

NO. 24-563

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IN THE SUPREME COURT OF THE STATE OF NEBRASKA

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STATE OF NEBRASKA *ex rel.*, GREGORY SPUNG, JEREMY  
JONAK, and  
CIVIC NEBRASKA,  
*Relators,*

v.

ROBERT EVNEN, in his official capacity as Nebraska Secretary of  
State, BRIAN W. KRUSE, in his official capacity as Douglas County  
Election Commissioner, and TRACY OVERSTREET, in her official  
capacity as Hall County Election Commissioner,  
*Respondents.*

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ORIGINAL ACTION

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BRIEF OF RELATORS

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Relators Gregory Spung, Jeremy Jonak, and Civic Nebraska submit this Brief in support of their request for:

- 1) a peremptory writ of mandamus to require Secretary of State Robert Evnen (“the Secretary” or “Secretary Evnen”) to prescribe voter registration forms which state, as required by Nebraska statute: “[t]o the best of my knowledge and belief, I declare under penalty of election falsification that: . . . I have not been convicted of a felony; or if convicted, I have completed my sentence for the felony, including any parole term”;
- 2) a writ of mandamus requiring the Secretary to effectuate the automatic removal of disqualification of eligibility for electors upon completion of the terms of their felony sentence;
- 3) a writ of mandamus ordering the Douglas County Commissioner to accept the voter registration forms from Relator Spung, enter the information from his application in the voter registration register, and send Spung an acknowledgement of registration to the postal address shown on the registration application; and
- 4) a writ of mandamus ordering the Hall County Election Commissioner to accept voter registration form from Relator Jonak, enter the information from his application in the voter registration register, and send Jonak an acknowledgement of registration to the postal address shown on the registration application.

## **I. JURISDICTIONAL STATEMENT**

This Court has original jurisdiction pursuant to Neb. Const. art. V, § 2 and Neb. Rev. Stat. § 24-204, because Relators seek a writ of mandamus and because this case concerns matters of statewide importance and in which the state has a direct interest as relayed in Relators’ Application For Leave To File An Original Action filed with this Court on July 29, 2024. Joint Stipulated Facts ¶ 53.

On August 5, 2024, this Court granted leave to commence an original action and docketed the case. On the same day, the Court issued an Alternative Writ of Mandamus compelling Respondent

Secretary of State to prescribe voter registration applications that comply with Neb. Rev. Stat. § 32-312 or to show cause why a peremptory writ should not issue. Joint Stipulated Facts ¶ 54.

## **II. STATEMENT OF THE CASE**

The issues before the Court are:

1. Whether the Secretary's directive to local election officials, including Douglas County Election Commissioner Brian Kruse and Hall County Election Commissioner Tracy Overstreet, to subvert Legislative Bills 20 and 53 (referred to as "L.B.20" and "L.B. 53," respectively and "Re-Enfranchisement Statutes," collectively), both now duly-enacted Nebraska laws, which restored voting rights to individuals with a felony conviction upon completion of sentence, violates his duties under the Election Act;
2. Whether the Secretary has failed to fulfill his duty to provide electors, including Relators, to provide the correct voter registration form pursuant to Neb. Rev. Stat. §§ 32-312 as amended by the Re-Enfranchisement Statutes and Neb. Rev. Stat. § 32-311.01; and
3. Whether the Secretary has failed to fulfill his duty to automatically remove the disqualification of eligibility of electors, including Relators Spung and Jonak, upon completion of their felony sentences pursuant to Neb. Rev. Stat. §§ 32-202, 32-313.
4. Whether Commissioner Kruse and Commissioner Overstreet have failed to fulfill their duty to register electors, including Relators Spung and Jonak, as qualified voters pursuant to the Re-Enfranchisement Statutes and Neb. Rev. Stat. §§ 32-301, 32-322.

### **III. GROUND FOR MANDAMUS/ASSIGNMENTS OF ERROR**

Nebraska law states that the Secretary “shall ... [e]nforce the Election Act.” Neb. Rev. Stat. § 32-202(3); *accord* Neb. Rev. Stat. §§ 32-101 to 32-1552. Pursuant to the Election Act, as amended by the Re-Enfranchisement Statutes, the voter registration application prescribed by the Secretary of State “shall provide” to read “to the best of my knowledge and belief, I declare under penalty of election falsification that ... I have not been convicted of a felony or if convicted, I have completed my sentence for the felony, including any parole term [.]” Joint Stipulated Facts ¶ 11, Exhibit 8; Neb. Rev. Stat. § 32-312. Similarly, the Election Act, as amended by the Re-Enfranchisement Statutes, provides that an elector previously disqualified due to a felony conviction is eligible to vote when their “sentence is completed”; the disqualification is “automatically removed” when the person has completed their sentence, including any parole term. Neb. Rev. Stat. §§ 32-202, 32-313(1).

Despite these clear statutory mandates, in July 2024 the Secretary unilaterally changed the voter application oath to read: “I have not been convicted of a felony or, if convicted, my civil rights have been restored,” and directed county election officials, including Respondents Kruse and Overstreet, to use this modified language. Joint Stipulated Exhibits ¶ 2, Exhibit 1. On July 17, 2024, the Secretary then issued a press release directing all county election offices to stop registering Nebraskans with felony convictions who have not received a pardon from the Nebraska Board of Pardons, which consists of the Secretary, the Attorney General, and the Governor. Joint Stipulated Facts ¶ 2, Exhibit 1. The sole basis for the Secretary’s actions was a nonbinding Attorney General opinion claiming that the Re-Enfranchisement Statutes violate separation-of-powers principles and are thus unconstitutional.

Because the Re-Enfranchisement Statutes are constitutional (and because the Secretary has no authority to void a statute on constitutionality grounds in any event), the Secretary’s actions, and

Respondents Hall's and Overstreet's efforts to effectuate those actions, are unlawful. More specifically, Respondents' actions violate:

1. Relators' clear legal right to receive a lawful voter registration application pursuant to the Re-Enfranchisement Statutes and Neb. Rev. Stat. §§ 32-202, 32-313; and
2. Relator Spung and Jonak's clear legal right to be registered voters as eligible voters pursuant to the Re-Enfranchisement Statutes and Neb. Rev. Stat. §§ 32-202, 32-301, 32-313, 32-322; *see also State ex rel. Steinke v. Lautenbaugh*, 263 Neb. 652, 658, 642 N.W.2d 132, 138 (2002) (recognizing direct interest of relators to participate in upcoming elections that will be affected by actions they allege as unlawful).

#### **IV. PROPOSITIONS OF LAW**

1. "The Legislature may legislate upon any subject not inhibited by the Constitution." *Pony Lake Sch. Dist. 30 v. State Comm. for Reorganization of Sch. Dists.*, 271 Neb. 173, 181, 710 N.W.2d 609, 618 (2006).
2. "No legislative act shall be held unconstitutional except by the concurrence of five judges." Neb. Const. art. V, § 2.
3. "It is emphatically the province and duty of the judicial department to say what the law is." *Neb. Coal. For Educ. Equity & Adequacy (Coal.) v. Heineman*, 273 Neb. 531, 546, 731 N.W.2d 164, 176 (2007).
4. "[A]n Attorney General's opinion...has no controlling authority on the state of the law discussed in it, ...[a]n Attorney General's opinion is simply, not a judicial utterance." *State v. Coffman*, 213 Neb. 560, 561, 330 N.W. 2d 727, 728 (1983).
5. "The right to vote is a civil right and the restoration referred to in Neb. Const. art. VI, § 2, is the restoration of the right to vote. Restoration of the right to vote is implemented through statute." *Ways v. Shively*, 264 Neb. 250, 255, 646 N.W.2d 621, 626 (2002) (citation omitted).

6. Legislation does not encroach on the Board of Pardons' power when it does not nullify all of the legal consequences of the crime committed or does not substitute a milder punishment. *State v. Spady*, 264 Neb. 99, 103-05, 645 N.W.2d 539, 542-43 (2002).
7. A court issues a writ of mandamus only when 1) the relator has a clear right to the relief sought, 2) a corresponding clear duty exists for the respondent to perform the act, and 3) no other plain and adequate remedy is available in the ordinary course of law. *State ex rel. Johnson v. Gale*, 273 Neb. 889, 895, 734 N.W.2d 290, 298 (2007).
8. The Secretary of State, in his "duties prescribed by law... shall . . . [e]nforce the Election Act." Neb. Rev. Stat. § 32-202(3); *accord* Neb. Rev. Stat. §§ 32-101 to 32-1552.
9. "Neb. Rev. Stat. § 32-312 sets forth what must be contained in a Nebraska voter registration application." *Davis v. Gale*, 299 Neb. 377, 383, 908 N.W.2d 618, 624 (2018).
10. The voter registration application prescribed by the Secretary of State shall provide the statement for the registrant "To the best of my knowledge and belief, I declare under penalty of election falsification that: . . . I have not been convicted of a felony, or if convicted, I have completed my sentence for the felony, including any parole term." Neb. Rev. Stat. § 32-312, 32-311.01.
11. Pursuant to the Election Act, an elector previously disqualified due to a felony conviction is eligible to vote when their "sentence is completed": "[t]he disqualification is automatically removed at such time." Neb. Rev. Stat. § 32-313(1).
12. Election Commissioners "shall" provide for the registration of electors of the county, to carry on voter registration at all times during business hours, to accept voter registration applications, to enter the information from a voter registration application in the voter registration register upon receipt, and to send an acknowledgment of registration to the postal address shown on the registration application. Neb. Rev. Stat. §§ 32-301(2), 32-302, 32-311.01(1), 32-322.



13. “A person shall be guilty of election falsification if, orally or in writing, he or she purposely states a falsehood under oath . . . (2) in a matter in relation to which an oath or statement under penalty of election falsification is authorized by law, including a statement required for verifying or filing a voter registration application.” Neb. Rev. Stat. § 32-1502.
14. “[A]ny person or organization distributing voter registration applications by mail shall...(a) [u]se the form prescribed by the Secretary of State.” Neb. Rev. Stat. § 32-320.01.

## **V. STATEMENT OF FACTS**

### **A. Background on L.B. 20**

On April 11, 2024, the Nebraska Legislature passed L.B. 20 by a vote of 38-6. Joint Stipulated Facts ¶ 6. L.B. 20 restores the right to vote to Nebraskans with felony convictions upon completion of their sentence, including any probation or parole term. Joint Stipulated Facts ¶ 6, Ex. 5.

L.B. 20 is built on almost two decades of law and practice in Nebraska. In 2005, the Legislature passed L.B. 53 which removed lifetime felony disenfranchisement in Nebraska and restored to right to vote two years after completion of felony sentence. Joint Stipulated Facts ¶ 3, Ex. 2. At the time of L.B. 53’s passage, approximately 59,000 Nebraskans had their voting rights restored pursuant to L.B. 53. Joint Stipulated Facts, Ex. 3. Since the passage of L.B. 53, approximately 38,000 more voters have been re-enfranchised since 2005. Verified Petition ¶ 59. L.B. 20, removed L.B. 53’s two-year period. Joint Stipulated Facts ¶ 6, Ex. 5.

