seven Judges of the District Court in the State to meet within thirty days at the Capitol, to sit as a Court to try such impeachment, which Court shall organize by electing one of its number to preside. The case against the impeached civil officer shall be brought in the name of the Legislature and shall be managed by two senators, appointed by the Legislature, who may make technical or procedural amendments to the articles of impeachment as they deem necessary. The trial shall be conducted in the manner of a civil proceeding and the impeached civil officer shall not be allowed to invoke a privilege against self-incrimination, except as otherwise applicable in a general civil case. No person shall be convicted without the concurrence of two-thirds of the members of the Court of impeachment that clear and convincing evidence exists indicating that such person is guilty of one or more impeachable offenses, but judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, profit, or trust, in this State, but the party impeached, whether convicted or acquitted, shall nevertheless be liable to prosecution and punishment according to law. No officer shall exercise his or her official duties after he or she shall have been impeached and notified thereof, until he or she shall have been acquitted. (Amended 1972, 1986.)

Sec. 18. The Legislature shall not pass local or special laws in any of the following cases, that is to say:

For granting divorces.

Changing the names of persons or places.

Laying out, opening altering and working roads or highways.

Vacating roads, Town plats, streets, alleys, and public grounds.

Locating or changing County seats.

Regulating County and Township offices.

Regulating the practice of Courts of Justice.

Regulating the jurisdiction and duties of Justices of the Peace, Police Magistrates and Constables.

Providing for changes of venue in civil and criminal cases.

Incorporating Cities, Towns and Villages, or changing or amending the charter of any Town, City, or Village.

Providing for the election of Officers in Townships, incorporated Towns or Cities.

Summoning or empanelling Grand or Petit Juries.

Providing for the bonding of cities, towns, precincts, school districts or other municipalities.

Providing for the management of Public Schools.

The opening and conducting of any election, or designating the place of voting.  
 The sale or mortgage of real estate belonging to minors, or others under disability.  
 The protection of game or fish.

Chartering or licensing ferries, or toll bridges, remitting fines, penalties or forfeitures, creating, increasing and decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever; Provided, that notwithstanding any other provisions of this Constitution, the Legislature shall have authority to separately define and classify loans and installment sales, to establish maximum rates within classifications of loans or installment sales which it establishes, and to regulate with respect thereto. In all other cases where a general law can be made applicable, no special law shall be enacted. (Amended 1964.)

Sec. 19. The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to the Legislature or the judiciary, or officers elected or appointed to a board or commission having more than one member, and the terms of such members commence and end at different times, the compensation of all members of the Legislature, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3 of the Constitution of Nebraska. (Amended 1920, 1952, 1968, 1972, 1978, 2000.)

Sec. 20. The salt springs, coal, oil, minerals, or other natural resources on or contained in the land belonging to the state shall never be alienated; but provision may be made by law for the leasing or development of the same. (Amended 1920.)

Sec. 21. Lands under control of the state shall never be donated to railroad companies, private corporations or individuals.

Sec. 22. Each Legislature shall make appropriations for the expenses of the Government. And whenever it is deemed necessary to make further appropriations for deficiencies, the same shall require a two-thirds vote of all the members elected to the Legislature. Bills making appropriations for the pay of members and officers of the Legislature, and for the salaries of the officers of the Government, shall contain no provision on any other subject. (Amended 1972.)

Sec. 23. Repealed 1972.

Sec. 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 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.

(5) This section shall not apply to any law which is enacted contemporaneously with the adoption of this subsection or at any time thereafter and which provides for the licensing, authorization, regulation, or taxation of all forms of games of chance when such games of chance are conducted by authorized gaming operators within a licensed racetrack enclosure.

(Amended 1934, 1958, 1962, 1968, 1988, 1992, 2004, 2020.)

Sec. 25. No allowance shall be made for the incidental expenses of any state officer except the same be made by general appropriation and upon an account specifying each item. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law, and on the presentation of a warrant issued as the Legislature may direct, and no money shall be diverted from any appropriation made for any purpose or taken from any fund whatever by resolution. (Amended 1964.)

Sec. 26. No member of the Legislature shall be liable in any civil or criminal action whatever for words spoken in debate.

Sec. 27. No act shall take effect until three calendar months after the adjournment of the session at which it passed, unless in case of emergency, which is expressed in the preamble or body of the act, the Legislature shall by a vote of two-thirds of all the members elected otherwise direct. All laws shall be published within sixty days after the adjournment of each session and distributed among the several counties in such manner as the Legislature may provide. (Amended 1972, 1998)

Sec. 28. Repealed 1934.

Sec. 29. (1). In order to insure continuity of state and local governmental operations in periods of emergency resulting from enemy attack upon the United States, or the imminent threat thereof, the Legislature shall have the power and the immediate duty, notwithstanding any other provision to the contrary in this Constitution, to provide by law for:

(a) The prompt and temporary succession to the powers and duties of all public offices, of whatever nature and whether filled by election or appointment, the incumbents of which, after an attack, may be or become unavailable or unable to carry on the powers and duties of such offices;

(b) The convening of the Legislature into general or extraordinary session, upon or without call by the Governor, during or after a war or enemy caused disaster occurring in the United States; and, with respect to any such emergency session, the suspension or temporary change of the provisions of this Constitution or of general law relating to the length and purposes of any legislative session or prescribing the specific proportion or number of legislators whose presence or vote is necessary to constitute a quorum or to accomplish any legislative act or function;

(c) The selection and changing from time to time of a temporary state seat of government, of temporary county seats, and of temporary seats of government for other political subdivisions; to be used if made necessary by enemy attack or imminent threat thereof;

(d) The determination, selection, reproduction, preservation, and dispersal of public records necessary to the continuity of governmental operations in the event of enemy attack or imminent threat thereof; and

(e) Such other measures and procedures as may be necessary and proper for insuring the continuity of governmental operations in the event of enemy attack or imminent threat thereof.

(2). In the exercise of the powers hereinbefore conferred, the Legislature shall in all respects conform to the requirements of this Constitution except to the extent that, in the judgment of the Legislature, so to do would be impracticable or would admit of undue delay. (Adopted 1960.)

Sec. 30. The Legislature shall pass all laws necessary to carry into effect the provisions of this constitution. (Amended 1998.)

#### ARTICLE IV: EXECUTIVE

Sec. 1. The executive officers of the state shall be the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and the heads of such other executive departments as set forth herein or as may be established by law. The Legislature may provide for the placing of the above named officers as heads over such departments of government as it may by law establish.

The Governor, Lieutenant Governor, Attorney General, Secretary of State, Auditor of Public Accounts, and State Treasurer shall be chosen at the general election held in November 1974, and in each alternate even-numbered year thereafter, for a term of four years and until their successors shall be elected and qualified.

Each candidate for Governor shall select a person to be the candidate for Lieutenant Governor on the general election ballot. In the general election one vote shall be cast jointly for the candidates for Governor and Lieutenant Governor. The Governor shall be ineligible to the office of Governor for four years next after the expiration of two consecutive terms for which he or she was elected.

The records, books, and papers of all executive officers shall be kept at the seat of government. Executive officers shall reside within the State of Nebraska during their respective terms of office. Officers in the executive department of the state shall perform such duties as may be provided by law.

The heads of all executive departments established by law, other than those to be elected as provided herein, shall be appointed by the Governor, with the consent of a majority of all members elected to the Legislature, but officers so appointed may be removed by the Governor. Subject to the provisions of this Constitution, the heads of the various executive or civil departments shall have power to appoint and remove all subordinate employees in their respective departments.

(Amended 1920, 1936, 1952, 1958, 1962, 1964, 1966, 1970, 1998, 2000.)

Sec. 2. No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have attained the age of thirty years, and who shall not have been for five years next preceding his election a resident and citizen of this state and a citizen of the United States. None of the appointive officers mentioned in this article shall be eligible to any other state office during the period for which they have been appointed. (Amended 1920, 1962, 1966.)

Sec. 3. The treasurer shall be ineligible to the office of treasurer, for two years next after the expiration of two consecutive terms for which he was elected. (Amended 1992, 1994.)<sup>2</sup>

Sec. 4. The returns of every election for the officers of the executive department shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to the Speaker of the Legislature, who shall immediately after the organization of the Legislature, and before proceeding to other business, open and publish the same in the presence of a majority of the members of the Legislature. The person having the highest number of votes for each of said offices shall be declared duly elected; but if two or more have an equal and the highest number of votes, the Legislature shall choose one of such persons for said office. The conduct of election contests for any of said offices shall be in such manner as may be prescribed by law. (Amended 1960, 1972.)

Sec. 5. A civil officer of this state shall be liable to impeachment for any misdemeanor in office or for any misdemeanor in pursuit of such office. (Amended 2012.)

Sec. 6. The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed and the affairs of the state efficiently and economically administered. (Amended 1920.)

Sec. 7. The Governor may, at the commencement of each session, and at the close of his term of office and whenever the Legislature may require, give by message to the Legislature information of the condition of the state, and shall recommend such measures as he shall deem expedient. At a time fixed by law, he shall present, by message, a complete itemized budget of the financial requirements of all departments, institutions and agencies of the state and a budget bill to be introduced by the Speaker of the Legislature at the request of the Governor. Said budget bill shall be prepared with such expert assistance and under such regulations as may be required by the Governor. No appropriations shall be made in excess of the recommendation contained in such budget including any amendment the Governor may make thereto unless by three-fifths vote of the Legislature, and such excess so approved shall be subject to veto by the Governor. (Amended 1920, 1964, 1972.)

Sec. 8. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.

Sec. 9. Repealed 1934.

Sec. 10. The Governor shall appoint with the approval of a majority of the Legislature, all persons whose offices are established by the Constitution, or which may be created by law, and whose appointment or election is not otherwise by law or herein provided for; and no such person shall be appointed or elected by the Legislature. The Governor shall have power to remove, for cause and after a public hearing, any person whom he may appoint for a term except officers provided for in Article V of the Constitution, and he may declare his office vacant, and fill the same as herein provided as in other cases of vacancy. The Governor shall have power to remove any other person whom he appoints at any time and for any reason. (Amended 1972.)

Sec. 11. If any elected state office created by this Constitution, except offices provided for in Article V of this Constitution, shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill that office by appointment, and the appointee shall hold the office until his successor shall be elected and qualified in such manner as may be provided by law. (Amended 1962, 1972, 1980.)

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<sup>2</sup>The changes made to Article IV, section 3, of the Constitution of Nebraska by Initiative 408 in 1994 have been omitted because of the decision of the Nebraska Supreme Court in *Duggan v. Beermann*, 249 Neb. 411, 544 N.W.2d 68 (1996).

Sec. 12. If any nonelective state office, except offices provided for in Article V of this Constitution, shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill that office by appointment. If the Legislature is in session, such appointment shall be subject to the approval of a majority of the members of the Legislature. If the Legislature is not in session, the Governor shall make a temporary appointment until the next session of the Legislature, at which time a majority of the members of the Legislature shall have the right to approve or disapprove the appointment. All appointees shall hold their office until their successors shall be appointed and qualified. No person after being rejected by the Legislature shall be again nominated for the same office at the same session, unless at request of the Legislature, or be appointed to the same office during the recess or adjournment of the Legislature. (Amended 1972.)

Sec. 13. The Legislature shall provide by law for the establishment of a Board of Parole and the qualifications of its members. Said board, or a majority thereof, shall have power to grant paroles after conviction and judgment, under such conditions as may be prescribed by law, for any offenses committed against the criminal laws of this state except treason and cases of impeachment. The Governor, Attorney General and Secretary of State, sitting as a board, shall have power to remit fines and forfeitures and to grant respites, reprieves, pardons, or commutations in all cases of conviction for offenses against the laws of the state, except treason and cases of impeachment. The Board of Parole may advise the Governor, Attorney General and Secretary of State on the merits of any application for remission, respite, reprieve, pardon or commutation but such advice shall not be binding on them. The Governor shall have power to suspend the execution of the sentence imposed for treason until the case can be reported to the Legislature at its next session, when the Legislature shall either grant a pardon, or commute the sentence or direct the execution, or grant a further reprieve. (Amended 1920, 1968.)