L.B. 20 became law without the Governor’s signature pursuant to Neb. Const. art. IV, § 15 with an effective date of July 19, 2024. Joint Stipulated Facts ¶ 7. L.B. 20 is codified at Neb. Rev. Stat. §§ 29-112, 29-113, 32-313, 32-1530, 29-2264, 32-312 and 83-1,118. *Id.*

## **B. Attorney General Hilgers’ Opinion and Secretary Evnen’s Directive**

Two days before L.B. 20 would take effect, Attorney General Mike Hilgers released a nonbinding opinion declaring that the law violates Article IV, Section 13 of the Nebraska Constitution. Joint Stipulated Facts ¶ 8, Ex. 6. That provision provides that the Board of Pardons, consisting of the Governor, Attorney General, and Secretary, “shall have power...to grant respites, reprieves, pardons, or commutations in all cases of conviction for offenses against the laws of the state . . .” The Attorney General opined that under this provision of the Nebraska Constitution, the Board of Pardons has the *exclusive* power to restore voting rights to individuals with a felony conviction via the discretionary pardon process, and that *any* legislative efforts to automatically restore such voting rights unlawfully encroached on the Board of Pardons’ authority. Joint Stipulated Facts ¶ 8, Ex. 6. The Attorney General then unilaterally declared that no person convicted of a felony offense—no matter how old the conviction or how long it has been since their sentence was completed, and no matter how many elections they had lawfully voted in since 2005—can lawfully vote in Nebraska without a pardon from the Board of Pardons. Joint Stipulated Facts ¶ 8, Ex. 6. In other words, the Attorney General declared both L.B. 20 *and* L.B. 53 unconstitutional, advocating for the invalidation of nearly two decades of voting rights restoration law in Nebraska mere months before a general election. Joint Stipulated Facts ¶ 8, Ex. 6.

That same day and relying solely on the Attorney General’s nonbinding opinion, the Secretary released a statement commanding local election officials to reject voter registrations of all Nebraskans with felony convictions unless they had received a pardon from the Board of Pardons. Joint Stipulated Facts ¶ 9, Ex. 7. In July of 2024, Secretary Evnen also changed the voter registration application with language that does not match the language in Neb. Rev. Stat. § 32-312. Joint Stipulated Facts ¶¶ 11–12; Respondents’ Answer ¶ 72. Secretary Evnen has unilaterally changed the voter application oath to read: “I

have not been convicted of a felony or, if convicted, my civil rights have been restored.” See Joint Stipulated Facts ¶ 11; Ex. 8. County election commissioners, including Respondents Kruse and Overstreet, are complying with this command. Joint Stipulated Facts ¶ 2, Joint Stipulated Facts ¶ 51, Ex. 11. Consequently, when Relators Spung and Jonak attempted to register to vote, they were either rejected (in Jonak’s case) or unilaterally withdrew out of fear of prosecution (in Spung’s case). Joint Stipulated Facts, ¶ 50–51, 26.

### **C. Relators**

Relator Gregory Spung was born in Omaha in Douglas County, Nebraska and continues to reside there. Joint Stipulated Facts ¶ 23. Relator Jeremy Jonak was born in Saint Paul, Nebraska and currently lives in Wood River in Hall County, Nebraska. Joint Stipulated Facts ¶ 32. Spung and Jonak were convicted of felonies and lost their right to vote under Nebraska’s felony disenfranchisement laws. Joint Stipulated Facts ¶¶ 28, 37, 38. Spung and Jonak are over eighteen years old, have never been convicted of treason and have not been held to be *non compos mentis*. Joint Stipulated Facts ¶¶ 24, 33. Spung and Jonak are no longer incarcerated, have no outstanding legal financial obligations related to their felony convictions, and have completed their sentences related to all felony convictions. Joint Stipulated Facts ¶¶ 28-30, 37–42. Spung and Jonak are qualified voters pursuant to Neb. Rev. Stat. §§ 32-313, 32-110 and 29-112.

Spung and Jonak intend to register to vote and vote in the upcoming November 2024 General Election on November 5, 2024, if legally permitted. Joint Stipulated Facts ¶¶ 27, 35–36. But for Respondents’ refusal to comply with Nebraska law, Spung and Jonak would be registered to vote. Joint Stipulated Facts ¶¶ 26, 51. If Spung and Jonak were to register to vote using the Secretary of State’s form, they will be using a form that contains different language than that provided in Neb. Rev. Stat. § 32-312 as amended by L.B. 20 and 53.” Joint Stipulated Facts ¶ 46.

Relator Civic Nebraska is a nonprofit corporation organized under Nebraska law whose mission is to create a more modern and robust democracy for all Nebraskans by, among other things, ensuring elections are nonpartisan and helping Nebraskans register to vote and vote. Civic Nebraska Aff. ¶ 4. The organization's efforts to inform voters and expand civic engagement are largely housed in the Voting Rights Initiatives program, supervised by the Voting Rights Director. Civic Nebraska Aff. ¶ 6. Civic Nebraska provides voter registrations forms as provided by the Secretary of State to community events and sends voter registration forms to Nebraskans by mail. Civic Nebraska Aff. ¶ 5. Civic Nebraska is also dedicated to organizing and outreach to Nebraskans with felony convictions to inform them of their voting restoration rights. Civic Nebraska Aff. ¶ 7. The organization has a dedicated staff member, the Voting Rights Restoration Coordinator, whose time is dedicated to voter registration of and outreach to individuals with felony convictions. Civic Nebraska Aff. ¶ 7. Anticipating the thousands of Nebraskans who would re-enfranchised by L.B. 20, Civic Nebraska's staff conducted outreach specifically to newly eligible voters so they would be informed by the law's effective date of July 19, 2024 and expended nearly \$1,000 to print promotional materials. Civic Nebraska Aff. ¶ 9. However, following the Secretary's announcement that he would not be implementing L.B. 20, Civic Nebraska was forced to immediately re-strategize and re-organize their outreach efforts that would have gone to helping registering new voters. Civic Nebraska Aff. ¶ 11. Instead, Civic Nebraska were forced to spend over \$600 to print and mail nearly 1,000 postcards to inform them of the Secretary's actions and that they could not rely on the implementation of L.B. 20 as planned. Civic Nebraska Aff. ¶ 11–12.

## **VI. SUMMARY OF THE ARGUMENT**

For nineteen years, Nebraska law has restored the right to vote to Nebraskans with felony convictions who have completed their sentences. And now—less than four months before a presidential election—Secretary Evnen has unilaterally defied Nebraska's voter

restoration laws by refusing to register anyone with a felony conviction, regardless of how long it has been since they have completed their sentence.

The Secretary's action will disenfranchise thousands of Nebraskans and has no basis or justification in Nebraska constitutional law or statute. A writ of mandamus is necessary to compel the Secretary to comply with Nebraska's established voter restoration laws.

The Secretary's action is based solely on an Attorney General Opinion that concludes that the Re-Enfranchisement Statutes are unconstitutional exercise of power reserved exclusively to the Board of Pardons. There are three main reasons the Court should reject the Secretary's and Attorney General's claims that L.B. 20 and L.B. 53 are unconstitutional. *First*, this Court has definitively addressed this precise issue, holding that "[r]estoration of the right to vote is implemented through statute." *Ways v. Shively*, 264 Neb. 250, 255, 646 N.W.2d 621, 626 (2002). *Second*, Respondents cannot come close to overcoming the Re-Enfranchisement Statutes' "strong presumption" of constitutionality because they cannot point to *any* legal authority concluding that an executive pardon authority precludes the Legislature from passing automatic rights-restoration laws. Indeed, these two mechanisms of rights restoration coexist comfortably in almost every state in the country. And *third*, the Nebraska Constitution and this Court's decisions make clear both that an Attorney General opinion has no force of law, and that the Secretary has no authority to declare unconstitutional any statutes passed by the Nebraska Legislature.

Beyond that, Respondents contest little about Relators' mandamus claim. The Secretary all but concedes the point, acknowledging that he is statutorily required to provide a voter registration form in compliance with Nebraska statute *and* acknowledging that he is not providing such a form. Respondents are failing in several clear legal duties laid out in Nebraska statutes; this

failure is the only thing standing in Relators' way of registering to vote and voting in the November 2024 election.

On the eve of a presidential election, the Secretary has, without legal authority, upended two decades of rights restoration law, re-disenfranchised thousands of Nebraska voters, and declined to enforce large swaths of Nebraska's election code. The Court should not countenance this clear violation of legal duty.

## VII. ARGUMENT

### A. **The Re-Enfranchisement Statutes are constitutional and must be followed.**

Despite Nebraska having a statutory voting rights restoration scheme for nearly twenty years, Respondents—now less than four months away from a presidential election—have refused to register voters under the Re-Enfranchisement Statutes. *See* Joint Stipulated Facts ¶¶ 1-3, 9. Respondents rely on the Attorney General's nonbinding opinion to argue that the Legislature lacks authority to restore voting rights through statute. Joint Stipulated Facts ¶ 2, 9. *But see State v. Coffman*, 213 Neb. 560, 561, 330 N.W. 2d 727, 728 (1983) (holding that an Attorney General's opinion "has no controlling authority" and "standing alone is not to be regarded as legal precedent or authority of such character as a judicial decision"). There are three main reasons why this is incorrect and this Court should not find the Re-Enfranchisement Statutes unconstitutional.

*First*, this Court has already squarely decided this very issue, finding that "[r]estoration of the right to vote is implemented through statute." *Ways*, 264 Neb. at 255. This clear precedent set by the *Ways*' court determines the outcome of this case.

*Second*, even if *Ways* did not control, the Secretary cannot overcome the Re-Enfranchisement Statutes' "strong presumption of constitutionality." *State v. Johnson*, 269 Neb. 507, 515, 695 N.W.2d 165, 171 (2005). Respondents cannot point to *any* legal authority—under Nebraska law or otherwise—concluding that an executive's

pardon authority precludes the Legislature from passing automatic rights restoration laws. Indeed, automatic rights-restoration laws serve an extremely different function than executive pardons, and these two mechanisms of rights restoration coexist in almost every state in the country.

*Third*, the Secretary’s directive itself is plainly unconstitutional because the Nebraska Constitution and this Court have made clear both that: (1) only this Court, and not the Secretary, have the authority to invalidate laws passed by the Nebraska Legislature as unconstitutional, and (2) the Attorney General’s Opinion that forms the only basis for the Secretary’s directive is non-binding and has no force of law.

**1. This Court has already determined that the Nebraska Legislature may pass voting rights-restoration laws.**

This Court’s own precedent on voting rights-restoration confirms that Respondents’ claims that the Re-Enfranchisement Statutes are unconstitutional are unfounded. In *Ways v. Shively*, an individual released from incarceration following a felony conviction brought a mandamus action seeking to compel his county election administrator to register him to vote. 264 Neb. at 251-52. The relator brought the case, and *Ways* was decided, before the passage of L.B. 53. At that time, Neb. Rev. Stat. § 29-112 only restored certain “civil rights” after an individual’s felony conviction. *Ways*, 264 Neb. at 252. In *Ways*, this Court held that the civil rights that § 29-112 restored—at that time—did not include the right to vote, and that therefore the relator *Ways* had no claim to rights restoration in his mandamus action. *Id.* at 256. In reaching this conclusion, the Court found Section 29-112 dispositive: “Because *Ways*’ right to vote has not been restored under § 29-112, [Lancaster County Election Commissioner Dave] Shively did not have a clear duty to permit *Ways* to register to vote,” and the Court thus dismissed the petition. *Id.* at 256-57.