Sec. 14. The Governor shall be commander-in-chief of the military and naval forces of the state (except when they shall be called into the service of the United States) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

Sec. 15. Every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor. If he approves he shall sign it, and thereupon it shall become a law, but if he does not approve or reduces any item or items of appropriations, he shall return it with his objections to the Legislature, which shall enter the objections at large upon its journal, and proceed to reconsider the bill with the objections as a whole, or proceed to reconsider individually the item or items disapproved or reduced. If then three-fifths of the members elected agree to pass the bill with objections it shall become a law, or if three-fifths of the members elected agree to repass any item or items disapproved or reduced, the bill with such repassage shall become a law. In all cases the vote shall be determined by yeas and nays, to be entered upon the journal. Any bill which shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it; unless the Legislature by their adjournment prevent its return; in which case it shall be filed, with his objections, in the office of the Secretary of State within five days after such adjournment, or become a law. The Governor may disapprove or reduce any item or items of appropriation contained in bills passed by the Legislature, and the item or items so disapproved shall be stricken therefrom, and the items reduced shall remain as reduced unless the Legislature has reconsidered the item or items disapproved or reduced and has repassed any such item or items over the objection of the Governor by a three-fifths approval of the members elected. (Amended 1972, 1974, 1976.)

Sec. 16. In case of the conviction of the Governor on impeachment, his removal from office, his resignation or his death, the Lieutenant Governor, the Speaker of the Legislature and such other persons designated by law shall in that order be Governor for the remainder of the Governor's term. In case of the death of the Governor-elect, the Lieutenant Governor-elect, the Speaker of the Legislature and such other persons designated by law shall become Governor in that order at the commencement of the Governor-elect's term. If the Governor or the person in line of succession to serve as Governor is absent from the state, or suffering under an inability, the powers and duties of the office of Governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases as provided by law. After January

1, 1975, the Lieutenant Governor shall serve on all boards and commissions in lieu of the Governor whenever so designated by the Governor, shall perform such duties as may be delegated him by the Governor, and shall devote his full time to the duties of his office. (Amended 1970, 1972.)

Sec. 17. Repealed 1934.

Sec. 18. Repealed 1972.

Sec. 19. The general management, control and government of all state charitable, mental, reformatory, and penal institutions shall be vested as determined by the Legislature. (Amended 1912, 1920, 1958.)

Sec. 20. There shall be a Public Service Commission, consisting of not less than three nor more than seven members, as the Legislature shall prescribe, whose term of office shall be six years, and whose compensation shall be fixed by the Legislature. Commissioners shall be elected by districts of substantially equal population as the Legislature shall provide. The powers and duties of such commission shall include the regulation of rates, service and general control of common carriers as the Legislature may provide by law. But, in the absence of specific legislation, the commission shall exercise the powers and perform the duties enumerated in this provision. (Adopted 1906. Amended 1962, 1972.)

Sec. 21. Repealed 1972.

Sec. 22. The Legislature shall provide by statute for the keeping of accounts and the reporting by those agencies of the state which are required to administer cash funds not subject to appropriation by the Legislature, and an annual report thereof shall be made to the Governor under oath; and any officer who makes a false report shall be guilty of perjury and punished accordingly. (Amended 1964.)

Sec. 23. All expending agencies of the state as the Legislature may provide shall at least ten days preceding each regular session of the Legislature severally report to the Governor, who shall transmit such reports to the Legislature, together with the reports of the Judges of the Supreme Court of defects in the constitution and laws, and the Governor or the Legislature may at any time require information, in writing, under oath, from the officers of all expending agencies, upon any subject relating to the condition, management and expenses of their respective offices. (Amended 1964.)

Sec. 24. There shall be a seal of the state, which shall be called the "Great Seal of the State of Nebraska," which shall be kept by the Secretary of State and used by him officially as directed by law.

Sec. 25. The officers provided for in this article shall receive such salaries as may be provided by law. Such officers, or such other officers as may be provided for by law, shall not receive for their own use any fees, costs, or interest upon public money in their hands. All fees that may hereafter be payable by law for services performed, or received by an officer provided for in this article, by virtue of his office shall be paid forthwith into the state treasury. (Amended 1920, 1956.)

Sec. 26. All officers of government shall give bond as may be prescribed by law. (Amended 1964.)

Sec. 27. No executive state office other than herein provided shall be created except by a two-thirds majority of all members elected to the Legislature. (Amended 1920, 1972.)

Sec. 28. By January 1, 1997, there shall be a Tax Equalization and Review Commission. The members of the commission shall be appointed by the Governor as provided by law. The commission shall have power to review and equalize assessments of property for taxation within the state and shall have such other powers and perform such other duties as the Legislature may provide. The terms of office and compensation of members of the commission shall be as provided by law.

A Tax Commissioner shall be appointed by the Governor with the approval of the Legislature. The Tax Commissioner may have jurisdiction over the administration of the revenue laws of the state and such other duties and powers as provided by law. The Tax Commissioner shall serve at the pleasure of the Governor. (Adopted 1920. Amended 1996.)

**ARTICLE V: JUDICIAL**

Sec. 1. The judicial power of the state shall be vested in a Supreme Court, an appellate court, district courts, county courts, in and for each county, with one or more judges for each county or with one judge for two or more counties, as the Legislature shall provide, and such other courts inferior to the Supreme Court as may be created by law. In accordance with rules established by the Supreme Court and not in conflict with other provisions of this Constitution and laws governing such matters, general administrative authority over all courts in this state shall be vested in the Supreme Court and shall be exercised by the Chief Justice. The Chief Justice shall be the executive head of the courts and may appoint an administrative director thereof. (Amended 1920, 1970, 1990.)

Sec. 2. The Supreme Court shall consist of seven judges, one of whom shall be the Chief Justice. A majority of the judges shall be necessary to constitute a quorum. A majority of the members sitting shall have authority to pronounce a decision except in cases involving the constitutionality of an act of the Legislature. No legislative act shall be held unconstitutional except by the concurrence of five judges. The Supreme Court shall have jurisdiction in all cases relating to the revenue, civil cases in which the state is a party, mandamus, quo warranto, habeas corpus, election contests involving state officers other than members of the Legislature, and such appellate jurisdiction as may be provided by law. The Legislature may provide that any judge of the Supreme Court or judge of the appellate court created pursuant to Article V, section 1, of this Constitution who has retired may be called upon for temporary duty by the Supreme Court. Whenever necessary for the prompt submission and determination of causes, the Supreme Court may appoint judges of the district court or the appellate court to act as associate judges of the Supreme Court, sufficient in number, with the judges of the Supreme Court, to constitute two divisions of the court of five judges in each division. Whenever judges of the district court or the appellate court are so acting, the court shall sit in two divisions, and four of the judges thereof shall be necessary to constitute a quorum. Judges of the district court or the appellate court so appointed shall serve during the pleasure of the court and shall have all the powers of judges of the Supreme Court. The Chief Justice shall make assignments of judges to the divisions of the court, preside over the division of which he or she is a member, and designate the presiding judge of the other division. The judges of the Supreme Court, sitting without division, shall hear and determine all cases involving the constitutionality of a statute and all appeals involving capital cases and may review any decision rendered by a division of the court. In such cases, in the event of the disability or disqualification by interest or otherwise of any of the judges of the Supreme Court, the court may appoint judges of the district court or the appellate court to sit temporarily as judges of the Supreme Court, sufficient to constitute a full court of seven judges. Judges of the district court or the appellate court shall receive no additional salary by virtue of their appointment and service as herein provided, but they shall be reimbursed their necessary traveling and hotel expenses. (Amended 1908, 1920, 1968, 1970, 1990.)

Sec. 3. At least two terms of the supreme court shall be held each year, at the seat of government.

Sec. 4. The Chief Justice and the Judges of the Supreme Court shall be selected as provided in this Article V. They may reside at the place where the court is located but shall reside within the state, and no Chief Justice or Judge of the Supreme Court shall be deemed thereby to have lost his or her residence at the place from which he or she was selected. The offices of the Chief Justice and Judges of the Supreme Court shall be at the place where the court is located. (Amended 1908, 1920, 1962, 1998.)

Sec. 5. The Legislature shall divide the state into six contiguous and compact districts of approximately equal population, which shall be numbered from one to six, which shall be known as the Supreme Court judicial districts. The Legislature shall redistrict the state after each federal decennial census. In any such redistricting, county lines shall be followed whenever practicable, but other established lines may be followed at the discretion of the Legislature. Such districts shall not be changed except upon the concurrence of a majority of the members of the Legislature. Whenever the Supreme Court is redistricted, the judges serving prior to the redistricting shall

continue in office, and the law providing for such redistricting shall where necessary specify the newly established districts which they shall represent for the balance of their terms. (Amended 1908, 1912, 1920, 1962, 1970.)

Sec. 6. The Chief Justice shall preside at all terms and sittings of the supreme court, and in his absence or disability the judges present shall select one of their number chief justice pro tempore. (Amended 1908, 1920.)

Sec. 7. No person shall be eligible to the office of Chief Justice or Judge of the Supreme Court unless he shall be at least thirty years of age, and a citizen of the United States, and shall have resided in this state at least three years next preceding his selection; nor, in the case of a Judge of the Supreme Court selected from a Supreme Court judicial district, unless he shall be a resident and elector of the district from which selected. (Amended 1920, 1962.)

Sec. 8. The Supreme Court shall appoint such staff as may be needed for the proper dispatch of the business of the court. The court shall prepare and recommend to each session of the Legislature a budget of the estimated expenses of the court. The copyright of the state reports shall forever remain the property of the state. (Amended 1920, 1972, 1990.)

Sec. 9. The district courts shall have both chancery and common law jurisdiction, and such other jurisdiction as the Legislature may provide; and the judges thereof may admit persons charged with felony to a plea of guilty and pass such sentence as may be prescribed by law.

Sec. 10. The state shall be divided into district court judicial districts. Until otherwise provided by law, the boundaries of the judicial districts and the number of judges of the district courts shall remain as now fixed. The judges of the district courts shall be selected from the respective districts as provided in this Article V. (Amended 1920, 1962.)

Sec. 11. The Legislature may change the number of judges of the district courts and alter the boundaries of judicial districts. Such change in number or alterations in boundaries shall not vacate the office of any judge. Such districts shall be formed of compact territory bounded by county lines. (Amended 1920, 1972.)

Sec. 12. The judges of the district court may hold court for each other and shall do so when required by law or when ordered by the Supreme Court. The Legislature may provide that any judge of the district court who has retired may be called upon for temporary duty by the Supreme Court. (Amended 1920, 1970.)

Sec. 13. The chief justice, the judges of the supreme court and the judges of the district court shall receive such salaries as may be provided by law. (Amended 1908, 1920.)

Sec. 14. No judge of the Supreme or district courts shall act as attorney or counsellor at law in any manner whatsoever. No judge shall practice law in any court in any matter arising in or growing out of any proceedings in his own court. (Amended 1920, 1970.)

Sec. 15 to 18. Repealed 1970.

Sec. 19. The organization, jurisdiction, powers, proceedings, and practice of all courts of the same class or grade, so far as regulated by law and the force and effect of the proceedings, judgments and decrees of such courts, severally, shall be uniform. (Amended 1920.)

Sec. 20. All officers provided for in this Article shall hold their offices until their successors shall be qualified and they shall respectively reside in the district or county from which they shall be selected. All officers, when not otherwise provided for in this Article, shall perform such duties and receive such compensation as may be prescribed by law. (Amended 1920, 1962, 1970.)

Sec. 21. (1) In the case of any vacancy in the Supreme Court or in any district court or in such other court or courts made subject to this provision by law, such vacancy shall be filled by the Governor from a list of at least two nominees presented to him by the appropriate judicial nominating commission. If the Governor shall fail to make an appointment from the list within sixty days from the date it is presented to him, the appointment shall be made by the Chief Justice or the acting Chief Justice of the Supreme Court from the same list.

(2) In all other cases, any vacancy shall be filled as provided by law.

(3) At the next general election following the expiration of three years from the date of appointment of any judge under the provisions of subsection (1) of this section and every six years thereafter as long as such judge retains office, each Justice or Judge of the Supreme Court or district

court or such other court or courts as the Legislature shall provide shall have his right to remain in office subject to approval or rejection by the electorate in such manner as the Legislature shall provide; *Provided*, that every judge holding or elected to an office described in subsection (1) of this section on the effective date of this amendment whether by election or appointment, upon qualification shall be deemed to have been selected and to have once received the approval of the electorate as herein provided, and shall be required to submit his right to continue in office to the approval or rejection of the electorate at the general election next preceding the expiration of the term of office for which such judge was elected or appointed, and every six years thereafter. In the case of the Chief Justice of the Supreme Court, the electorate of the entire state shall vote on the question of approval or rejection. In the case of any Judge of the Supreme Court, other than the Chief Justice, and any judge of the district court or any other court made subject to subsection (1) of this section, the electorate of the district from which such judge was selected shall vote on the question of such approval or rejection.

(4) There shall be a judicial nominating commission for the Chief Justice of the Supreme Court and one for each judicial district of the Supreme Court and of the district court and one for each area or district served by any other court made subject to subsection (1) of this section by law. Each judicial nominating commission shall consist of nine members, one of whom shall be a Judge of the Supreme Court who shall be designated by the Governor and shall act as chairman, but shall not be entitled to vote. The members of the bar of the state residing in the area from which the nominees are to be selected shall designate four of their number to serve as members of said commission, and the Governor shall appoint four citizens, not admitted to practice law before the courts of the state, from among the residents of the same geographical area to serve as members of said commission. Not more than four of such voting members shall be of the same political party. The terms of office for members of each judicial nominating commission shall be staggered and shall be fixed by the Legislature. The nominees of any such commission cannot include a member of such commission or any person who has served as a member of such commission within a period of two years immediately preceding his nomination or for such additional period as the Legislature shall provide. The names of candidates shall be released to the public prior to a public hearing.

(5) Members of the nominating commission shall vote for the nominee of their choice by roll call. Each candidate must receive a majority of the voting members of the nominating commission to have his name submitted to the Governor. (Amended 1920, 1962, 1972.)

Sec. 22. The state may sue and be sued, and the Legislature shall provide by law in what manner and in what courts suits shall be brought.

Sec. 23. The several judges of the courts of record shall have such jurisdiction at chambers as may be provided by law.

Sec. 24. All process shall run in the name of "The State of Nebraska," and all prosecutions shall be carried on in the name of "The State of Nebraska."

Sec. 25. For the effectual administration of justice and the prompt disposition of judicial proceedings, the supreme court may promulgate rules of practice and procedure for all courts, uniform as to each class of courts, and not in conflict with laws governing such matters. To the same end, the court may, and when requested by the Legislature by resolution shall, certify to the Legislature its conclusions as to desirable amendments or changes in the general laws governing such practice and proceedings. (Adopted 1920. Amended 2000.)

Sec. 26. If the foregoing amendment shall be adopted by the electors, all existing courts which are not in the foregoing amendment specifically enumerated and concerning which no other provision is herein made, shall continue in existence and exercise their present jurisdiction, and the judges thereof shall receive their present compensation, until otherwise provided by law; and such judges or appointees to fill vacancies shall hold their offices until their successors shall be elected and qualified. (Adopted 1920.)

Sec. 27. Notwithstanding the provisions of section 9 of this Article, the Legislature may establish courts to be known as juvenile courts, with such jurisdiction and powers as the Legislature may provide. The term, qualification, compensation, and method of appointment or election

of the judges of such courts, and the rules governing proceedings therein, may be fixed by the Legislature. The state shall be divided into juvenile court judicial districts that correspond to district court judicial districts until otherwise provided by law. No such court shall be established or afterwards abolished in any juvenile court judicial district unless approved by a majority of those voting on the issue. (Adopted 1958. Amended 1972.)

Sec. 28. The Legislature shall provide for a Commission on Judicial Qualifications consisting of: (1) Three judges, including one district court judge, one county court judge, and one judge of any other court inferior to the Supreme Court as now exists or may hereafter be created by law, all of whom shall be appointed by the Chief Justice of the Supreme Court; (2) three members of the Nebraska State Bar Association who shall have practiced law in this state for at least ten years and who shall be appointed by the Executive Council of the Nebraska State Bar Association; (3) three citizens, none of whom shall be a Justice or Judge of the Supreme Court or judge of any court, active or retired, nor a member of the Nebraska State Bar Association, and who shall be appointed by the Governor; and (4) the Chief Justice of the Supreme Court, who shall serve as its chairperson. (Adopted 1966. Amended 1980.)

Sec. 29. The commission shall act by a vote of the majority of its members and no action of the commission shall be valid unless concurred in by the majority of its members. (Adopted 1966. Amended 1980.)

Sec. 30. (1) A Justice or Judge of the Supreme Court or judge of any court of this state may be reprimanded, disciplined, censured, suspended without pay for a definite period of time, not to exceed six months, or removed from office for (a) willful misconduct in office, (b) willful disregard of or failure to perform his or her duties, (c) habitual intemperance, (d) conviction of a crime involving moral turpitude, (e) disbarment as a member of the legal profession licensed to practice law in the State of Nebraska, or (f) conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or he or she may be retired for physical or mental disability seriously interfering with the performance of his or her duties if such disability is determined to be permanent or reasonably likely to become permanent. Any citizen of the State of Nebraska may request the Commission on Judicial Qualifications to consider the qualifications of any Justice or Judge of the Supreme Court or other judge, and in such event the commission shall make such investigation as the commission deems necessary and shall, upon a finding of probable cause, reprimand such Justice or Judge of the Supreme Court or other judge or order a formal open hearing to be held before it concerning the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge. In the alternative or in addition, the commission may request the Supreme Court to appoint one or more special masters who shall be judges of courts of record to hold a formal open hearing to take evidence in any such matter, and to report to the commission. If, after formal open hearing, or after considering the record and report of the masters, the commission finds that the charges are established by clear and convincing evidence, it shall recommend to the Supreme Court that the Justice or Judge of the Supreme Court or other judge involved shall be reprimanded, disciplined, censured, suspended without pay for a definite period of time not to exceed six months, removed, or retired as the case may be.

(2) The Supreme Court shall review the record of the proceedings and in its discretion may permit the introduction of additional evidence. The Supreme Court shall make such determination as it finds just and proper, and may order the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge, or may wholly reject the recommendation. Upon an order for retirement, the Justice or Judge of the Supreme Court or other judge shall thereby be retired with the same rights and privileges as if he or she had retired pursuant to statute. Upon an order for removal, the Justice or Judge of the Supreme Court or other judge shall be removed from office, his or her salary shall cease from the date of such order, and he or she shall be ineligible for judicial office. Upon an order for suspension, the Justice or Judge of the Supreme Court or other judge shall draw no salary and shall perform no judicial functions during the period of suspension. Suspension shall not create a vacancy in the office of Justice or Judge of the Supreme Court or other judge.

(3) Upon order of the Supreme Court, a Justice or Judge of the Supreme Court or other judge shall be disqualified from acting as a Justice or Judge of the Supreme Court or other judge, without loss of salary, while there is pending (a) an indictment or information charging him or her in the United States with a crime punishable as a felony under Nebraska or federal law or (b) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his or her removal or retirement.

(4) In addition to the procedure set forth in subsections (1) and (2) of this section, on recommendation of the Commission on Judicial Qualifications or on its own motion, the Supreme Court (a) shall remove a Justice or Judge of the Supreme Court or other judge from office when in any court in the United States such justice or judge pleads guilty or no contest to a crime punishable as a felony under Nebraska or federal law, and (b) may suspend a Justice or Judge of the Supreme Court or other judge from office without salary when in any court in the United States such justice or judge is found guilty of a crime punishable as a felony under Nebraska or federal law or of any other crime that involves moral turpitude. If his or her conviction is reversed, suspension shall terminate and he or she shall be paid his or her salary for the period of suspension. If he or she is suspended and his or her conviction becomes final the Supreme Court shall remove him or her from office.

(5) All papers filed with and proceedings before the commission or masters appointed by the Supreme Court pursuant to this section prior to a reprimand or formal open hearing shall be confidential. The filing of papers with and the testimony given before the commission or masters or the Supreme Court shall be deemed a privileged communication. When the Commission on Judicial Qualifications determines that disciplinary action is warranted, whether it be a reprimand or otherwise, the Commission on Judicial Qualifications shall issue one or more short announcements confirming that a complaint has been filed; stating the subject and nature of the complaint, the disciplinary action recommended or reprimand issued, or the date of the hearing; clarifying the procedural aspects; and reciting the right of a judge to a fair hearing.

When the Commission on Judicial Qualifications determines that disciplinary action is not warranted, and the existence of any investigation or complaint has become publicly known, the judge against whom a complaint has been filed or investigation commenced may waive the confidentiality of papers and proceedings under this subsection.

The Supreme Court shall by rule provide for procedure under this section before the commission, the masters, and the Supreme Court.

(6) No Justice or Judge of the Supreme Court or other judge shall participate, as a member of the commission, or as a master, or as a member of the Supreme Court, in any proceedings involving his or her own reprimand, discipline, censure, suspension, removal, or retirement. (Adopted 1966, 1980, 1984.)

Sec. 31. These amendments are alternative to and cumulative with the methods of removal of Justices and judges provided in Article III, section 17, and Article IV, section 5, of this Constitution, and any other provision of law relating to the methods and manner of the removal of Justices, Judges, and judges of the courts of this state. (Adopted 1966.)

## ARTICLE VI: SUFFRAGE

Sec. 1. 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. (Amended 1910, 1918, 1920, 1970, 1972, 1988.)

Sec. 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. 3. Every elector in the military or naval service of the United States or of this state may exercise the right of suffrage at such place and under such regulations as may be provided by law. (Amended 1920.)

Sec. 4. Repealed 1972.

Sec. 5. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and going to and returning from the same. (Amended 1972.)

Sec. 6. All votes shall be by ballot or by other means authorized by the Legislature whereby the vote and the secrecy of the elector's vote will be preserved. (Amended 1972.)

## ARTICLE VII: EDUCATION

Sec. 1. The 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. The Legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof. (Amended 1940, 1952, 1954, 1970, 1972.)

Sec. 2. The State Department of Education shall be comprised of a State Board of Education and a Commissioner of Education. The State Department of Education shall have general supervision and administration of the school system of the state and of such other activities as the Legislature may direct. (Amended 1972.)

Sec. 3. The State Board of Education shall be composed of eight members, who shall be elected from eight districts of substantially equal population as provided by the Legislature. Their term of office shall be for four years each. Their duties and powers shall be prescribed by the Legislature, and they shall receive no compensation, but shall be reimbursed their actual expense incurred in the performance of their duties. The members of the State Board of Education shall not be actively engaged in the educational profession and they shall be elected on a nonpartisan ballot. (Amended 1972.)

Sec. 4. The State Board of Education shall appoint and fix the compensation of the Commissioner of Education, who shall be the executive officer of the State Board of Education and the administrative head of the State Department of Education, and who shall have such powers and duties as the Legislature may direct. The board shall appoint all employees of the State Department of Education on the recommendation of the Commissioner of Education. (Amended 1966, 1972.)