This Court was unambiguous in *Ways*: “Restoration of the right to vote *is implemented through statute*.” *Id.* at 255 (citation omitted, emphasis added). That statement of law is controlling here and should be the beginning and end of the inquiry. Because *Ways* states that voting rights restoration can occur via the legislature, in other words, through “statute”—and not solely executive action by the Board of Pardons, or any other agency or official—the Re-Enfranchisement Statutes are constitutional.

The Attorney General’s nonbinding advisory opinion unsuccessfully attempts to distinguish *Ways*. The opinion claims that the Court never expressly stated that *the Legislature* is the body with authority to restore voting rights. Joint Stipulated Facts ¶ 8, Ex. 6 at 14–15. The Court may not have done so in so many words, but the only way the Court could have concluded that restoration of voting rights “is implemented through statute” is by finding that the Legislature has such power—because the Legislature is the body that passes statutes.

The *Ways* Court conducted the precise analysis that Relators present here. To assess whether the relator had his voting rights restored, the Court evaluated the relevant statutory provision— “[Section] 29-112, which is the statutory provision directly addressing restoration of a felon’s right to vote.” *Ways*, 264 Neb. at 256. Since *Ways*’ right to vote had not been restored under Section 29-112 as it read at that time, the Court ruled against the relator’s claim. *Id.* Today, Relators ask this same Court to look at this *same statute*, and today, Section 29-112 states that a person’s “disqualification is automatically removed at such time” when they complete their terms of a felony sentence. Neb. Rev. Stat. § 29-112.

The arguments in the Attorney General’s opinion would throw this Court’s core reasoning in *Ways* in disaccord with how the Court ought to treat its own precedent. *Cf. Seminole Tribe of Fla. v. Florida*, 517 U.S. 44, 66–67 (1996) (“When an opinion issues for the Court, it is not only the result but also those portions of the opinion necessary to that result by which we are bound.”); *see also* Joint Stipulated Facts ¶ 8, Ex. 6 at 15 (erroneously arguing that statement in *Ways* is dicta



because “it was unnecessary to its holding.”). The statement in *Ways* that “restoration of the right to vote is implemented through statute” is necessary to this Court’s reasoning in *Ways* because it provided the entire analytical framework for the decision: that the Court should look to statutes passed by the Legislature to assess an individual’s voting rights eligibility. The statement from *Ways* thus constitutes a binding holding.

Finally, the Attorney General’s opinion argues that *Ways* does not express a statement on the “statute’s constitutionality given *Ways*’s statement that it was not addressing the constitutional issue.” Joint Stipulated Facts, ¶ 8, Exhibit 6, 14–15. But the *Ways* Court said only that it would not consider the arguments raised by the Attorney General as amicus curiae about the constitutionality of a *different statute*, Neb. Rev. Stat. § 83-1,118, that relator argued granted him rights restoration. 264 Neb. at 253. The *Ways* Court did *not* make any representations that it was foregoing consideration of the constitutionality of Section 29-112—nor could it, given that Section 29-112 served the entire basis for the Court’s decision."

*Ways* is clear: the Legislature may implement rights restoration through statute. This decision from this Court, which remains good law today, ends the inquiry.

**a. Even if *Ways* does not control, the Secretary does not come close to overcoming the Re-Enfranchisement Statutes’ strong presumption of constitutionality.**

Even if *Ways* did not control, Respondents do not meet their heavy burden to show that the Re-Enfranchisement Statutes are “manifestly” unconstitutional.

This Court has long held that “[s]tatutes are afforded a presumption of constitutionality, and the unconstitutionality of a statute must be clearly established before it will be declared void.” *Staley v. City of Omaha*, 271 Neb. 543, 552, 713 N.W.2d 457, 467–68 (2006); *see also State v. Galindo*, 278 Neb. 599, 626, 774 N.W.2d 190,

218 (2009) (“our rules of statutory construction . . . afford a presumption of constitutionality to legislative enactments.”); *Johnson*, 269 Neb. at 515 (noting that “all reasonable doubts will be resolved in favor of [a statute’s] constitutionality”). This is not an easy presumption to overcome. “[C]ourts will not declare an act of the Legislature unconstitutional except as a last resort. . . .” *Johnson*, 269 Neb. at 515 (internal quotation marks omitted); *see also id.* (noting statutes passed by the Legislature have a “strong presumption of constitutionality”). A statute’s unconstitutionality must be “manifest” for courts to upend a duly enacted law. *Planned Parenthood of the Heartland, Inc. v. Hilgers*, 317 Neb. 217, 227–28, \_\_N.W.3d\_\_ (2024) (alterations original). Respondents thus have the burden to overcome this “strong presumption.” *See, e.g., Big John’s Billiards, Inc. v. State*, 288 Neb. 938, 943–44, 852 N.W.2d 727, 734 (2014) (“The burden of establishing the unconstitutionality of a statute is on the one attacking its validity.”); *State v. Spady*, 264 Neb. 99, 105, 645 N.W.2d 539, 543 (2002) (similar).

The Re-enfranchisement Statutes are not manifestly unconstitutional; indeed, they are comfortably within the power of the Legislature. The “Legislature may enact laws ... for the accomplishment for any public purpose.” *State ex rel. Stenberg v. Moore*, 249 Neb. 589, 595, 544 N.W.2d 344, 349 (1996). Indeed, it “may legislate upon any subject not inhibited by the Constitution.” *Pony Lake Sch. Dist. 30 v. State Comm. for Reorganization of Sch. Dists.*, 271 Neb. 173, 181, 710 N.W.2d 609, 618 (2006). And nothing in the Nebraska Constitution expressly restricts the Legislature’s ability to restore the right to vote. That is precisely what the Legislature did in passing L.B. 53 in 2005—and no one challenged the Legislature’s authority to do so in the nearly two decades since.

Nor do the Re-Enfranchisement Statutes encroach on any function of the Board of Pardons, because neither L.B. 20 nor L.B. 53 commutes a sentence of punishment or constitutes a pardon. Both statutes fall within this Court’s tradition of upholding legislation that restores specific civil rights. *See, e.g., Spady*, 264 Neb. 99. In *Spady*,

this Court held that a duly-enacted statute did not encroach on the Board of Pardons' exclusive power because the statute did not substitute a milder punishment (commuting the sentence) or nullify all of the legal consequences of the crime committed (a pardon). *Id.*

The Attorney General's central error is failing to recognize that, just as in *Spady*, there are two separate mechanisms of voting rights-restoration that can easily coexist. First, a discretionary pardon or clemency process governed by the executive branch. And second, an automatic voting rights restoration process codified by the legislature. These two rights have co-existed in Nebraska for 19 years. Relators do not contest that the executive has authority over the former. Yet *nothing* in the Attorney General's Opinion—under Nebraska law or any other court decision—suggests either that the executive has exclusive authority over automatic voting rights-restoration or that automatic voting rights-restoration is somehow incompatible with an executive-pardon system.

The Attorney General's Opinion wrongly claims that “other jurisdictions have continued to acknowledge that the power to restore civil rights lies with a state's board of pardons.” Joint Stipulated Facts ¶ 8, Ex. 6 at 9. It points to state court decisions in Louisiana, Idaho, Florida, and Nevada to support that proposition. Yet all four of those states *have* an automatic voting rights-restoration scheme passed into law by the legislature or citizen initiative. *See* Fla. Stat. § 98.0751(1); Idaho Code § 18-310(2); Nev. Rev. Stat. § 213.157(1)(b)(2); La. Rev. Stat. § 18-102. And *none* of those cases discuss automatic voting rights-restoration or suggests that executive pardons or clemency is the only mechanism for rights restoration. Neither the Attorney General's Opinion nor the Secretary's directive point to *any* legal authority finding that executive-pardon boards invalidate or are even incompatible with legislative rights restoration schemes. Relators are aware of no such legal authority that exists.

Indeed, the Re-Enfranchisement Statutes align Nebraska's voting rights restoration process with the *vast majority* of other states that have a rights-restoration process established through statute

while also having a separate pardon process. *See, e.g.*, Ala. Code § 15-22-36.1; Alaska Stat. § 15.05.030(a); Ariz. Stat. § 14-5651(C)(3); Ark. Code Ann. Amend. 51 § 11(d)(2)(A-D); Cal. Const. art. II, § 4; Colo. Const. art. 7, §10; Conn. Gen. Stat. § 9-46a(b); Del. Const. art. V, § (2)(b); Fla. Const. art. VI, § 4, Fla. Stat. § 98.0751(1); Ga. Const. art. II, § 1, para. III(a); Haw. Rev. Stat. § 831-2(a)(1); Idaho Code § 18-310(2); Ill. Const. art. III, § 2; Ind. Code § 3-7-13-4; Exec. Ord. Num. 7, Aug 5, 2020 (Iowa); Kan. Stat. Ann. § 22-3722; La. Rev. Stat. § 18-102; Md. Code Ann., Elec. Law § 3-102(b)(1); Mass. Gen. Laws ch. 51, § 1; Mich. Comp. Laws § 168.758b; Minn. Stat. § 609.165, subd. 1; Mo. Rev. Stat. § 115.133.2; Mont. Const. art. IV, § 2; Nev. Rev. Stat. § 213.157(1)(b)(2); N.H. Rev. Stat. Ann. § 607-A:2(I); N.M. Stat. Ann. § 1-4-27.1(A); N.J. Stat. Ann. § 19:4-1; N.Y. Elec. Law § 5-106(2); N.C. Gen. Stat. § 13-1; N.D. Cent. Code § 12.1-33-03(1); Ohio Rev. Code Ann. § 2961.01(A)(2); Okla. Stat. tit. 26, § 4-101(1); Or. Rev. Stat. § 137.281(1); 25 Pa. Cons. Stat. § 1301(a); *Mixon v. Commonwealth*, 759 A.2d 442 (Pa. Commw. Ct. 2000); R.I. Const. art. II, §1; S.C. Code Ann. § 7-5-120(B)(3); S.D. Codified Laws § 12-4-1.2; Tex. Elec. Code Ann. § 11.002(4)(a); Utah Code Ann. § 20A-2-101.5; Wash. Rev. Code § 29A.08.520; W. Va. Const. art. IV, §1; *Osborne v. Kanawha Cnty. Ct.*, 69 S.E. 470 (W. Va. 1910); Wis. Stat § 304.078(3); Wyo. Stat. Ann. § 7-13-105(b)(i).

Executive pardon power and legislative voting rights-restoration coexist in virtually every state in the country because they serve completely different functions. As the Attorney General acknowledges, Joint Stipulated Facts ¶ 8, Ex. 6, a pardon is “a discretionary act of grace from the executive branch,” *Otey v. State*, 240 Neb. 813, 837, 485 N.W.2d 153, 170 (1992). *See also Spady*, 264 Neb. at 103. Because a pardon constitutes “an act of mercy or grace,” Joint Stipulated Facts ¶ 8, Ex. 6, it “does not trigger the requirements of the Due Process Clause” or other constitutional constraints, *Otey*, 240 Neb. at 837; *see also Hand v. Scott*, 888 F.3d 1206, 1207 (11th Cir. 2018) (“the Governor has broad discretion to grant and deny clemency, even when the applicable regime lacks any standards.”). Put simply, the Board of

Pardons can grant or deny a pardon to anyone, at any time, for any reason.