Sec. 5. (1) Except as provided in subsections (2) and (3) of this section, all fines, penalties, and license money arising under the general laws of the state, except fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways of this state, shall belong and be paid over to the counties respectively where the same may be levied or imposed, and all fines, penalties, and license money arising under the rules, bylaws, or ordinances of cities, villages, precincts, or other municipal subdivision less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue, except that all fines and penalties for violation of laws prohibiting the overloading of vehicles used upon the public roads and highways shall be placed as follows: Seventy-five per cent in a fund for state highways and twenty-five per cent to the county general fund where the fine or penalty is paid.

(2) Fifty per cent of all money forfeited or seized pursuant to enforcement of the drug laws shall belong and be paid over to the counties for drug enforcement purposes as the Legislature may provide.

(3) Law enforcement agencies may use conveyances forfeited pursuant to enforcement of the drug laws as the Legislature may provide. Upon the sale of such conveyances, the proceeds shall be appropriated exclusively to the use and support of the common schools as provided in subsection (1) of this section. (Amended 1956, 1984.)

Sec. 6. No lands now owned or hereafter acquired by the state for educational purposes shall be sold except at public auction under such conditions as the Legislature shall provide. The general management of all lands set apart for educational purposes shall be vested, under the direction of the Legislature, in a board of five members to be known as the Board of Educational Lands and Funds. The members shall be appointed by the Governor, subject to the approval of

the Legislature, with such qualifications and for such terms and compensation as the Legislature may provide. (Amended 1972.)

Sec. 7. The following are hereby declared to be perpetual funds for common school purposes, including early childhood educational purposes operated by or distributed through the common schools, of which the annual interest or income only can be appropriated, to wit:

First. Such percent as has been, or may hereafter be, granted by Congress on the sale of lands in this state.

Second. All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this state, where by the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this state, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All other property of any kind now belonging to the perpetual fund. (Amended 1920, 1972, 2006.)

Sec. 8. All funds belonging to the state for common school purposes, including early childhood educational purposes operated by or distributed through the common schools, the interest and income whereof only are to be used, shall be deemed trust funds. Such funds with the interest and income thereof are hereby solemnly pledged to the purposes for which they are granted and set apart and shall not be transferred to any other fund for other uses. The state shall supply any net aggregate losses thereof realized at the close of each calendar year that may in any manner accrue. Notwithstanding any other provisions in this Constitution, such funds shall be invested as the Legislature may by statute provide. (Amended 1920, 1972, 2006.)

Sec. 9. (1) The following funds shall be exclusively used for the support and maintenance of the common schools in each school district in the state or for early childhood education operated by or distributed through the common schools as provided in subsection (3) of this section, as the Legislature shall provide:

(a) Income arising from the perpetual funds;

(b) The income from the unsold school lands, except that costs of administration shall be deducted from the income before it is so applied;

(c) All other grants, gifts, and devises that have been or may hereafter be made to the state which are not otherwise appropriated by the terms of the grant, gift, or devise; and

(d) Such other support as the Legislature may provide.

(2) No distribution or appropriation shall be made to any school district for the year in which school is not maintained for the minimum term required by law.

(3)(a) An early childhood education endowment fund shall be created for the purpose of supporting early childhood education in this state as provided by the Legislature.

(b) An amount equal to forty million dollars of the funds belonging to the state for common school and early childhood educational purposes operated by or distributed through the common schools described in Article VII, section 7, of this Constitution shall be allocated for the early childhood education endowment fund.

(c) Only interest or income on such early childhood education endowment fund may be appropriated as provided by the Legislature for the benefit of the common schools and for the exclusive purpose of supporting early childhood education in this state.

(d) For purposes of Article VII of this Constitution, early childhood education means programs operated by or distributed through the common schools promoting development and learning for children from birth to kindergarten-entrance age.

(e) If the annual income from twenty million dollars of private funding is not irrevocably committed by July 1, 2011, to the use of the early childhood education endowment fund, then the forty-million-dollar allocation pursuant to subdivision (3)(b) of this section may revert to the use of the common schools as the Legislature shall determine. (Amended 1908, 1966, 1970,

1972, 2006.)

Sec. 10. The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of not less than six nor more than eight regents to be designated the Board of Regents of the University of Nebraska, who shall be elected from and by districts as herein provided and three students of the University of Nebraska who shall serve as nonvoting members. Such nonvoting student members shall consist of the student body president of the University of Nebraska at Lincoln, the student body president of the University of Nebraska at Omaha, and the student body president of the University of Nebraska Medical Center. The terms of office of elected members shall be for six years each. The terms of office of student members shall be for the period of service as student body president. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.

The Legislature shall divide the state, along county lines, into as many compact regent districts, as there are regents provided by the Legislature, of approximately equal population, which shall be numbered consecutively.

The Legislature shall redistrict the state after each federal decennial census. Such districts shall not be changed except upon the concurrence of a majority of the members of the Legislature. In any such redistricting, county lines shall be followed whenever practicable, but other established lines may be followed at the discretion of the Legislature. Whenever the state is so redistricted the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. (Amended 1920, 1968, 1974.)

Sec. 11. Notwithstanding any other provision in the Constitution, appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof; *Provided*, that the Legislature may provide that the state or any political subdivision thereof may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide for educational or other services for the benefit of children under the age of twenty-one years who are handicapped, as that term is from time to time defined by the Legislature, if such services are nonsectarian in nature.

All public schools shall be free of sectarian instruction.

The state shall not accept money or property to be used for sectarian purposes; *Provided*, that the Legislature may provide that the state may receive money from the federal government and distribute it in accordance with the terms of any such federal grants, but no public funds of the state, any political subdivision, or any public corporation may be added thereto.

A religious test or qualification shall not be required of any teacher or student for admission or continuance in any school or institution supported in whole or in part by public funds or taxation. (Amended 1920, 1972, 1976.)<sup>3</sup>

Sec. 12. The Legislature may provide by law for the establishment of a school or schools for the safe keeping, education, employment and reformation of all children under the age of eighteen years, who, for want of proper parental care, or other cause, are growing up in mendicancy or crime. (Amended 1920.)

Sec. 13. The general government of the state colleges as now existing, and such other state colleges as may be established by law, shall be vested, under the direction of the Legislature, in a board of seven members to be styled as designated by the Legislature, six of whom shall be appointed by the Governor, with the advice and consent of the Legislature, two each for a term of two, four, and six years, and two each biennium thereafter for a term of six years, and the Commissioner of Education shall be a member *ex officio*. The duties and powers of the board shall be prescribed by law, and the members thereof shall receive no compensation for the performance of their duties, but may be reimbursed their actual expenses incurred therein. (Adopted 1920. Amended 1952, 1968.)

Sec. 14. On January 1, 1992, there shall be established the Coordinating Commission for

<sup>3</sup>Pursuant to *Cunningham v. Exon*, 207 Neb. 513, 300 N.W.2d 6, the third paragraph in Article VII, section 11, has been reinstated.

Postsecondary Education which shall, under the direction of the Legislature, be vested with the authority for the coordination of public postsecondary educational institutions. Public postsecondary educational institutions shall include each postsecondary educational campus or institution which is governed by the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, any board or boards established for the community colleges, or any other governing board for any other public postsecondary educational institution which may be established by the Legislature.

Coordination shall mean:

(1) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (a) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (b) plans for facilities which utilize tax funds designated by the Legislature;

(2) Authority to review, monitor, and approve or disapprove each public postsecondary educational institution's programs and capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive plan and to prevent unnecessary duplication; and

(3) Authority to review and modify, if needed to promote compliance and consistency with the comprehensive statewide plan and prevent unnecessary duplication, the budget requests of the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, any board or boards established for the community colleges, or any other governing board for any other public postsecondary educational institution which may be established by the Legislature.

The Legislature may provide the commission with additional powers and duties related to postsecondary education as long as such powers and duties do not invade the governance and management authority of the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges as provided in the Constitution of Nebraska, Article VII, sections 10 and 13. The Legislature may provide that coordination of the community colleges by the commission pursuant to this section may be conducted through a board or association representing all the community colleges.

Nothing in this section providing for statewide coordination shall limit or require the use of property tax revenue by and for community colleges.

The commission shall consist of eleven members, residents of the state or the districts for which appointed, who shall be appointed by the Governor with the approval of a majority of the Legislature. Six of the members shall be chosen from six districts of approximately equal population and five shall be chosen on a statewide basis.

The terms of the members of the commission shall be six years or until a successor is qualified and takes office, except that of the members initially appointed, four members shall serve for terms of two years and four members shall serve for terms of four years. The members of the commission shall receive no compensation for the performance of their duties but may be reimbursed their actual and necessary expenses. (Adopted 1990.)

Sec. 15. Omitted.<sup>4</sup>

Sec. 16 and 17. Repealed 1972.

## ARTICLE VIII: REVENUE

Sec. 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,

<sup>4</sup>Article VII, section 15, of the Constitution of Nebraska, added by Initiative 408 in 1994, has been omitted because of the decision of the Nebraska Supreme Court in *Duggan v. Beermann*, 249 Neb. 411, 544 N.W.2d 68 (1996).

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. Existing revenue laws shall continue in effect until changed by the Legislature. (Amended 1920, 1952, 1954, 1960, 1964, 1972, 1978, 1984, 1990, 1992, 1998.)

Sec. 1A. The state shall be prohibited from levying a property tax for state purposes. (Adopted 1954. Amended 1966.)

Sec. 1B. 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. (Adopted 1966.)

Sec. 2. Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary: (1) The property of the state and its governmental subdivisions shall constitute a separate class of property and shall be exempt from taxation to the extent such property is used by the state or governmental subdivision for public purposes authorized to the state or governmental subdivision by this Constitution or the Legislature. To the extent such property is not used for the authorized public purposes, the Legislature may classify such property, exempt such classes, and impose or authorize some or all of such property to be subject to property taxes or payments in lieu of property taxes except as provided by law; (2) the Legislature by general law may classify and exempt from taxation property owned by and used exclusively for agricultural and horticultural societies and

property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user; (3) household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects; (4) the Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land; (5) the Legislature, by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation; (6) the value of a home substantially contributed by the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his or her surviving spouse; (7) the Legislature may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments; (8) the Legislature may exempt inventory from taxation; (9) the Legislature may define and classify personal property in such manner as it sees fit, whether by type, use, user, or owner, and may exempt any such class or classes of property from taxation if such exemption is reasonable or may exempt all personal property from taxation; (10) no property shall be exempt from taxation except as permitted by or as provided in this Constitution; (11) the Legislature may by general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation; and (12) the Legislature may by general law, and upon any terms, conditions, and restrictions it prescribes, provide that the increased value of real property resulting from improvements designed primarily for the purpose of renovating, rehabilitating, or preserving historically significant real property may be, in whole or in part, exempt from taxation. (Amended 1920, 1954, 1964, 1966, 1968, 1970, 1980, 1992, 1998, 2004.)

Sec. 2A. The Legislature may establish bonded and licensed warehouses or storage areas for goods, wares and merchandise in transit in the state which are intended for and which are shipped to final destinations outside this state upon leaving such warehouses or storage areas, and may exempt such goods, wares and merchandise from ad valorem taxation while in such storage areas. (Adopted 1960.)

Sec. 3. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. Provided, that occupants shall in all cases be served with personal notice before the time of redemption expires.

Sec. 4. Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever; *Provided*, that the Legislature may provide by law for the payment or cancellation of taxes or assessments against real estate remaining unpaid against real estate owned or acquired by the state or its governmental subdivisions. (Amended 1958, 1966.)

Sec. 5. County authorities shall never assess taxes the aggregate of which shall exceed fifty cents per one hundred dollars of taxable value as determined by the assessment rolls, except for the payment of indebtedness existing at the adoption hereof, unless authorized by a vote of the people of the county. (Amended 1920, 1992.)