The same is not the case for laws like those the Nebraska Legislature has enacted. Legislative rights restoration laws like L.B. 20 are precisely the opposite—they establish a discretion-free, automatic system of rights restoration that applies to all returning citizens equally, and which are thus subject to more fulsome constitutional constraints. *See* Neb. Rev. Stat. § 29-112 (“The disqualification is *automatically* removed at such time.”) (emphasis added). These restoration mechanisms have consistently and widely been considered proper exercises of legislative power.

Indeed, in *Richardson v. Ramirez*—the seminal case in which the Supreme Court held that felony disenfranchisement was constitutional—the Court contemplated that state legislatures can restore voting rights and/or repeal permanent felony disenfranchisement laws. 418 U.S. 24 (1974). In *Richardson*, the Supreme Court held that states could constitutionally impose felony disenfranchisement but in doing so, the Court also determined that arguments that permanent felony disenfranchisement is too punitive are better “addressed *to the legislative forum* which may properly weigh and balance them against those advanced in support of [the state’s] present constitutional provisions.” *Id.* at 55 (emphasis added); *see also id.* (noting plaintiffs could appeal to “the people of the State of California[.]”)

Relators are unaware of *any* court that has found that legislative rights restoration is *per se* unlawful or unconstitutional, and/or any state that has reinstated permanent felony disenfranchisement after the Legislature has repealed it. What the Secretary is asking for is unprecedented. And there is certainly no reason to believe it is constitutionally compelled.

**b. Only this Court has the power to declare laws unconstitutional.**

While the Re-Enfranchisement Statutes are squarely within the Legislature's power, the Secretary himself has violated the separation-of-powers by usurping the role of the judiciary and declaring the Re-Enfranchisement Statutes unconstitutional. "No legislative act shall be held unconstitutional except by the concurrence of five judges." Neb. Const. art. V, § 2; *see also* *Neb. Coal. For Educ. Equity & Adequacy (Coal.) v. Heineman*, 273 Neb. 531, 546, 731 N.W.2d 164, 176 (2007) ("It is emphatically the province and duty of the *judicial department* to say what the law is.") (quoting *Marbury v. Madison*, 5 U.S. 137, 177 (1803)) (emphasis added). Even more specifically, this Court has found that "an Attorney General's opinion ... has no controlling authority on the state of the law discussed in it, ... [a]n Attorney General's opinion is, simply, not a judicial utterance." *Coffman*, 213 Neb. at 561; *see also* *State ex rel. Peterson v. Shively*, 310 Neb. 1, 10, 963 N.W.2d 508, 516 (2021) (noting an Attorney General opinion "is not to be regarded as legal precedent or authority of such character as is a judicial decision").

The Nebraska Constitution and this Court are therefore unambiguous: the Attorney General opinion has no force of law, and the Secretary has no legal authority to overturn laws passed by the legislature.

The Secretary should not receive any benefit from taking an unlawful shortcut. Nebraska law contemplates that the proper way to challenge a legislative act is to bring a legal "action challenging the constitutionality of the act ... in a court of competent jurisdiction." Neb. Rev. Stat. § 84-731. Such an action requires plaintiff(s) that satisfy standing, factual development, and time for the case to develop through the courts. Respondents have failed to do so here. The Court should not condone such a usurpation of the Judiciary's role.

**B. The Court must issue a writ of mandamus.**

A writ of mandamus is warranted “where (1) the relator has a clear right to the relief sought, (2) there is a corresponding clear duty existing on the part of the respondent to perform the act, and (3) there is no other plain and adequate remedy available in the ordinary course of law.” *State ex rel. Johnson v. Gale*, 273 Neb. 889, 895, 734 N.W. 2d 290, 298 (2007). Mandamus operates as a mechanism “to enforce the performance of a mandatory ministerial act or duty”; a ministerial act or duty is one where “the performance [is] required by direct and positive command of the law.” *State ex rel. Parks v. Council of Omaha*, 277 Neb. 919, 924, 766 N.W.2d 134, 139 (2009).

**1. The Secretary has a clear duty to provide the correct voter registration form pursuant to Nebraska law.**

“The Secretary of State *shall* prescribe and distribute a registration application which may be used statewide to register to vote and update voter registration records.” Neb. Rev. Stat. § 32-311.01(1) (emphasis added). This voter registration “application shall contain substantially all the information provided in section 32-312” of the Nebraska code. *Id.* § 32-311.01(2).

As this Court has found, “Neb. Rev. Stat. § 32-312 sets forth what *must* be contained in a Nebraska voter registration application.” *Davis v. Gale*, 299 Neb. 377, 383, 908 N.W.2d 618, 624 (2018) (emphasis added); *see also Fisher v. Heirs & Devisees of T.D. Lovercheck*, 291 Neb. 9, 18, 864 N.W.2d 212, 218 (2015) (“Generally, the word “shall” in a statute is mandatory.”). Section 32-312 therefore requires the Secretary to promulgate a form containing the following language: “To the best of my knowledge and belief, I declare under penalty of election falsification that: . . . I have not been convicted of a felony; *or if convicted, I have completed my sentence of the felony, including any parole term.*” Neb. Rev. Stat. § 32-312 (emphasis added). The “plain and ordinary meaning” of Neb. Rev. Stat. §§ 32-311.01, 32-

312 is clear, *Ways*, 264 Neb.at 253, and corroborated by this Court’s holding in *Davis*—the Secretary has a clear duty to prescribe a form with the quoted statutory language.

The parties agree that Secretary Evnen is, at present, not carrying out his duties under the statute. He is not providing the form required by Section 32-312 for Nebraskans registering to vote, and instead has “directed county election officials to use forms which utilize language that ... does not match” the language in Neb. Rev. Stat. § 32-312. Joint Stipulated Facts ¶¶ 11-12; Respondents’ Answer ¶ 72. Secretary Evnen has unilaterally changed the voter application oath to read: “I have not been convicted of a felony or, if convicted, *my civil rights have been restored.*” See Joint Stipulated Facts ¶ 11, Ex. 8 (emphasis added).

The parties agree that if Relators were to register to vote using Secretary Evnen’s form, “they will be using a form that contains different language than that provided in Neb. Rev. Stat. § 32-312 as amended by L.B. 20 and 53.” Joint Stipulated Facts ¶ 46. The Secretary has also already admitted that Neb. Rev. Stat. §§ 32-311.01 and 32-312 “require the Secretary of State to prescribe a voter registration application” in accordance with those statutes. Respondents’ Answer ¶ 73. These admissions are a plain acknowledgement from the Secretary that his form violates current Nebraska statute. Thus, the Secretary, essentially by his own admission, is not complying with a “direct and positive command” from Nebraska law to provide for specific language in the voter registration form, for which “there is no room for the exercise of discretion.” *State ex rel. Parks*, 277 Neb. at 924.

Unable to meaningfully dispute that he has a clear duty to promulgate the statutorily prescribed voter registration form, the Secretary’s principal and only rejoinder is that the Re-Enfranchisement Statutes are unconstitutional, and that he has no duty to perform an illegal act. See Resp. in Answer to Alternative Writ of Mandamus ¶ 2. As discussed in above in sections VII.A, both L.B. 20 and L.B. 53 are in fact constitutional and even if they were not, the



Secretary has no authority to issue a directive overruling them absent a judicial determination. *See supra* VII.A.1(b). The Secretary is failing in his clear and nondiscretionary duty to provide the voter registration forms set out in Neb. Rev. Stat. §§ 32-311.01, 32-312.

**2. The Secretary has a clear duty to remove voter disqualification for Nebraskans with felony convictions who have completed their sentence.**

As part of his “duties prescribed by law, the Secretary of State shall . . . [e]nforce the Election Act.” Neb. Rev. Stat. § 32-202(3). Under the Election Act, an elector who had previously been disqualified due to a felony conviction becomes eligible to vote when their “sentence is completed, including any parole term.” Neb. Rev. Stat. § 32-313(1). “The disqualification [of the elector] is *automatically* removed at such time.” *Id.* (emphasis added).

This *automatic* duty is quintessentially ministerial because the statute offers the Secretary zero discretion: once the voter completes the sentence, the disqualification must be removed as a matter of law. *See, e.g., State ex rel. Emmack v. Stenberg*, 259 Neb. 1037, 1039, 614 N.W.2d 300, 302 (2000) (“[A]n act or duty is ministerial if there is an absolute duty to perform in a specified manner upon the existence of certain facts.”); *State ex rel. Herman v. City of Grand Island*, 145 Neb. 150, 160, 15 N.W.2d 341, 347 (1944) (granting mandamus because “the specific duty of the respondents clearly appears and is made plain by statute, leaving no discretion for them to exercise.”).

While Section 32-313(1) does not specifically name the Secretary, this Court has made clear that government officials have a duty—compliance with which can be enforced via mandamus actions—to take measures necessary to accomplish an express statutory duty. “Power vested in a governmental body or officer carries with it the implied power to do what is necessary to accomplish an express statutory duty, absent any other law that restrains the implied power.” *State ex rel. Loontjer v. Gale*, 288 Neb. 973, 991, 853 N.W. 2d 494, 508 (2014) (granting mandamus relief to Relators to withhold a

proposed constitutional amendment from the ballot even though the Secretary correctly argued that he had no specific statutory duty to do so). In *Loontjer*, this Court found that “proposed ballot measures would be meaningless if this duty carried no responsibility to ensure that [ballot measures] satisfied legal requirements for their presentation to voters.” *Id.* at 507.

The same is true here. The Election Act, which the Secretary has an express duty to enforce, *see* Neb. Rev. Stat. § 32-202(3), requires the automatic removal of disqualification for voters who complete their felony sentences. Neb. Rev. Stat. § 32-313(1). The Secretary’s duty to enforce the Election Act “would be meaningless if this duty carried no responsibility to ensure” that automatic removal of disqualification occurs. *Loontjer*, 288 Neb. at 990–91, 853 N.W. 2d at 507; *see also State ex rel. Wieland v. Beermann*, 246 Neb. 808, 816, 523 N.W. 2d 518, 525 (1994) (finding mandamus still warranted absent an express statutory duty on the Secretary because the Secretary had certain responsibilities pursuant to his duty “to supervise the conduct of general election.”).

No one other than the Secretary can effectuate the automatic removal of disqualification for voters, as contemplated under the Election Act. And as such, the Secretary cannot fulfill his express statutory duty to “enforce the election act,” Neb. Rev. Stat. § 32-202(3), without conducting this automatic removal of disqualification for previously disenfranchised voters who have completed their felony sentences. *See also generally* Neb. Rev. Stat. § 32-202 (requiring the Secretary to “supervise the conduct of primary and general elections in this state.”).

### **3. Election Commissioners have a clear duty to provide for the registration of electors in their counties.**

County election officials are also “responsible for the enforcement of the Election Act as it relates to [their] . . . office and for the competency, integrity, and conduct of [their] . . . chief deputy

election commissioner and all personnel appointed by” them. Neb. Rev. Stat. § 32-214. The Election Act provides for several express statutory duties for county election commissioners related to accepting and processing voter registration applications. County election commissioners “shall provide for the registration of the electors of the county.” Neb. Rev. Stat. § 32-201(2). After receiving “a voter registration application from an eligible elector, . . . [the election commissioner] shall enter the information from the application in the voter registration register . . . .” Neb. Rev. Stat. § 32-301(2). “Every election commissioner or county clerk shall accept such an application for registration.” Neb. Rev. Stat. § 32-111.01. Finally:

[u]pon receipt by the election commissioner or county clerk of a complete and correct registration application showing that the registrant is qualified to be a registered voter . . . the registrant shall be a registered voter and the election commissioner or county clerk shall send . . . an acknowledgement of registration to the registrant at the postal address shown on the registration application.

Neb. Rev. Stat. § 32-322.

The parties agree that Relators Spung and Jonak have completed the terms of their felony sentences, *see* Joint Stipulated Facts ¶¶ 30, 37, 40–41, meaning they are legally eligible under L.B. 20. Consequently, Respondent County Election Commissioners are duty bound to accept Relators’ applications for registration, register them as eligible voters, and provide them with written confirmation of their registration. Neb. Rev. Stat. §§ 32-201(2); 32-301(2); 32-111.01; 32-322. Yet due to Secretary Evnen’s directive, Respondents Commissioner Overstreet and Commissioner Kruse are failing in their duty.

Commissioner Overstreet already rejected the voter registration application of Relator Jonak when he went to register to vote on the very day L.B. 20 went into effect. Joint Stipulated Facts ¶¶ 50-51. In Commissioner Overstreet’s letter rejecting Relator Jonak’s application, she did not identify any other issues with his eligibility but stated that

his application was rejected because “Secretary Evnen has directed county election officials to stop registering individuals convicted of felonies who have not been pardoned by the Nebraska Board of Pardons.” Joint Stipulated Facts ¶ 51, Exhibit 11. For his part, Relator Spung initially attempted to register to vote and voluntarily withdrew his application after learning of Secretary Evnen’s directive. Joint Stipulated Facts ¶ 26, Exhibit 9.

Individual Relators intend to register to vote and to vote ahead of the November 2024 General Election if allowed. Joint Stipulated Facts ¶¶ 27, 35-36. But for Commissioner Kruse’s and Commissioner Overstreet’s failure to fulfill their ministerial duties under the Election Act to process Relators’ voter registration applications, accept their applications as eligible voters, and provide them with written acknowledgement of their registration, Spung and Jonak would be registered voters today.

#### **4. Relators have a clear right to relief requested.**

Since the Secretary has a statutory duty to perform the ministerial act, Relators have a clear right to relief. *State ex re. Wieland v. Beerman*, 246 Neb. 808, 816, 523 N.W.2d 518, 525 (1994). Spung and Jonak are qualified electors pursuant to Neb. Rev. Stat. § 32-313; Joint Stipulated Facts ¶ 23, 24, 28, 32, 33, 37, 40. Relators Spung and Jonak desire to register to vote before the registration deadline to vote in the 2024 November General Election. Joint Stipulated Facts ¶ 27, 36. In fact, Spung and Jonak attempted to register to vote believing, correctly, that they were eligible under L.B. 20. Joint Stipulated Facts ¶ 26, 50. But were unsuccessful because of Secretary Evnen’s directive to county election commissioners to refuse registrations from all Nebraskans with felony convictions.

Spung and Jonak have a right to a voter registration form set out under state law. *See Davis*, 299 at 383; Neb. Rev. Stat. §§ 32-312, 32-311.01. Even if Spung and Jonak were to use the federal voter registration form, Spung and Jonak must still meet “the eligibility requirements of [the state of Nebraska] and subscribe to any oath

required.” Joint Stipulated Facts ¶ 45, Ex. 10. Since Secretary Evnen has directed county election officials to refuse to register Nebraskans with felony convictions unless they have received a pardon, Spung and Jonak’s registrations applications on the federal form would still be denied. Joint Stipulated Facts ¶ 2, Ex. 1.

Relator Civic Nebraska is required to use the voter registration applications distributed by the Secretary of State and often brings the applications to events, sends them in the mail, and emails the electronic link to the voter registration application to eligible voters. *See* Neb. Rev. Stat. § 32-320.01 (requiring organizations distributing voter registration forms by mail to use the form prescribed by the Secretary of State); Civic Nebraska Aff. ¶ 4.

Secretary Evnen’s mandate to election officials has created an environment of confusion and uncertainty just weeks before key election deadlines. Nebraskans face a risk of criminal prosecution if they fraudulently register to vote, as do those assisting them, including Civic Nebraska. *See* Neb. Rev. Stat. §§ 32-1502, 32-1503. Secretary Evnen’s directive, like the oath printed on his voter registration applications, do not match laws on the books in Nebraska as provided in Neb. Rev. Stat. §§ 32-312 and 32-313.

## **5. Relators have no other adequate remedy at law.**

Relators have no other plain and adequate remedy available in an ordinary court of law. *State ex rel. Johnson v. Gale*, 273 Neb. 889, 895, 734 N.W.2d 290, 298 (2007). In order to qualify as an adequate remedy, it must actually compel performance of the duty, “be equally as convenient, complete, beneficial, and effective as would be mandamus, and be sufficiently speedy to prevent material injury.” *Dozler v. Conrad*, 3 Neb. App. 735, 743, 532 N.W.2d 42, 48 (1995). A peremptory writ of mandamus is necessary to compel Respondents to lawfully prescribe voter registration applications, as no other remedy at law adequately resolves the issue with the urgency necessary in an election year. *State ex rel. Wagner v. Evnen*, 307 Neb. 142, 163, 948 N.W.2d 244, 260 (2020) (“If a writ of mandamus would be adequate

and equally serviceable, then a declaratory judgment will not lie.”). Writs of mandamus have been the remedy traditionally used to compel the Secretary of State to comply with election law. *C.f. Cain v. Lymber*, 306 Neb. 820, 830, 947 N.W.2d 541, 548 (2020) (recognizing that writ of mandamus is appropriate because the mandamus writ is the remedy traditionally used in the absence of any other remedy); *e.g., State ex rel Wagner v. Evnen*, 307 Neb. 142, 948 N.W.2d 244 (2020); *State ex rel McNally v. Evnen*, 307 Neb. 103, 948 N.W.2d 463 (2020); *Loontjer*, 288 Neb. 973, 853 N.W.2d 463.

An application for a pardon is in no way an adequate remedy. As discussed above in Section VII.A.1(a), the pardon process is wholly discretionary, such that Relators have no guarantee of ever having their rights restored by the Board of Pardons. By contrast, they are automatically and immediately eligible under L.B. 20. And by Respondents’ own admission, Relators would have essentially zero chance of receiving a pardon in time to vote in the November 2024 election. The Board of Pardons’ website states: “The pardons board process can take several months to several years from the date the application is received in the pardons board office before the board will review your application and determine if they are willing to grant you a hearing.” Friedman Aff. ¶ 2, Ex.1, State of Nebraska, Board of Pardons, <https://pardons.nebraska.gov/> (last visited Aug. 17, 2024).

Relators face upcoming voter registration deadlines ahead of the 2024 November General Election and require prompt relief. Joint Stipulated Facts ¶¶ 56-58. A writ of mandamus is the only remedy available to Relators that will give them a “speedy and adequate remedy” to their right to register to vote for the upcoming election, as other remedies will cause “circuitous dilatory action” which itself will “defeat the purpose of an adequate remedy.” *State ex rel. Rittenhouse v. Newman*, 189 Neb. 657, 661, 204 N.W.2d 372 (1973).

Finally, a writ should issue because of the chaos Secretary Evnen’s actions will continue to create ahead of the upcoming election. The public has an interest in ensuring that elections are characterized by “order, rather than chaos.” *State ex rel. Chambers v. Beermann*, 229

Neb. 696, 701, 428 N.W.2d 883, 886 (1988); *see also Eggers v. Evnen*, 2022 WL 2965606 (D. Neb. May 31, 2022) (Dkt. 10, Brief Opposing Motion for Preliminary Injunction, at 44) (Secretary Evnen arguing that the “public has an interest in the fair and orderly operation of elections.”)

Unilaterally taken less than four months before a presidential election, Secretary Evnen’s actions have sowed chaos, confusion, and uncertainty in Nebraska’s electoral process. Thousands of Nebraskans whose right to vote should have been restored—including individual Relators—have now been abruptly disenfranchised. Even worse, these voters are now at risk of prosecution if they follow L.B. 20 and act contrary to the Attorney General’s advisory opinion. *See* Neb. Rev. Stat. §§ 32-1502, 32-1503. Respondents have upended two decades worth of rights-restoration law on the eve of an election and are refusing to enforce large swaths of the Nebraska election code. There could be no more confusing, chaotic, and unsettling operation of elections.

## VIII. CONCLUSION

For the foregoing reasons, Relators respectfully request the Court issue a peremptory writ of mandamus requiring:

1. Respondent Secretary Evnen to prescribe voter registration applications that comply with Neb. Rev. Stat. §§ 32-312, 32-311.01;
2. Respondent Secretary Evnen to effectuate the automatic removal of disqualification of eligibility for persons who have completed all terms of their sentences, including Relators Spung and Jonak pursuant to Neb. Rev. Stat. §§ 32-202, 32-313;
3. Douglas County Election Commissioner to accept Relator Gregory Spung’s voter registration forms, enter the information from his applications in the voter registration register, and mail him an acknowledgement of registration as required by Neb. Rev. Stat. §§ 32-301, 32-322;

4. Hall County Election Commissioner Tracy Overstreet to accept Relator Jeremy Jonak's voter registration forms, enter the information from his applications in the voter registration register, and mail him an acknowledgement of registration as required by Neb. Rev. Stat. §§ 32-301, 32-322;
5. That the Court award Relators costs and reasonable attorney's fees pursuant to Neb. Rev. Stat. § 25-2165 or as otherwise permitted by Nebraska Law; and
6. For such other and further relief as is appropriate at law and equity and the court deems proper.

Respectfully submitted this 19<sup>th</sup> day of August, 2024.

GREGORY SPUNG, Relator  
 JEREMY JONAK, Relator  
 CIVIC NEBRASKA, Relator

By: /s/Jane Seu

Jeffrey P. Justman*	Jane Seu, #27452
Craig Coleman*	Rose Godinez, #25925
Martin S. Chester*	Grant Friedman, #27862
Anderson C. Tuggle*	Dylan Severino, #27932
Faegre Drinker Biddle & Reath LLP	ACLU of Nebraska Foundation
90 South Seventh Street	134 S. 13 <sup>th</sup> Street, Suite 1010
Minneapolis, MN 55402	Lincoln, NE 68508
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Des Moines, Iowa 50309  
612-766-7000  
joe.quinn@faegredrinker.com

American Civil Liberties Union  
Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
212-549-2500  
jtopaz@aclu.org  
slakin@aclu.org  
*\*pro hac vice admission pending*

ATTORNEYS FOR RELATORS

### **CERTIFICATE OF COMPLIANCE**

I, Jane Seu, state that I prepared this document using Microsoft 365 and this brief complies with the typeface requirements of Neb. Ct. R. App. P. § 2-103 and contains 10,633 words not including this certificate.

/s/ Jane Seu

IN THE SUPREME COURT OF THE STATE OF NEBRASKA

STATE OF NEBRASKA *ex rel.*,  
GREGORY SPUNG, JEREMY  
JONAK, and CIVIC NEBRASKA,

*Relators,*

v.

ROBERT EVNEN, in his official  
capacity as Nebraska Secretary  
of State, BRIAN W. KRUSE, in  
his official capacity as Douglas  
County Election Commissioner,  
and TRACY OVERSTREET, in  
her official capacity as Hall  
County Election Commissioner,

*Respondents.*

Case No. 24-563

**AFFIDAVIT OF GRANT  
FRIEDMAN**

STATE OF NEBRASKA

COUNTY OF LANCASTER

ss.