Sec. 6. The Legislature may vest the corporate authorities of cities, towns and villages, with power to make local improvements, including facilities for providing off-street parking for vehicles, by special assessments or by special taxation of property benefited, and to redetermine and reallocate from time to time the benefits arising from the acquisition of such off-street parking facilities, and the Legislature may vest the corporate authorities of cities and villages with power

to levy special assessments for the maintenance, repair and reconstruction of such off-street parking facilities. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same, except that cities and villages may be empowered by the Legislature to assess and collect separate and additional taxes within off-street parking districts created by and within any city or village on such terms as the Legislature may prescribe. (Amended 1972.)

Sec. 7. Private property shall not be liable to be taken or sold for the payment of the corporate debts of municipal corporations. The Legislature shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes.

Sec. 8. The Legislature at its first session shall provide by law for the funding of all outstanding warrants, and other indebtedness of the state, at a rate of interest not exceeding eight per cent per annum.

Sec. 9. The Legislature shall provide by law that all claims upon the treasury shall be examined and adjusted as the Legislature may provide before any warrant for the amount allowed shall be drawn. Any party aggrieved by the action taken on a claim in which he has an interest may appeal to the district court. (Amended 1964.)

Sec. 10. Notwithstanding the other provisions of Article VIII, the Legislature is authorized to substitute a basis other than valuation for taxes upon grain and seed produced or handled in this state. Existing revenue laws not inconsistent with the Constitution shall continue in effect until changed by the Legislature. (Adopted 1956.)

Sec. 11. Every public corporation and political subdivision organized primarily to provide electricity or irrigation and electricity shall annually make the same payments in lieu of taxes as it made in 1957, which payments shall be allocated in the same proportion to the same public bodies or their successors as they were in 1957.

The Legislature may require each such public corporation to pay to the treasurer of any county in which may be located any incorporated city or village, within the limits of which such public corporation sells electricity at retail, a sum equivalent to five (5) per cent of the annual gross revenue of such public corporation derived from retail sales of electricity within such city or village, less an amount equivalent to the 1957 payments in lieu of taxes made by such public corporation with respect to property or operations in any such city or village. The payments in lieu of tax as made in 1957, together with any payments made as authorized in this section shall be in lieu of all other taxes, payments in lieu of taxes, franchise payments, occupation and excise taxes, but shall not be in lieu of motor vehicle licenses and wheel taxes, permit fees, gasoline tax and other such excise taxes or general sales taxes levied against the public generally.

So much of such five (5) per cent as is in excess of an amount equivalent to the amount paid by such public corporation in lieu of taxes in 1957 shall be distributed in each year to the city or village, the school districts located in such city or village, the county in which such city or village is located, and the State of Nebraska, in the proportion that their respective property tax mill levies in each such year bear to the total of such mill levies. (Adopted 1958.)<sup>5</sup>

Sec. 12. For the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property in a redevelopment project as determined by law, any city or village of the state may, notwithstanding any other provision in the Constitution, and without regard to charter limitations and restrictions, incur indebtedness, whether by bond, loans, notes, advance of money, or otherwise. Notwithstanding any other provision in the Constitution or a local charter, such cities or villages may also pledge for and apply to the payment of the principal, interest, and any premium on such indebtedness all taxes levied by all taxing bodies on the assessed valuation of the property in the project area portion of a designated blighted and substandard area that is in excess of the assessed

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<sup>5</sup> At the general election in 1958, an amendment was adopted pursuant to initiative petition providing for payment in lieu of taxes by public corporations and political subdivisions supplying electricity. This amendment stated it was to amend Article VIII by adding a new section. The figure 10 was shown at the beginning of the new section to be added. There was already an amendment to the Constitution adopted in 1956 designated as Article VIII, section 10. Therefore, the 1958 amendment has been designated as Article VIII, section 11.

valuation of such property for the year prior to such rehabilitation, acquisition, or redevelopment. Cities and villages may pledge such taxes for a period not to exceed fifteen years, except that the Legislature may allow cities and villages to pledge such taxes for a period not to exceed twenty years if, due to a high rate of unemployment combined with a high poverty rate as determined by law, more than one-half of the property in the project area is designated as extremely blighted.

When such indebtedness and the interest thereon have been paid in full, such property thereafter shall be taxed as is other property in the respective taxing jurisdictions and such taxes applied as all other taxes of the respective taxing bodies. (Adopted 1978. Amended 1984, 1988, 2020.)

Sec. 13. Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary, amendments to Article VIII of this Constitution passed in 1992 shall be effective from and after January 1, 1992, and existing revenue laws and legislative acts passed in the regular legislative session of 1992, not inconsistent with this Constitution as amended, shall be considered ratified and confirmed by such amendments without the need for legislative reenactment of such laws. (Adopted 1992.)

### ARTICLE IX: COUNTIES

Sec. 1. No new county shall be formed or established by the legislature which will reduce the county or counties, or either of them to a less area than four hundred square miles, nor shall any county be formed of a less area.

Sec. 2. No county shall be divided nor any part of the territory of any county be stricken therefrom, nor shall any county or part of the territory of any county be added to an adjoining county without submitting the question to the qualified electors of each county affected thereby, nor unless approved by a majority of the qualified electors of each county voting thereon; provided, that when county boundaries divide sections, or overlap, or fail to meet, or are in doubt, the Legislature may by law provide for their adjustment, but in all cases the new boundary shall follow the nearest section line or the thread of the main channel of a boundary stream. (Amended 1920.)

Sec. 3. When a county shall be added to another, all prior indebtedness of each county shall remain a charge on the taxable property within the territory of each county as it existed prior to consolidation. When any part of a county is stricken off and attached to another county, the part stricken off shall be holden for its proportion of all then existing liabilities of the county from which it is taken, but shall not be holden for any then existing liabilities of the county to which it is attached. (Amended 1920.)

Sec. 4. 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. (Amended 1968.)

Sec. 5. The Legislature shall provide by general law for township organization, under which any county may organize whenever a majority of the legal voters of such county voting at any general election shall so determine; and in any county that shall have adopted a township organization the question of continuing the same may be submitted to a vote of the electors of such county at a general election in the manner that shall be provided by law.

### ARTICLE X: PUBLIC SERVICE CORPORATIONS

Sec. 1. Every public utility corporation or common carrier organized or doing business in this state shall report, under oath, to the Railway Commission, when required by law or the order of said Commission. The reports so made shall include such matter as may be required by law or the order of said Commission. (Amended 1920.)

Sec. 2. The rolling stock and all other movable property belonging to any railroad company or corporation in this state, shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no law exempting any such property from execution and sale.

Sec. 3. No public utility corporation or common carrier shall consolidate its stock, property, franchise, or earnings in whole or in part with any other public utility corporation or common

carrier owning a parallel or competing property without permission of the Railway Commission; and in no case shall any consolidation take place except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law. The Legislature may by law require all public utilities and common carriers to exchange business through physical connection, joint use, connected service, or otherwise. (Amended 1920.)

Sec. 4. Railways heretofore constructed, or that may hereafter be constructed, in this state are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the legislature may from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this state. The liability of railroad corporations as common carriers shall never be limited.

Sec. 5. The capital stock of public utility corporations or common carriers shall not be increased for any purpose, except after public notice for sixty days, and in such manner as may be provided by law. No dividend shall be declared or distributed except out of net earnings after paying all operating expenses including a depreciation reserve sufficient to keep the investment intact. (Amended 1920.)

Sec. 6. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking by the legislature, of the property and franchises of incorporated companies already organized, or hereafter to be organized, and subjecting them to the public necessity the same as of individuals.

Sec. 7. The Legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in all charges of express, telegraph and railroad companies in this state and enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

Sec. 8. No railroad corporation organized under the laws of any other state, or of the United States and doing business in this state shall be entitled to exercise the right of eminent domain or have power to acquire the right of way, or real estate for depot or other uses, until it shall have become a body corporate pursuant to and in accordance with the laws of this state.

## ARTICLE XI: MUNICIPAL CORPORATIONS

Sec. 1. No city, county, town, precinct, municipality, or other subdivision of the state shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association, except that, notwithstanding any other provision of this Constitution, the Legislature may authorize the investment of public endowment funds by any city which is authorized by this Constitution to establish a charter, in the manner required of a prudent investor who shall act with care, skill, and diligence under the prevailing circumstance and in such investments as the governing body of such city, acting in a fiduciary capacity for the exclusive purpose of protecting and benefiting such investment, may determine, subject to such limitations as the Legislature may by statute provide. (Amended 2008).

Sec. 2. Any city having population of more than five thousand (5000) inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a convention of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city at any general or special election, whose duty it shall be within four months after such election, to prepare and propose a charter for such city, which charter, when completed, with a prefatory synopsis, shall be signed by the officers and members of the convention, or a majority thereof, and delivered to the clerk of said city, who shall publish the same in full, with his official certification, in the official paper of said city, if there be one, and if there be no official paper, then in at least one newspaper published and in general circulation in said city, three times, and a week apart, and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified voters, voting thereon, shall ratify the same, it shall at the end of sixty days thereafter, become the charter of said city, and supersede any existing charter and all amendments thereof. A duplicate certificate shall be made, setting forth

the charter proposed and its ratification (together with the vote for and against) and duly certified by the City Clerk, and authenticated by the corporate seal of said city and one copy thereof shall be filed with the secretary of state and the other deposited among the archives of the city, and shall thereupon become and be the charter of said city, and all amendments of such charter, shall be authenticated in the same manner, and filed with the secretary of state and deposited in the archives of the city. (Adopted 1912.)

Sec. 3. But if said charter be rejected, then within six months thereafter, the mayor and council or governing authorities of said city may call a special election at which fifteen members of a new charter convention shall be elected to be called and held as above in such city, and they shall proceed as above to frame a charter which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated may be repeated until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, and a copy thereof deposited in the archives of the city, whereupon it shall become the charter of said city. Members of each of said charter conventions shall be elected at large, and they shall complete their labors within sixty days after their respective election. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city. (Adopted 1912.)

Sec. 4. Such charter so ratified and adopted may be amended, or a charter convention called, by a proposal therefor made by the law-making body of such city or by the qualified electors in number not less than five per cent of the next preceding gubernatorial vote in such city, by petition filed with the council or governing authorities. The council or governing authorities shall submit the same to a vote of the qualified electors at the next general or special election not held within thirty days after such petition is filed. In submitting any such charter or charter amendments, any alternative article or section may be presented for the choice of the voters and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, as provided in Section two hereof. The City Clerk of said city shall publish with his official certification, for three times, a week apart in the official paper in said city, if there be one, and if there be no official paper, then in at least one newspaper, published and in general circulation in said city, the full text of any charter or charter amendment to be voted on at any general or special election.

No charter or charter amendment adopted under the provisions of this amendment shall be amended or repealed except by electoral vote. And no such charter or charter amendment shall diminish the tax rate for state purposes fixed by act of the Legislature, or interfere in any wise with the collection of state taxes. (Adopted 1912.)

Sec. 5. The charter of any city having a population of more than one hundred thousand inhabitants may be adopted as the home rule charter of such city by a majority vote of the qualified electors of such city voting upon the question, and when so adopted may thereafter be changed or amended as provided in Section 4 of this article, subject to the Constitution and laws of the state. (Adopted 1920.)