COMES NOW Grant Friedman, Officer of the Court and being first duly sworn, declares and states as follows:

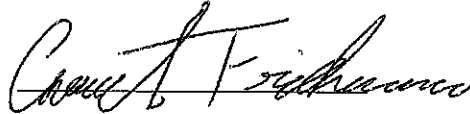
1. I am co-counsel for Relators in the above-captioned case and have personal knowledge of the facts stated herein and submit this affidavit based on my personal knowledge as described below and is submitted in support of Relator's Brief in Support of their Petition for Writ of Mandamus.

2. On August 19, 2024, I accessed the official website of the Nebraska Board of Pardons at <https://pardons.nebraska.gov/> and downloaded a true and correct copy of State of Nebraska Board of

Pardons, <https://pardons.nebraska.gov/> (last visited Aug. 19, 2024) and is submitted as Relators' Exhibit 1.

3. I certify under penalty of perjury that the statements herein are true and correct.

Signed this 19<sup>th</sup> day of August, 2024.

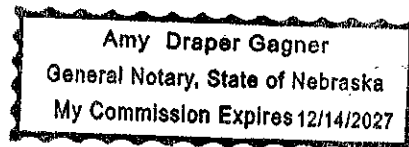


Grant Friedman, #27862  
ACLU of Nebraska, #1010  
134 S. 13<sup>th</sup> Street  
Lincoln, NE 68508  
(402) 476-8091  
gfriedman@aclunebraska.org

Subscribed and sworn to be before this 19<sup>th</sup> day of August, 2024 by  
Grant Friedman, who is known to me personally or who has produced  
satisfactory evidence of identification to me.



Notary Public



# Welcome

## IMPORTANT - PLEASE NOTE:

The pardons board process can take several months to several years from the date the application is received in the pardons board office before the board will review your application and determine if they are willing to grant you a hearing. Understand that:

- Applications are processed according to the date they are received in the Nebraska Board of Pardons Office.
- Dockets can close at any time.
- There is no guarantee that any application received will be scheduled for the most current docket available.
- As numerous applications are received daily, any application received can be postponed and scheduled for a future Pardons Board meeting.
- When applying for a pardon, list every misdemeanor and/or felony you have been found guilty of; failing to do so, may impact your pardon eligibility and/or restoration of firearms.

IN THE SUPREME COURT OF THE STATE OF NEBRASKA

STATE OF NEBRASKA *ex rel.*,  
GREGORY SPUNG, JEREMY  
JONAK, and CIVIC NEBRASKA,

*Relators,*

v.

ROBERT EVNEN, in his official  
capacity as Nebraska Secretary  
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his official capacity as Douglas  
County Election Commissioner,  
and TRACY OVERSTREET, in  
her official capacity as Hall  
County Election Commissioner,

*Respondents.*

Case No. 24-563

**AFFIDAVIT OF CIVIC  
NEBRASKA IN SUPPORT OF  
RELATORS' BRIEF**

STATE OF NEBRASKA

COUNTY OF LANCASTER

ss.

COMES NOW Kyle Cartwright on behalf of Relator Civic  
Nebraska, and being first duly sworn, declares and states as follows:

1. I am a Relator in this matter. I have personal knowledge  
of the facts stated herein.
2. I submit this affidavit in further support of Relators' Brief  
in support of the Petition for Writ of Mandamus.
3. Civic Nebraska is a registered nonpartisan nonprofit  
corporation organized under the laws of Nebraska. Civic Nebraska is  
in good standing with the Nebraska Secretary of State to operate in  
Nebraska. A true and accurate copy of Civic Nebraska's certificate of

good standing is attached as Exhibit 1.

4. Civic Nebraska strives to create a more modern and robust democracy for all Nebraskans. A true and accurate copy of Civic Nebraska's Articles of Incorporation is attached as Exhibit 2. Relator achieves this by, but not limited to, educating voters, providing guidance to Nebraskans about registering to vote, and registering voters.

5. Civic Nebraska registers voters by bringing the voter registration applications provided by the Secretary of State to community events, sends the applications in the mail, and emails the electronic link the application to eligible voters. To date, Civic Nebraska has registered approximately 209 new voters through in person events in 2024. In the last presidential election year, 2020, Civic Nebraska registered approximately 1072 new voters.

6. Civic Nebraska is required to use the voter registration applications distributed by the Secretary of State. *See Neb. Rev. Stat. § 32-320.01* (requiring organizations distributing voter registration forms by mail to use the form prescribed by the Secretary of State). Civic Nebraska houses a Voting Rights Initiatives department supervised by the Voting Rights Director to carry out its mission to inform voters and expand civic engagement, including voting rights restoration organizing and outreach.

7. Civic Nebraska hired a dedicated staff member, Voting Rights Restoration Coordinator supervised by the Voting Rights Director whose time was dedicated to voter registration of and outreach to individuals with a felony conviction as well as, coordination, and organizing of community events and educational resources for individuals with a felony conviction. A true and accurate copy of the Voting Rights Restoration Coordinator and Voting Rights Director's job descriptions are attached as Exhibit 3 and 4, respectively.

8. Civic Nebraska prepares educational materials related to upcoming elections that is distributed at events. Printing these materials cost Civic Nebraska over \$4,000. A true and accurate copy of

the printed voting cards is attached as Exhibit 5 and a true and accurate copy maintained as a part of the regular course of business is attached as Exhibit 6.

9. Civic Nebraska spent staff time and resources planning and conducting outreach to newly eligible voters to make sure they were educated on the anticipated change in the law relying on the belief that L.B. 20 would go into effect on July 19, 2024. This included printing T-shirts and pens for the voting rights restoration coalition which costs Relator nearly \$1,000 in printing expenses. True and accurate copies of the invoices maintained as a part of the regular course of business for the T-shirts and pens are attached as Exhibit 7.

10. Civic Nebraska planned to host events as soon as July 20, 2024 celebrating the new law taking effect and inviting newly eligible voters to register under the law. A true and accurate copy of the poster for the event is attached as Exhibit 8.

11. Following the Secretary of State Robert Evnen's announcement that he would not be implementing L.B. 20, Civic Nebraska was required to re-strategize and re-organize their outreach efforts incurring even greater expenses and diverting resources that would have gone to helping register new voters and inform new voters of the law. Those expenses included printing and mailing nearly 1,000 postcards informing Nebraskans with felony convictions that Secretary Evnen "directed officials to stop registering voters" which cost Relators over \$600. A true and accurate copy of the postcards sent out is attached as Exhibit 9 and the invoice maintained as a part of the regular course of business for the postcards is attached as Exhibit 10.

12. Instead, approximately 80 hours of staff time were consumed informing Nebraskans and newly disenfranchised voters about Secretary Evnen's actions and that L.B. 20 did not go into effect as anticipated. Additionally, the celebratory event that was to be held on July 20, 2024 to register newly eligible voters had to be re-programmed from celebrations to opportunities to gather the community of impacted Nebraskans and distribute information on the confusing sudden change to our ability to register newly eligible voters.



A true and accurate copy of the description and record of staff time is attached as Exhibit 11. After Secretary Evnen's directive, my staff and I were confused about how we could register voters and what to do with the planned events and printed materials.

13. We were scared that hosting events as planned and registering voters would violate the law and open us up for criminal prosecution.

14. Civic Nebraska was unable to register voters or celebrate L.B. 20 going into effect as they had planned because of Secretary Evnen's decision not to follow the law.

15. Secretary Evnen's actions have cost the organization significant time, resources, and expenses as it suddenly had to adjust.

16. I certify under penalty of perjury that the statements herein are true and correct.

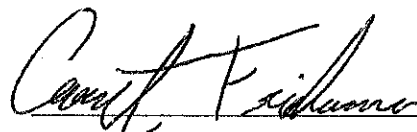
Signed this 19<sup>th</sup> day of August, 2024.



Kyle Cartwright

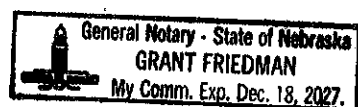
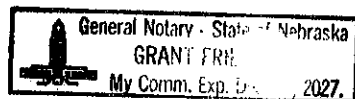
Interim Executive Director, Civic Nebraska

SUBSCRIBED and sworn to before me this 19 day of August, 2024, by Kyle Cartwright, Interim Executive Director of Civic Nebraska, who is known to me personally or who has produced satisfactory evidence of identification to me.



Notary Public

Commission Expires: 12/18/27



## STATE OF NEBRASKA

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

Secretary of State  
State Capitol  
Lincoln, Nebraska

I, Robert B. Evnen, Secretary of State of the  
State of Nebraska, do hereby certify that

**CIVIC NEBRASKA**

**incorporated on January 29, 2010 and is duly incorporated under the law of  
Nebraska;**

**that all fees, taxes, and penalties owed to Nebraska wherein payment is  
reflected in the records of the Secretary of State and to which nonpayment  
affects the good standing of the corporation have been paid;**

**that its most recent biennial report required by section 21-19,172 has been  
delivered to the Secretary of State;**

**that Articles of Dissolution have not been filed.**

*This certificate is not to be construed as an endorsement,  
recommendation, or notice of approval of the entity's financial  
condition or business activities and practices.*

In Testimony Whereof,



I have hereunto set my hand and  
affixed the Great Seal of the  
State of Nebraska on this date of

**August 16, 2024**

A handwritten signature in black ink, reading "Robert B. Evnen".

Secretary of State



**ARTICLES OF INCORPORATION**  
**OF**  
**NEBRASKANS FOR CIVIC REFORM**

**ARTICLE I**  
**NAME**

The name of this Corporation shall be Nebraskans For Civic Reform.

**ARTICLE II**  
**TYPE OF CORPORATION**

This Corporation is a public benefit corporation.

**ARTICLE III**  
**PURPOSES**

This Corporation is organized for civic, political and educational purposes. These purposes are: To make Nebraska civic institutions more inclusive and engage young Nebraskans and students in the political process. Nebraskans for Civic Reform believes by engaging and connecting young Nebraskans and improving political participation in general, it will enrich the civic culture of the state, revitalize an interest in community and increasingly retain a talented and motivated population.

**ARTICLE IV**  
**POWERS**

The Corporation shall have and exercise all powers and rights conferred upon nonprofit corporations by the Nebraska Nonprofit Corporation Act. In addition, the Corporation shall have and exercise all powers and rights not otherwise denied nonprofit corporations by the laws of the State of Nebraska which are necessary, proper, advisable or convenient for the accomplishment of the purposes set forth above in Article III.

**ARTICLE V**  
**BYLAWS TO REGULATE INTERNAL AFFAIRS**

The Bylaws of the Corporation shall regulate the internal affairs of the Corporation, except any provisions hereinafter set forth for the distribution of assets upon dissolution.

**ARTICLE VI**  
**DISTRIBUTION OF ASSETS UPON DISSOLUTION**

The Corporation is exclusively dedicate to and operated for the purposes above stated, and no part of the net income of the Corporation shall be distributed or inure to the benefit of any private

individual; provided, however, that the Corporation may pay reasonable compensation for services rendered and make payments and distributions which further the purposes set forth in Article II. Upon the time of dissolution of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all liabilities of the Corporation, dispose of all of the assets of the Corporation exclusively for the purposes of the Corporation, or to the federal government, or to a state or local government or for a public purpose, as the Board of Directors shall determine.