## ARTICLE XII: MISCELLANEOUS CORPORATIONS

Sec. 1. The Legislature shall provide by general law for the organization, regulation, supervision and general control of all corporations, and for the organization, supervision and general control of mutual and co-operative companies and associations, and by such legislation shall insure the mutuality and co-operative features and functions thereof. Foreign corporations transacting or seeking to transact business in this state shall be subject, under general law, to regulation, supervision and general control, and shall not be given greater rights or privileges than are given domestic corporations of a similar character. No corporations shall be created by special law, nor their charters be extended, changed or amended, except those corporations organized for charitable, educational, penal or reformatory purposes, which are to be and remain under the

patronage and control of the state. The Legislature shall provide by law that in all elections for directors or managers of incorporated companies every stockholder owning voting stock shall have the right to vote in person or proxy for the number of such shares owned by him, for as many persons as there are directors or managers to be elected or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number his shares shall equal, or to distribute them upon the same principal among as many candidates as he shall think fit, and such directors or managers shall not be elected in any other manner; *Provided*, that any mutual or cooperative company or association may, in its articles of incorporation, limit the number of shares of stock any stockholder may own, the transfer of such stock, and the right of each stockholder or member to one vote only in the meetings of such company or association. All general laws passed pursuant to this section may be altered from time to time, or repealed. (Amended 1920, 1972.)

Sec. 2 to 6. Repealed 1972.

Sec. 7. Repealed 1938.

Sec. 8. That Article XII of the Constitution of the State of Nebraska be amended by adding a new section numbered 8 and subsections as numbered, notwithstanding any other provisions of this Constitution.

Sec. 8. (1) No corporation or syndicate shall acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or ranching in this state, or engage in farming or ranching.

Corporation shall mean any corporation organized under the laws of any state of the United States or any country or any partnership of which such corporation is a partner.

Farming or ranching shall mean (i) the cultivation of land for the production of agricultural crops, fruit, or other horticultural products, or (ii) the ownership, keeping or feeding of animals for the production of livestock or livestock products.

Syndicate shall mean any limited partnership organized under the laws of any state of the United States or any country, other than limited partnerships in which the partners are members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, or their spouses, at least one of whom is a person residing on or actively engaged in the day to day labor and management of the farm or ranch, and none of whom are nonresident aliens. This shall not include general partnerships.

These restrictions shall not apply to:

(A) A family farm or ranch corporation. Family farm or ranch corporation shall mean a corporation engaged in farming or ranching or the ownership of agricultural land, in which the majority of the voting stock is held by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, or their spouses, at least one of whom is a person residing on or actively engaged in the day to day labor and management of the farm or ranch and none of whose stockholders are non-resident aliens and none of whose stockholders are corporations or partnerships, unless all of the stockholders or partners of such entities are persons related within the fourth degree of kindred to the majority of stockholders in the family farm corporation.

These restrictions shall not apply to:

(B) Non-profit corporations.

These restrictions shall not apply to:

(C) Nebraska Indian tribal corporations.

These restrictions shall not apply to:

(D) Agricultural land, which, as of the effective date of this Act, is being farmed or ranched, or which is owned or leased, or in which there is a legal or beneficial interest in title directly or indirectly owned, acquired, or obtained by a corporation or syndicate, so long as such land or other interest in title shall be held in continuous ownership or under continuous lease by the same such corporation or syndicate, and including such additional ownership or leasehold as is reasonably necessary to meet the requirements of pollution control regulations. For the purposes of this

exemption, land purchased on a contract signed as of the effective date of this amendment, shall be considered as owned on the effective date of this amendment.

These restrictions shall not apply to:

(E) A farm or ranch operated for research or experimental purposes, if any commercial sales from such farm or ranch are only incidental to the research or experimental objectives of the corporation or syndicate.

These restrictions shall not apply to:

(F) Agricultural land operated by a corporation for the purpose of raising poultry.

These restrictions shall not apply to:

(G) Land leased by alfalfa processors for the production of alfalfa.

These restrictions shall not apply to:

(H) Agricultural land operated for the purpose of growing seed, nursery plants, or sod.

These restrictions shall not apply to:

(I) Mineral rights on agricultural land.

These restrictions shall not apply to:

(J) Agricultural land acquired or leased by a corporation or syndicate for immediate or potential use for nonfarming or nonranching purposes. A corporation or syndicate may hold such agricultural land in such acreage as may be necessary to its nonfarm or nonranch business operation, but pending the development of such agricultural land for nonfarm or nonranch purposes, not to exceed a period of five years, such land may not be used for farming or ranching except under lease to a family farm or ranch corporation or a non-syndicate and non-corporate farm or ranch.

These restrictions shall not apply to:

(K) Agricultural lands or livestock acquired by a corporation or syndicate by process of law in the collection of debts, or by any procedures for the enforcement of a lien, encumbrance, or claim thereon, whether created by mortgage or otherwise. Any lands so acquired shall be disposed of within a period of five years and shall not be used for farming or ranching prior to being disposed of, except under a lease to a family farm or ranch corporation or a non-syndicate and non-corporate farm or ranch.

These restrictions shall not apply to:

(L) A bona fide encumbrance taken for purposes of security.

These restrictions shall not apply to:

(M) Custom spraying, fertilizing, or harvesting.

These restrictions shall not apply to:

(N) Livestock futures contracts, livestock purchased for slaughter, or livestock purchased and resold within two weeks.

If a family farm corporation, which has qualified under all the requirements of a family farm or ranch corporation, ceases to meet the defined criteria, it shall have fifty years, if the ownership of the majority of the stock of such corporation continues to be held by persons related to one another within the fourth degree of kindred or their spouses, and their landholdings are not increased, to either re-qualify as a family farm corporation or dissolve and return to personal ownership.

The Secretary of State shall monitor corporate and syndicate agricultural land purchases and corporate and syndicate farming and ranching operations, and notify the Attorney General of any possible violations. If the Attorney General has reason to believe that a corporation or syndicate is violating this amendment, he or she shall commence an action in district court to enjoin any pending illegal land purchase, or livestock operation, or to force divestiture of land held in violation of this amendment. The court shall order any land held in violation of this amendment to be divested within two years. If land so ordered by the court has not been divested within two years, the court shall declare the land escheated to the State of Nebraska.

If the Secretary of State or Attorney General fails to perform his or her duties as directed by this amendment, Nebraska citizens and entities shall have standing in district court to seek enforcement.

The Nebraska Legislature may enact, by general law, further restrictions prohibiting certain

agricultural operations that the legislature deems contrary to the intent of this section. (Adopted 1982.)<sup>6</sup>

### ARTICLE XIII: STATE, COUNTY, AND MUNICIPAL INDEBTEDNESS

Sec. 1. The state may, to meet casual deficits, or failures in the revenue, contract debts never to exceed in the aggregate one hundred thousand dollars, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state in war, and provision shall be made for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue, which law providing for the payment of such interest by such tax shall be irrevocable until such debt is paid; *Provided*, that if the Legislature determines by a three-fifths vote of the members elected thereto that (1) the need for construction of highways in this state requires such action, it may authorize the issuance of bonds for such construction, and for the payment of the interest and the retirement of such bonds it may pledge any tolls to be received from such highways or it may irrevocably pledge for the term of the bonds all or a part of any state revenue closely related to the use of such highways, such as motor vehicle fuel taxes or motor vehicle license fees and (2) the construction of water retention and impoundment structures for the purposes of water conservation and management will promote the general welfare of the state, it may authorize the issuance of revenue bonds for such construction, and for the payment of the interest and the retirement of such bonds it may pledge all or any part of any state revenue derived from the use of such structures; *and provided further*, that the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the State Board of Education may issue revenue bonds to construct, purchase, or otherwise acquire, extend, add to, remodel, repair, furnish, and equip dormitories, residence halls, single or multiple dwelling units, or other facilities for the housing and boarding of students, single or married, and faculty or other employees, buildings and structures for athletic purposes, student unions or centers, and for the medical care and physical development and activities of students, and buildings or other facilities for parking, which bonds shall be payable solely out of revenue, fees, and other payments derived from the use of the buildings and facilities constructed or acquired, including buildings and facilities heretofore or hereafter constructed or acquired, and paid for out of the proceeds of other issues of revenue bonds, and the revenue, fees, and payments so pledged need not be appropriated by the Legislature, and any such revenue bonds heretofore issued by either of such boards are hereby authorized, ratified, and validated. Bonds for new construction shall be first approved as the Legislature shall provide. (Amended 1968, 1970, 1982.)

Sec. 2. Notwithstanding any other provision in the Constitution, the Legislature may authorize any county or incorporated city or village, including cities operating under home rule charters, to acquire, own, develop, and lease real and personal property suitable for use by manufacturing or industrial enterprises and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing such property by construction, purchase, or otherwise. The Legislature may also authorize such county, city, or village to acquire, own, develop, and lease real and personal property suitable for use by enterprises as determined by law if such property is located in blighted areas as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued. Any real or personal property acquired, owned, developed, or used by any such county, city, or village pursuant to this section shall be subject to taxation to the same extent as private property during the time it is leased to or held by private interests, notwithstanding the provisions of Article VIII, section 2, of the Constitution. The acquiring, owning, developing, and leasing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate

<sup>6</sup>Proclamation by the governor occurred on Nov. 29, 1982.

any such property as a business or in any manner except as the lessor thereof.

Notwithstanding any other provision in the Constitution, the Legislature may also authorize any incorporated city or village, including cities operating under home rule charters, to appropriate such funds as may be deemed necessary for an economic or industrial development project or program subject to approval by a vote of a majority of the registered voters of such city or village voting upon the question. Subject to such vote, funds may be derived from property tax, local option sales tax, or any other general tax levied by the city or village or generated from municipally owned utilities or grants, donations, or state and federal funds received by the city or village subject to any restrictions of the grantor, donor, or state or federal law. (Amended 1972, 1982, 1990, 2010.)

Sec. 3. The credit of the state shall never be given or loaned in aid of any individual, association, or corporation, except that the state may guarantee or make long-term, low-interest loans to Nebraska residents seeking adult or post high school education at any public or private institution in this state. Qualifications for and the repayment of such loans shall be as prescribed by the Legislature. (Amended 1968.)

Sec. 4. Notwithstanding any other provision in this Constitution, the Legislature may authorize any county, city, or village to acquire, own, develop, and lease or finance real and personal property, other than property used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship, to be used, during the term of any revenue bonds issued, only by nonprofit enterprises as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued, and such governmental subdivision shall have no authority to impose taxes for the payment of such bonds. Notwithstanding the provisions of Article VIII, section 2, of this Constitution, the acquisition, ownership, development, use, or financing of any real or personal property pursuant to the provisions of this section shall not affect the imposition of any taxes or the exemption therefrom by the Legislature pursuant to this Constitution. The acquiring, owning, developing, and leasing or financing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property for the purposes specified in this section by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate any such property as a business or in any manner except as the lessor thereof. (Adopted 2010.)

#### **ARTICLE XIV: MILITIA**

Sec. 1. The Legislature may provide for the personnel, organization, and discipline of the militia of the state. (Amended 1972.)

#### **ARTICLE XV: MISCELLANEOUS PROVISIONS**

Sec. 1. Executive and judicial officers and members of the legislature, before they enter upon their official duties shall take and subscribe the following oath, or affirmation. "I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Nebraska, and will faithfully discharge the duties of ..... according to the best of my ability, and that at the election at which I was chosen to fill said office, I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote I may give or withhold on any bill, resolution, or appropriation)." Any such officer or member of the legislature who shall refuse to take the oath herein prescribed, shall forfeit his office, and any person who shall be convicted of having sworn falsely to, or of violating his said oath shall forfeit his office, and thereafter be disqualified from holding any office of profit or trust in this state unless he shall have been restored to civil rights.

Sec. 2. No person who is in default as collector and custodian of public money or property shall be eligible to any office of trust or profit under the constitution or laws of this state. No

person convicted of a felony shall be eligible to any such office unless he shall have been restored to civil rights. (Amended 1972.)

Sec. 3. Repealed 1986.

Sec. 4. The necessity of water for domestic use and for irrigation purposes in the State of Nebraska is hereby declared to be a natural want. (Adopted 1920.)

Sec. 5. The use of the water of every natural stream within the State of Nebraska is hereby dedicated to the people of the state for beneficial purposes, subject to the provisions of the following section. (Adopted 1920.)

Sec. 6. The right to divert unappropriated waters of every natural stream for beneficial use shall never be denied except when such denial is demanded by the public interest. Priority of appropriation shall give the better right as between those using the water for the same purpose, but when the waters of any natural stream are not sufficient for the use of all those desiring to use the same, those using the water for domestic purposes shall have preference over those claiming it for any other purpose, and those using the water for agricultural purposes shall have the preference over those using the same for manufacturing purposes. Provided, no inferior right to the use of the waters of this state shall be acquired by a superior right without just compensation therefor to the inferior user. (Adopted 1920.)

Sec. 7. The use of the waters of the state for power purposes shall be deemed a public use and shall never be alienated, but may be leased or otherwise developed as by law prescribed. (Adopted 1920.)

Sec. 8. Laws may be enacted regulating the hours and conditions of employment of women and children, and securing to such employees a proper minimum wage. (Adopted 1920.)

Sec. 9. Laws may be enacted providing for the investigation, submission, and determination of controversies between employers and employees in any business or vocation affected with a public interest and for the prevention of unfair business practices and unconscionable gains in any business or vocation affecting the public welfare. An Industrial Commission may be created for the purpose of administering such laws, and appeals shall be as provided by law. (Adopted 1920. Amended 1990.)

Sec. 10. Repealed 1934.

Sec. 11. Repealed 1972.

Sec. 12. The seat of government of the state shall not be removed or relocated without the assent of a majority of the electors of the state voting thereupon, at a general election or elections, under such rules and regulations as to the number of elections and manner of voting and places to be voted for, as may be prescribed by law. Provided the question of removal may be submitted at such other general elections as may be provided by law.

Sec. 13. No person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or nonmembership in a labor organization. (Adopted 1946.)

Sec. 14. The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. (Adopted 1946.)

Sec. 15. This article is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operation but no law shall limit or restrict the provisions hereof. (Adopted 1946.)

Sec. 16. Repealed 1972.

Sec. 17. Notwithstanding section 3 of Article XIII or any other provision in the Constitution:

(1) The Legislature may provide for the investment of any state funds, including retirement or pension funds of state employees and Nebraska school employees in such manner and in such investments as it may by statute provide; and

(2) The Legislature may authorize the investment of retirement or pension funds of cities, villages, school districts, public power districts, and other governmental or political subdivisions in such manner and in such investments as the governing body of such city, village, school district, public power district and other governmental or political subdivision may determine but subject to such limitations as the Legislature may by statute provide. (Adopted 1966.)

Sec. 18. (1) The state or any local government may exercise any of its powers or perform any of its functions, including financing the same, jointly or in cooperation with any other governmental entity or entities, either within or without the state, except as the Legislature shall provide otherwise by law.

(2) The Legislature may provide for the merger or consolidation of counties or other local governments. No merger or consolidation of municipalities or counties shall occur without the approval of a majority of the people voting in each municipality or county to be merged or consolidated as provided by law. If the proposal is a merger or consolidation of one or more municipalities with one or more counties, the vote shall be tabulated in each municipality in the county or counties separately from the areas of the county or counties outside the boundaries of the municipalities. If the merger or consolidation is not approved by a majority of voters voting in the election in a municipality proposed to be merged or consolidated or the areas of the county or counties outside the boundaries of such municipality or municipalities, the proposed merger or consolidation shall be deemed rejected. Any merger or consolidation of local governments may be initiated by petition as provided by law. Annexation shall not be considered a merger or consolidation for purposes of this section. If the Legislature provides for the merger or consolidation of one or more municipalities with one or more counties, the Legislature shall provide for the reversal of the merger or consolidation. No such reversal shall occur without voter approval. The vote shall be tabulated in each municipality which is proposed to be created by the reversal separately from the areas outside the boundaries of the proposed municipalities. If the reversal is not approved by a majority of voters voting in the election in the area within the boundaries of any proposed municipality or the areas outside the proposed municipalities, the reversal shall be deemed rejected. (Adopted 1972. Amended 1998.)

Sec. 19. Notwithstanding any other provision of this Constitution, the governing bodies of municipalities and counties are empowered to approve, deny, suspend, cancel, or revoke retail and bottle club liquor licenses within their jurisdictions as authorized by the Legislature. (Adopted 1992.)

Sec. 20 to 24. Omitted.<sup>7</sup>

Sec. 25. The citizens of Nebraska have the right to hunt, to fish, and to harvest wildlife, including by the use of traditional methods, subject only to laws, rules, and regulations regarding participation and that promote wildlife conservation and management and that preserve the future of hunting, fishing, and harvesting of wildlife. Public hunting, fishing, and harvesting of wildlife shall be a preferred means of managing and controlling wildlife. This section shall not be construed to modify any provision of law relating to trespass or property rights. This section shall not be construed to modify any provision of law relating to Article XV, section 4, Article XV, section 5, Article XV, section 6, or Article XV, section 7, of this constitution. (Adopted 2012.)

## ARTICLE XVI—AMENDMENTS

Sec. 1. The Legislature may propose amendments to this Constitution. If the same be agreed to by three-fifths of the members elected to the Legislature, such proposed amendments shall be entered on the journal, with yeas and nays, and published once each week for three consecutive weeks, in at least one newspaper in each county, where a newspaper is published, immediately preceding the next election of members of the Legislature or a special election called by the vote of four-fifths of the members elected to the Legislature for the purpose of submitting such

<sup>7</sup> Article XV, sections 20 to 24, of the Constitution of Nebraska, added by Initiative 408 in 1994, have been omitted because of the decision of the Nebraska Supreme Court in *Duggan v. Beermann*, 249 Neb. 411, 544 N.W.2d 68 (1996).

proposed amendments to the electors. At such election said amendments shall be submitted to the electors for approval or rejection upon a ballot separate from that upon which the names of candidates appear. If a majority of the electors voting on any such amendment adopt the same, it shall become a part of this Constitution, provided the votes cast in favor of such amendment shall not be less than thirty-five per cent of the total votes cast at such election. When two or more amendments are submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately. (Amended 1920, 1952, 1968.)

Sec. 2. When three-fifths of the members elected to the Legislature deem it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the Legislature, for or against a convention, and if a majority of the electors voting on the proposition, vote for a convention, the Legislature shall, at its next session provide by law for calling the same; *Provided*, the votes cast in favor of calling a convention shall not be less than thirty-five per cent of the total votes cast at such election. The convention shall consist of not more than one hundred members, the exact number to be determined by the Legislature, and to be nominated and elected from districts in the manner to be prescribed by the Legislature. Such members shall meet within three months after their election, for the purpose aforesaid. No amendment or change of this constitution, agreed upon by such convention, shall take effect until the same has been submitted to the electors of the state, and adopted by a majority of those voting for and against the same. (Amended 1952.)

#### ARTICLE XVII—SCHEDULE

Sec. 1. Whenever they shall appear in this Constitution, the terms members of the Legislature, elected members of the Legislature, or similar terms referring to the members of the Legislature, shall include appointed and elected members of the Legislature. (Adopted 1920. Amended 1972.)

Sec. 2 and 3. Repealed 1972.

Sec. 4. The general election of this state shall be held on the Tuesday succeeding the first Monday of November in the year 1914 and every two years thereafter. All state, district, county, precinct, township and other officers, by the constitution or laws made elective by the people, except school district officers, and municipal officers in cities, villages and towns, shall be elected at a general election to be held as aforesaid. An incumbent of any office shall hold over until his successor is duly elected and qualified. (Amended 1912, 1972.)

Sec. 5. Unless otherwise provided by this Constitution or by law the terms of all elected officers shall begin on the first Thursday after the first Tuesday in January next succeeding their election. (Amended 1972.)

Sec. 6. Transferred to Article III, section 30, Constitution of Nebraska.

Sec. 7 and 8. Repealed 1972.

Sec. 9. Repealed 1998.

Sec. 10. (Failed to carry at election.)<sup>8</sup>

Sec. 11. Repealed 1972.

#### ARTICLE XVIII: TERM LIMITS ON CONGRESS

Sec. 1. The people of the State of Nebraska want to amend the United States Constitution to establish term limits on Congress that will ensure representation in Congress by true citizen lawmakers. The President of the United States is limited by the XXII Amendment to the United States Constitution to two terms in office. Governors in forty states are limited to two terms or less. Voters have established term limits for over two thousand state legislators as well as over seventeen thousand local officials across the country. Nevertheless, Congress has ignored our

<sup>8</sup>Legislative Bill 30, corresponding to Chapter 25 of the Session Laws of 1939 and consisting of three sections, proposed an amendment to the Constitution. Section 2 of the bill provided that an additional section should be inserted in Article XVII "to be known and numbered" as section 10. The amendment was rejected in the election of 1940. Legislative Bill 179, corresponding to Chapter 109 of the Session Laws for 1939, likewise proposed an amendment that was adopted. Section 2 of this bill provided that an additional section should be inserted in Article XVII "to be known and numbered" as section 11. For this reason there is no section 10 of Article XVII.

desire for term limits not only by proposing excessively long terms for its own members but also by utterly refusing to pass an amendment for genuine congressional term limits. Congress has a clear conflict of interest in proposing a term limits amendment to the United States Constitution. A majority of both Republicans and Democrats in the 104th Congress voted against a constitutional amendment containing the term limits passed by a wide margin of Nebraska voters. The people, not Congress, should set term limits. We hereby establish as the official position of the citizens and State of Nebraska that our elected officials should enact by constitutional amendment congressional term limits of three terms in the United States House of Representatives and of two terms in the United States Senate.

The career politicians dominating Congress have a conflict of interest that prevents Congress from being what the founders intended, the branch of government closest to the people. The politicians have refused to heed the will of the people for term limits; they have voted to dramatically raise their own pay; they have provided lavish million-dollar pensions for themselves; and they have granted themselves numerous other privileges at the expense of the people. Most importantly, members of Congress have enriched themselves while running up huge deficits to support their spending. They have put the government nearly \$5,000,000,000,000.00 (five trillion dollars) in debt, gravely threatening the future of our children and grandchildren.

The corruption and appearance of corruption brought about by political careerism is destructive to the proper functioning of the first branch of our representative government. Congress has grown increasingly distant from the people of the states. The people have the sovereign right and compelling interest in creating a citizen Congress that will more effectively protect our freedom and prosperity. This interest and right may not effectively be served in any way other than that proposed by this initiative.

We hereby state our intention on behalf of the people of Nebraska, that this initiative lead to the adoption of the following amendment to the United States Constitution:

#### CONGRESSIONAL TERM LIMITS AMENDMENT TO THE UNITED STATES CONSTITUTION

Section 1. No person shall serve in the office of United States Representative for more than three terms, but upon ratification of this amendment no person who has held the office of United States Representative or who then holds the office shall serve for more than two additional terms.

Section 2. No person shall serve in the office of United States Senator for more than two terms, but upon ratification of this amendment no person who has held the office of United States Senator or who then holds the office shall serve for more than one additional term.

Section 3. This article shall have no time limit within which it must be ratified to become operative upon the ratification of the legislatures of three-fourths of the several states.

Therefore, we the people of the State of Nebraska, have chosen to amend the Constitution of Nebraska to inform voters regarding incumbent and nonincumbent federal and state candidates' support for the congressional term limits amendment provided for in this section. (Adopted 1996.)

Sec. 2. (1) We, the voters of Nebraska, hereby instruct each member of our congressional delegation to use all of his or her delegated powers to pass the congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution.