## **ARTICLE VII**

### **REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the Corporation's initial registered office is 3745 S. 44<sup>th</sup> Street, Lincoln, Nebraska, 68506 and the name of its registered agent at such address is David Solheim.

## **ARTICLE VIII**

### **MEMBERS**

The Corporation shall have voting members, and such membership, and classes thereof, shall be as defined in the Corporation's bylaws.

## **ARTICLE IX**

### **BOARD OF DIRECTORS**

The management and affairs of the Corporation shall be at all times under the direction of a Board of Directors, whose operations in governing the Corporation shall be defined by statute, the purposes set forth in Article II, the powers set forth in Article III and by the Corporation's Bylaws.

## **ARTICLE X**

### **NAME AND ADDRESS OF INCORPORATOR**

The incorporator of this Corporation is:

Kristen Koch, 1025 N. 63<sup>rd</sup> St., Apt. A120, Lincoln, Nebraska 68505

DATED this 29th day of January, 2010.

Kristen J. Koch, Incorporator

**Job Title:** Voting Rights Restoration Coordinator

**Reports to:** Voting Rights Director

**Status:** Temporary, Non-Exempt, Full-time

**Dates:** February 1, 2024 - December 31, 2024

The Voting Rights Restoration Coordinator strengthens the restoration initiative by organizing our network to make meaningful strides toward felon re-enfranchisement in Nebraska. The VRR Coordinator leads the team's restoration policy advocacy, including but not limited to restoring the right to vote upon completion of a felony sentence. The VRR Coordinator engages with currently and formerly incarcerated Nebraskans to reduce the number of people who are disenfranchised due to miseducation about felon voting rights and to mobilize eligible voters to exercise their right. The Coordinator delivers educational 'know your voting rights' presentations and power building exercises with communities who have systematically had their influence in our democracy diluted. This position has the opportunity to assist Nebraskans re-entering society to participate fully in our shared democracy and to continue building a movement for felon re-enfranchisement in Nebraska. This coordinator position is a temporary, full-time role with a start date in January 2024 and end date in December 2024.

**As the Voting Rights Restoration Coordinator you will get to**

- Coordinate grassroots advocacy and activation in support of voting rights restoration, including the recruitment and training of volunteers to engage with senators and the legislative process.
- Educate Nebraskans about the restoration of voting rights, including the history of felon disenfranchisement in Nebraska, voting from jail without a felony conviction, and resources available to voters.
- Lead voter engagement campaigns targeted to formerly incarcerated Nebraskans.
- Establish relationships and work closely with partners who provide re-entry services.
- Participate in voter registration and education for formerly incarcerated eligible voters.
- Represent Civic Nebraska in correctional facilities and while engaging incarcerated citizens on their voting rights.
- Collaborate with the Voting Rights Director on the curriculum for Civic Nebraska's Voting Rights programming in correctional facilities.
- Engage in educational canvassing (includes phone banking and door-to-door) focused on the restoration of voting rights.
- Plan, support and coordinate educational events discussing restoration and how to be a voting rights advocate in Nebraska.

**This position might be for you if you have the following experience and/or education:**

- Systems impacted or previously incarcerated applicants strongly encouraged to apply; qualified applicants will demonstrate passion and commitment to voting rights restoration
- Experience in community organizing or engaging with the legislative process preferred, not required

- Familiarity with online and electronic communications including VAN (Voter Activation Network), social media platforms, or digital advertising encouraged, but not required.
- Ability to engage with diverse groups of people
- Strong communication skills
- Bilingual language skills (preferred but not required)

**Compensation and Hours**

This position will earn a salary ranging from \$48,000 upward, dependent upon skills and experience. You have the option to work a hybrid 3-2 schedule, Tue-Thur at the Lincoln HQ office and remote work on Monday and Friday. Benefit options include medical, vision, and dental insurance coverage. Position includes unlimited paid time off. This is a temporary, full-time, exempt position.

**To Apply**

Send a cover letter and resume to [alyssa.hogue@civicnebraska.org](mailto:alyssa.hogue@civicnebraska.org).

Inside the cover letter, please describe why you are interested in this project and what makes you uniquely qualified for this position.



**Job Title:** Director of Voting Rights Programs

**Reports to:** Executive Director

**Status:** Exempt, Full-time

Supervises and plans programs to expand and protect voting rights in the State of Nebraska. This consists of programs and initiatives such as non-partisan Get Out the Vote (GOTV), non-partisan election observation and protection, voting rights investigation and litigation, policy advocacy, and specialized education programs such as our voting rights restoration initiative. Directs grant development in the area. Is required to represent Civic Nebraska to all outside community partners with excellent communication and professionalism. This position supervises a team of Voting Rights coordinators and organizers including but not limited to grassroots field organizers, data specialists, and temporary GOTV part-time canvassers.

**As our director of voting rights, you get to**

- Plan, develop, and establish programs, policies, and objectives of voting rights programs in accordance with the organization's mission, values, objectives, and strategic plan
- Coordinate and directly supervise the voting rights team members
- Identify opportunities for civic engagement, training, and collaboration with community leaders, organizations, and individuals statewide
- Identify opportunities for partnership and build/maintain relationships with national organizations.
- Coordinates with direction from the executive director and legal team on Civic Nebraska's voting rights legal work and litigation
- Work in partnership with the Director of Development to direct grant development in the area; creates, supervise, and direct the voting rights programs budget

**This role might be for you if you have the following qualifications**

- Bachelor's degree or 3 years of experience in nonprofit advocacy
- Experience with contact management systems, voter file systems, and digital advocacy tools
- Experience developing strategies to achieve positive change in diverse communities
- A focus on leadership development and the ability to manage from strategic to tactical levels
- A commitment to learning and being innovative in developing solutions
- Strong interpersonal skills and an ability to work with a range of personalities and skill levels to produce high-quality results
- Excellent communication skills with a focus on active listening

**Salary & Benefits**

This position will earn a salary ranging from \$60,000 upward, dependent upon skills and experience. Benefit options include medical, vision, and dental insurance and 401k. In addition,

**Job Title:** Director of Voting Rights Programs

**Reports to:** Executive Director

**Status:** Exempt, Full-time

Civic Nebraska offers unlimited paid time off, a flexible work schedule with an option for two remote working days per week, and several paid holidays. This is a full-time, exempt position.

**To apply**

Send a cover letter, resume, and three references to Nicholette Seigfreid, Director of People & Culture at [nicholette.seigfreid@civicnebraska.org](mailto:nicholette.seigfreid@civicnebraska.org) by 5 pm on Monday, August 1.



## 2024 Elections

**VOTE!***Bring your photo ID!***KEY DATES**

<b>OCT 19</b>	deadline for online voter registration
<b>OCT 25</b>	deadline for vote-by-mail requests and in-person registration
<b>NOV 5</b>	<b>General Election Day</b>

**ELECTION DAY**

- Polls open 8 am to 8 pm CT // 7 am to 7 pm MT.
- Deliver absentee ballots to your county's official ballot dropbox before 8 pm CT // 7 pm MT. Absentee ballots CANNOT be returned to polling places.
- If you have any questions, contact your county's election office or our Help Line at 402-890-5291.

**KEY RESOURCES****Election Central**[www.civicnebraska.org/2024-election](http://www.civicnebraska.org/2024-election)**Voter Information Check**[bit.ly/readytovotene](http://bit.ly/readytovotene)**Get My Vote Back** (after a felony conviction)[www.getmyvoteback.org](http://www.getmyvoteback.org)**Election Protection Help Line**

402-890-5291

**WHAT'S ON THE BALLOT?****Look up your Ballot at [www.Vote411.org](http://www.Vote411.org)**

The ballot will include races, from the president to state and local officials, and also several ballot initiative issues.

Your ballot will be specific to the districts in which you reside. Consider learning more about the ballot issues and local races because you may gain more inspiration and motivation to get out and vote!

[CivicNebraska.org](http://CivicNebraska.org)

2024 Elecciones

# ¡VOTA!

*¡Lleva tu identificación con foto!*

## Fechas importantes:

**19 de octubre:** fecha límite para la inscripción de votantes en línea.

**25 de octubre:** fecha límite para solicitar la votación por correo (VBM) y para la inscripción en persona.

**5 de noviembre:** Día de la Elección General.

## Día de las Elecciones:

- Entrega las boletas de voto ausente en la casilla oficial de entrega de boletas de tu condado antes de las 8:00 p.m. CT // 7:00 p.m. MT. Las boletas de voto ausente NO pueden ser devueltas en los lugares de votación.
- Si tienes alguna pregunta, contacta a la oficina electoral de tu condado o a nuestra línea de ayuda al 402-890-5291.

## Recursos claves:

**Verificación de información del votante:** [bit.ly/readytovotene](https://bit.ly/readytovotene)

**Recuperar mi voto (después de una condena por delito grave):** [www.getmyvoteback.org](https://www.getmyvoteback.org)

**Central de Elecciones:** [www.civicnebraska.org/2024-election](https://www.civicnebraska.org/2024-election)

**Línea de ayuda para la protección electoral:** 402-890-5291

## ¿Qué hay en la boleta?

**Consulta tu boleta en:** [www.Vote411.org](https://www.Vote411.org)

La boleta incluirá elecciones, desde el presidente hasta los funcionarios estatales y locales, además de varias cuestiones de iniciativa en la boleta. Tu boleta será específica para los distritos en los que resides. Considera informarte más sobre las cuestiones en la boleta y las elecciones locales, ya que esto podría inspirarte y motivarte a salir a votar.



[CivicNebraska.org](https://CivicNebraska.org)

BID



1408-03CTD-1

**Lincoln NE O St**

6105 O St

Lincoln, NE 68510

Telephone: 402.464.2679

Fax: 531.220.7126

**Prepared for:** Heather Engdahl

CIVIC NEBRASKA

0717504810

Telephone: 402.676.9406

**Bid Name:** Vote Cards**Description:** FS Color Copies**Bid Reference:** 1408-03CTD-1**Date:** 08/14/2024**Estimator:** Jamison Jones**Store Number:** 1408

Quantity	Description	Unit Price	Disc. Price	Line Total	Discount	Sub-Total
2500	CLR 2S Cardstock	\$2.8400	\$1.6200	\$7100.00	\$3050.00	\$4050.00
10	Single Cut	\$1.7500	\$1.5749	\$17.50	\$1.75	\$15.75
1	Cutting Setup	\$1.49	\$1.3400	\$1.49	\$0.15	\$1.34

**\* Summary Total:** \$4067.09

Bring this letter to any of our FedEx Office locations to begin processing your order. If we can be of any future assistance please do not hesitate to contact us.

\* Tax based on local jurisdiction at time of tender.

**Accepted by:** \_\_\_\_\_



Thank you for your business!