(2) All primary and general election ballots shall have printed the information "DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS" adjacent to the name of any United States Senator or United States Representative who:

(a) Fails to vote in favor of the proposed congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution, when brought to a vote;

(b) Fails to second such proposed congressional term limits amendment if it lacks for a second before any proceeding of the legislative body;

(c) Fails to propose or otherwise bring to a vote of the full legislative body such proposed congressional term limits amendment if it otherwise lacks a legislator who so proposes or brings to a vote of the full legislative body such proposed congressional term limits amendment;

(d) Fails to vote in favor of all votes bringing such proposed congressional term limits amendment before any committee or subcommittee of the respective house upon which he or she serves;

(e) Fails to reject any attempt to delay, table, or otherwise prevent a vote by the full legislative body of such proposed congressional term limits amendment;

(f) Fails to vote against any proposed constitutional amendment that would establish longer term limits than those in the proposed congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution, regardless of any other actions in support of such proposed congressional term limits amendment;

(g) Sponsors or cosponsors any proposed constitutional amendment or law that would increase term limits beyond those in the proposed congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution; or

(h) Fails in any way to ensure that all votes on congressional term limits are recorded and made available to the public.

(3) The information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” shall not appear adjacent to the names of incumbent candidates for Congress if the congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution, is before the states for ratification or has become part of the United States Constitution. (Adopted 1996.)

Sec. 3. (1) Nonincumbent candidates for the United States Senate, the United States House of Representatives, and the Legislature should be given an opportunity to take a “Term Limits Pledge” regarding term limits each time they file to run for such offices. Any such person who declines to take the “Term Limits Pledge” shall have the information “DECLINED TO PLEDGE TO SUPPORT TERM LIMITS” printed adjacent to his or her name on every primary and general election ballot.

(2) The “Term Limits Pledge” shall be offered to nonincumbent candidates for the United States Senate, the United States House of Representatives, and the Legislature until a constitutional amendment which limits the number of terms of United States Senators to no more than two and United States Representatives to no more than three has become part of our United States Constitution.

(3) The “Term Limits Pledge” that each nonincumbent candidate, set forth in subsections (1) and (2) of this section, shall be offered is as follows: I support term limits and pledge to use all my legislative powers to enact the proposed constitutional amendment to the United States Constitution set forth in Article XVIII, section 1, of this Constitution. If elected, I pledge to vote in such a way that the designation “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” will not appear adjacent to my name. .... Signature of Candidate (Adopted 1996.)

Sec. 4. (1) We the voters of Nebraska, hereby instruct each member of the Legislature to use all of his or her delegated powers to pass an application pursuant to Article V of the United States Constitution as set forth in subsection (2) of this section, and to ratify, if proposed, the congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution.

(2) Application: We, the people and the Legislature, due to our desire to establish term limits on Congress, hereby make application to Congress, pursuant to our power under Article V of the United States Constitution, to call a convention for proposing amendments to the United States Constitution.

(3) All primary and general election ballots shall have the information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” printed adjacent to the name of any respective member of the Legislature who:

(a) Fails to vote in favor of the application set forth in subsection (2) of this section when brought to a vote;

(b) Fails to second the application if it lacks for a second;

(c) Fails to vote in favor of all votes bringing the application before any committee or subcommittee upon which he or she serves;

(d) Fails to propose or otherwise bring to a vote of the full legislative body the application if it otherwise lacks a legislator who so proposes or brings to a vote of the full legislative body

the application;

(c) Fails to vote against any attempt to delay, table, or otherwise prevent a vote by the full legislative body on the application;

(f) Fails in any way to ensure that all votes on the application are recorded and made available to the public;

(g) Fails to vote against any change, addition, or modification to the application;

(h) Fails to vote in favor of the congressional term limits amendment if it is sent to the states for ratification; or

(i) Fails to vote against any term limits amendment with longer terms if such an amendment is sent to the states for ratification.

(4) The information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” shall not appear adjacent to the names of candidates for the Legislature as required by subdivisions (3)(a) through (3)(g) of this section if the State of Nebraska has made an application to Congress for a convention for proposing amendments to the United States Constitution pursuant to this initiative and such application has not been withdrawn or the congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution, has been submitted to the states for ratification.

(5) The information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” shall not appear adjacent to the names of candidates for the Legislature as required by subdivisions (3)(h) and (3)(i) of this section if the State of Nebraska has ratified the proposed congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution.

(6) The information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” shall not appear adjacent to the names of candidates for the Legislature as required by subdivisions (3)(a) through (3)(i) of this section if the proposed congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution, has become part of the United States Constitution. (Adopted 1996.)

Sec. 5. (1) The Secretary of State shall be responsible to make an accurate determination as to whether a candidate for the United States Senate, the United States House of Representatives, or the Legislature shall have placed adjacent to his or her name on the election ballot the information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” or “DECLINED TO PLEDGE TO SUPPORT TERM LIMITS.”

(2) The Secretary of State shall consider timely submitted public comments prior to making the determination required in subsection (1) of this section.

(3) The Secretary of State, in accordance with subsection (1) of this section, shall determine and declare what information, if any, shall appear adjacent to the name of each incumbent member of Congress if he or she was to be a candidate in the next election. In the case of United States Representatives and United States Senators, this determination and declaration shall be made in a fashion necessary to ensure the orderly printing of primary and general election ballots with allowance made for all legal action provided in subsections (5) and (6) of this section, and shall be based upon his or her action during his or her current term of office and any action taken in any concluded term, if such action was taken after the determination and declaration was made by the Secretary of State in a previous election. In the case of incumbent members of the Legislature, this determination and declaration shall be made not later than thirty days after the end of the regular session following each general election, and shall be based upon legislative action in the previous regular session.

(4) The Secretary of State shall determine and declare what information, if any, will appear adjacent to the names of nonincumbent candidates for Congress and the Legislature, not later than five business days after the deadline for filing for the office.

(5) If the Secretary of State makes the determination that the information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” or “DECLINED TO PLEDGE TO SUPPORT TERM LIMITS” shall not be placed on the ballot adjacent to the name of a candidate for the United States Senate, the United States House of Representatives, or the Legislature, any elector may appeal such decision within five business days to the Nebraska Supreme Court as an original action or shall waive any right to appeal such decision; in which case the burden of proof shall be

upon the Secretary of State to demonstrate by clear and convincing evidence that the candidate has met the requirements set forth in this article and therefore should not have the information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” or “DECLINED TO PLEDGE TO SUPPORT TERM LIMITS” printed on the ballot adjacent to the candidate’s name.

(6) If the Secretary of State determines that the information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” or “DECLINED TO PLEDGE TO SUPPORT TERM LIMITS” shall be placed on the ballot adjacent to a candidate’s name, the candidate or any elector may appeal such decision within five business days to the Nebraska Supreme Court as an original action or shall waive any right to appeal such decision; in which case the burden of proof shall be upon the candidate or any elector to demonstrate by clear and convincing evidence that the candidate should not have the information “DISREGARDED VOTERS INSTRUCTION ON TERM LIMITS” or “DECLINED TO PLEDGE TO SUPPORT TERM LIMITS” printed on the ballot adjacent to the candidate’s name.

(7) The Nebraska Supreme Court shall hear the appeal provided for in subsection (5) of this section and issue a decision within sixty days. The Nebraska Supreme Court shall hear the appeal provided for in subsection (6) of this section and issue a decision not later than sixty-one days before the date of the election. (Adopted 1996.)<sup>9</sup>

Sec. 6. At such time as the congressional term limits amendment set forth in Article XVIII, section 1, of this Constitution, has become part of the United States Constitution, sections 1 through 6 of this article automatically shall be repealed.

Sec. 7. Any legal challenge to this initiative shall be filed as an original action before the Nebraska Supreme Court. (Adopted 1996.)

Sec. 8. If any portion, clause, or phrase of this initiative is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions, clauses, and phrases shall not be affected, but shall remain in full force and effect. (Adopted 1996.)

The Constitution of 1875 was authenticated and attested by the following members of that convention:

John Lee Webster, President	Henry Grebe	C. W. Pierce
O. A. Abbott	Edwin N. Grenell	S. B. Pound
Luke Agur	George L. Griffing	Isaac Powers Jr.
J. P. Becker	William A. Gwyer	M. B. Reese
J. E. Boyd	Andrew Hallner	W. M. Robertson
Clinton Briggs	J. D. Hamilton	Josiah Rogers
Jefferson H. Broady	James Harper	J. H. Sauls
Charles H. Brown	Robert B. Harrington	H. H. Shedd
S. F. Burtch	J. B. Hawley	George S. Smith
S. H. Calhoun	M. L. Hayward	W. H. Sterns
E. C. Carns	D. P. Henry	R. F. Stevenson
T. S. Clark	B. I. Hinman	John J. Thompson
S. H. Coats	M. R. Hopewell	L. B. Thorne
A. H. Conner	C. E. Hunter	Jacob Vallery Sr.
W. B. Cummins	A. G. Kendall	C. H. VanWyck
James W. Dawes	S. M. Kirkpatrick	Charles T. Walther
J. E. Doom	James Laird	A. M. Walling
W. L. Dunlap	Charles F. Manderson	T. L. Warrington
R. C. Eldridge	Frank Martin	A. J. Weaver
J. G. Ewan	A. W. Matthews	M. W. Wilcox
S. R. Foss	Samuel Maxwell	J. P. Zediker
C. H. Frady	John McPherson	
Joseph Garber	W. H. Munger	
C. H. Gere	J. H. Perry	

<sup>9</sup>Note: This section is an unconstitutional infringement on the right to vote in violation of Article V of the Constitution of the United States. *Miller v. Moore*, 169 F.3d 1119 (8th Cir. 1999).

The Constitution of 1920 was authenticated and attested by the following members of that convention:

A. J. Weaver, President	W. D. Holbrook	I. C. Rankin
Lysle I. Abbott	Jerry Howard	J. D. Ream
I. L. Albert	George Jackson	Herbert Rhoades
Lewis K. Alder	Harry Johnson	James A. Rodman
Walter L. Anderson	Geo. C. Junkin	Elmer E. Ross
Geo. S. Austin	Harry L. Keefe	Charles L. Saunders
Joseph G. Beeler	H. G. Keeney	P. W. Scott
Anson H. Bigelow	William G. Kieck	C. W. Sears
A. T. Bratton	James G. Kunz	William A. Selleck
Wilbur F. Bryant	Thos. Lahners	Seymour S. Sidner
B. F. Butler	George Landgren	O. S. Spillman
Albert H. Byrum	Harry Lehman	E. J. Spirk
Henry R. Cleve	J. G. W. Lewis	A. W. Sprick
Charles H. Cornell	H. D. Lute	W. M. Stebbins
Festus Corrothers	George A. Magney	John M. Stewart
Edward A. Coufal	Frank Malicky	Emil G. Stolley
E. S. Cowan	E. M. Marvin	David E. Strong
John A. Davies	R. A. Matteson	Edward Sughroue
A. J. Donahoe	W. A. Meserve	Murt. M. Sullivan
J. A. Donohoe	N. P. McDonald	C.V. Svoboda
H. C. Elwood	Charles F. McLaughlin	W.J. Taylor
Chas. H. Epperson	Charles McLeod	L.J. Te Poel
I. D. Evans	Geo. E. Norman	Chas J. Thielen
Emil Fauquet	J. N. Norton	M.D. Tyler
Edgar Ferneau	R. S. Norval	A.L. Ullstrom
C. C. Flansburg	Fred A. Nye	L.A. Varner
Wm. Grueber	A. R. Oleson	Joseph T. Votava
Jacob F. Halderman	Thomas C. Osborne	Aaron Wall
Arthur M. Hare	C. Petrus Peterson	R. Widle
John D. Haskell	Wm. H. Pitzer	Everett P. Wilson
Geo. H. Hastings	Ernest M. Pollard	R.A. Wilson
John Heasty	H. V. Price	John Wiltse
James H. H. Hewett	C. W. Pugsley	
M. J. Higgins	F. C. Radke	