**RAYGUN**  
920 Morgan St  
Ste M  
Des Moines, Iowa 50309  
5152881323  
<https://raygunsite.com>  
[ryan@raygunsite.com](mailto:ryan@raygunsite.com)

<b>Delivery Method</b>	Shipped Direct to Customer
<b>Created</b>	May 31, 2024
<b>Customer Due Date</b>	May 31, 2024
<b>Terms</b>	Net 30
<b>Total</b>	\$586.00
<b>Outstanding</b>	\$586.00

**Customer Billing**  
Civic Nebraska  
Noah Rhoades  
530 South 13th Street  
Suite 100  
Lincoln, Nebraska 68508  
(402) 320-8408  
[noah.rhoades@civicnebraska.org](mailto:noah.rhoades@civicnebraska.org)

**Customer Shipping**  
Civic Nebraska  
Noah Rhoades  
530 South 13th Street  
Suite 100  
Lincoln, Nebraska 68508

**Customer Notes**

- Each additional print/ink color adds \$1/shirt
- Extended sizes incur an additional charge (2X: +\$1/shirt, 3X: +\$2/shirt)

Category	Item #	Color	Description	XS	S	M	L	XL	2XL	3XL	Qty	Items	Price	Total
Screen Printing	003	Various	Raygun - General RAYGUN Shirt 100+ TWO-PRINT		8	8	12	14	5	3		50	\$11.00	\$550.00

Fee	Description	Qty	Amount	Total
Set Up Fee	If print ready artwork is supplied	1	\$25.00	\$25.00
Extended Size Charge - 2X	Each extended size 2X shirt incurs an additional \$1/shirt.	5	\$1.00	\$5.00
Extended Size Charge - 3X	Each extended size 3X shirt incurs an additional \$2/shirt.	3	\$2.00	\$6.00

<b>Total Quantity</b>	50
<b>Item Total</b>	\$550.00
<b>Fees Total</b>	\$36.00
<b>Sub Total</b>	\$586.00
<b>Tax</b>	\$0.00
<b>Total Due</b>	\$586.00
<b>Paid</b>	\$0.00
<b>Outstanding</b>	\$586.00



**We help brands take shape.**

# INVOICE

Number 213031-1  
Date 06/26/2024  
Client ID 852566  
Rep Chris Esterbrooks

**INVOICE TO**

Civic Nebraska  
Steve Smith  
530 S. 13th St.  
Suite 100  
Lincoln NE 68508

**SHIP TO**

Civic Nebraska  
Steve Smith  
530 S. 13th St.  
Suite 100  
Lincoln NE 68508

Ship Via	FOB	Customer Order No.	Terms		Tax Number
Our Discretion	Factory		Net 30 days		
Qty Shipped	Description			Unit Price	Extension
500	Stylus Pen				
	Color : Forest Green			\$0.59	\$295.00
	Decorating Method : Silkscreen				
1	Setup Charge :			\$15.00	\$15.00
	Design Name : Fist				
	PMS : White				
<b>Terms &amp; Conditions</b>  2% service charge per month (24% per annum) on overdue accounts. All claims for shortages or damaged goods must be made in writing within seven days of receipt of goods or invoice. All funds to be paid in US currency to all invoices. Thank you for your business!				<b>Artwork</b>	\$12.00
				<b>S &amp; H</b>	\$35.86
				<b>Sub-Total</b>	\$357.86
				<b>Tax</b>	\$25.94
				<b>TOTAL</b>	\$383.80
				<b>Deposit</b>	\$0.00
				<b>Balance Due</b>	\$383.80

**Contact :**

Chris Esterbrooks  
9411 F Street

Omaha, NE, United States 68127

Tel : (402) 661-7900 Fax : (402) 661-7909

Website : store.bergmanbrand.com

Email : ChrisE@bergmanbrand.com

**PLEASE REMIT PAYMENT TO MAIN OFFICE**

**Main Office :**

Bergman  
9411 F Street

Omaha, NE, United States 68127

Tel : (402) 661-7900 Fax : (402) 661-7909

Toll Free : (800) 888-9542

Website : store.bergmanbrand.com

EXHIBIT

8

VOTING RIGHTS  
RESTORATION  
COALITION

# GET MY VOTE BACK KICKOFF PARTY

Saturday July 20

DJ and grill out

12-2 PM

Culxr House

## Dear Friends,

We need your help to ensure every Nebraskan's voice is heard. Recent actions by Secretary of State Bob Evnen have put the voting rights of Nebraskans with past felony convictions at risk. Despite the passage of LB20, which eliminates the two-year waiting period for voting rights restoration, Evnen has directed officials to stop registering these voters.

Additionally, the governor has expressed the need for an additional special session to pass a winner-take-all bill, which would dilute Nebraskans' voices in presidential elections.

### HOW YOU CAN HELP:

- **Donate** to support our efforts in fighting these injustices.
- **Stay Informed** by signing up for our email updates.
- **Get Involved** by contacting us if you believe your voting rights are affected.

**Together, we can protect the rights and voices of all Nebraskans.**

*Thank you for your support,*  
Your friends and neighbors at Civic Nebraska



530 S. 13TH ST, SUITE 100  
LINCOLN, NE 68508



FIRST LASTNAME

ADDRESS

CITY, ST ZIP



# GOLDENROD PRINTING

2801 CORNHUSKER HWY  
LINCOLN, NEBRASKA 68504  
402-464-2128

EXHIBIT

10



Invoice 2407098

Date: 08/14/24

Amount Due: \$620.55

Kyle Cartwright  
Civic Nebraska  
530 South 13th, Suite 100  
Lincoln NE 68508

SHIP TO:

Civic Nebraska  
530 South 13th, Suite 100  
Lincoln NE 68508

Customer Pickup 8/5/2024

Acct.No	Ordered By	Phone	Fax	P.O. No	Prepared By	Sales Rep			
666	Kyle Cartwright				Kaylee				
Quantity	Description					Price			
	<i>Thank you for choosing Goldenrod Printing!</i>								
	<i>*All credit card transactions will have a 3.5% fee applied*</i>								
983	<b>Voting Rights Postcards 8.5 x 5.5</b> Cover: 100# Gloss Cover 5.5 x 8.5 Front: Color Back: Color					264.34			
983	<b>Mailing</b> Mailing Services: General Mailing Services Mailing Services: Presort Mailing Services: Print Addresses					122.07			
Terms		Subtotal			Postage	Tax	Total	Paid	BALANCE
Net 30 Days		386.41			206.12	28.02	620.55	0.00	620.55

Please pay from this invoice.



Title	Personnel	Total Time	Hourly Rate	Total Cost	Date	Hours	Who Met With	Work Produced
Director of Voting Rights	H.Engdahl	14.5	34.59	\$501.56				
					7/17/2024	0.5	N.Rhoades, H.Engdahl	reading about the statements from state leaders
					7/18/2024	1	Voting Rights Restoration Coaliti	11AM Advised on next steps, including how to reframe a kickoff event for affected Nebraskans planned in Omaha on 7/20 because of the complications that resulted from Evmen's order
					7/18/2024	2	H.Engdahl	work time - email/comms with Civic Nebraska Staff members (full and part time), coalition partners, LB20 helpline inquiry tracker, update strategy given Evmen announcement to not honor LB20
					7/18/2024	1	N. Rhoades, H.Engdahl	4pm scheduled meeting to Debrief, check in, level setting, update strategy given Evmen announcement to not honor LB20
					7/19/2024	1	Voting Rights Restoration Coaliti	10am talk about how events and strategy need to change based announcement given Evmen change not honor LB20/change voting eligibility
					7/19/2024	2	H.Engdahl	work time - re-strategize engagement plans, finalizing our written agenda for 7/20 event, reviewing legal updates and talking points for opening remarks given Evmen announcement to not honor LB20
					7/19/2024	1	H.Engdahl, M.Forsythe, N.Rhoades	5pm restructuring community event originally planned for 7/20 to be announcement given Evmen change not honor LB20/change voting eligibility
					7/22/2024	1	H.Engdahl	work time - re-strategize engagement plans for 7/27 event, given Evmens change to not honor LB20
					7/24/24	1	H.Engdahl	Preparing mass text communications (e.g. on the Switchboard texting platform) and preparing constituent lists; pulling lists for donor appeals and constituent updates given Evmen's change to not honor LB20/change voting eligibility
					7/26/24	1	H.Engdahl	Preparing mass text communications (e.g. on the Switchboard texting platform) and preparing constituent lists; pulling lists for donor appeals and constituent updates given Evmen's change to not honor LB20/change voting eligibility
					7/29/24	3	H.Engdahl	work time - prep communications guidance for the internal voting rights team, making them aware of lawsuit and plaintiff status
Voting Rights Restoration Coordinator	N.Rhoades	16	24.23	\$387.68				
					7/17/2024	2.5	N.Rhoades, H.Engdahl	reading about the statements from state leaders, communication with outreach committee partners to set agenda for outreach meeting the following day
					7/18/2024	1	Voting Rights Restoration Coaliti	11AM Advised on next steps, including how to reframe a kickoff event for affected Nebraskans planned in Omaha on 7/20 because of the complications that resulted from Evmen's order
					7/18/2024	1	H. Engdahl	4pm scheduled meeting to Debrief, check in, level setting, update strategy given Evmen announcement to not honor LB20
					7/18/2024	2	N.Rhoades, B.Sallis, G.Pedroza	5pm discussion about new directions and strategies for VRR outreach
					7/18/24	1	N. Rhoades, H. Uhing	planning, strategy discussion for potential outcomes for LB20
					7/18/2024	4	N.Rhoades	work time - Revisions to outreach plans, announcements to share out (halt registration if voter has a felony) and called 3 individual voters recently engaged
					7/19/2024	1	Voting Rights Restoration Coaliti	10am talk about how events and strategy need to change based announcement given Evmen change not honor LB20/change voting eligibility
					7/19/24	1.5	S.Smith, N. Rhoades	Discussed communications strategy for LB20's affected populations
					7/19/2024	1	H.Engdahl, M.Forsythe, N.Rhoades	5pm restructuring community event originally planned for 7/20 to be announcement given Evmen change not honor LB20/change voting eligibility
					7/19/2024	1	N.Rhoades, W.King	check in with community leader with updated information, halted activism for the moment, provided perspective as former parole officers
Voting Rights Community Organizer	M.Forsythe	1	25.49	\$25.49				
					7/19/2024	1	H.Engdahl, M.Forsythe, N.Rhoades	5pm restructuring community event originally planned for 7/20 to be announcement given Evmen change not honor LB20/change voting eligibility
Director of Development	K.Cartwright	9.5	45.43	\$431.59				
					7/17/24	1	S. Smith, K. Cartwright, S. Walke	work time reading about the statements from state leaders, curating next steps for comms and policy team, reading/researching AG opinion and then reviewed AG opinion and SOS statement, prepared media statement and planning comms response
					7/18/24	1	S.Smith, K. Cartwright	Discussed specifics on email to supporters about Evmen's decision and our next steps, to be circulated on 7/19/24
					7/18/24	1	K. Cartwright, Major Civic Nebraska	provide updates to them from an organizational programmatic perspective that Civic Nebraska is taking action and they will know more soon
					7/19/24	1	K. Cartwright	donor communications on how this affects WTA and LB20
					7/23/24	3.5	K.Cartwright	donor appeals: copywriting, contact list creation, and execution (via email, SMS, social media)
					7/26/24	2	K.Cartwright	donor appeals: copywriting and list segmentation (via direct mail)
Director of Operations	S.Walker	1.5	45.94	\$68.91				
					7/17	1	S. Smith, K. Cartwright, S. Walke	work time reading about the statements from state leaders, curating next steps for comms and policy team, reading/researching AG opinion and then reviewed AG opinion and SOS statement, prepared media statement and planning comms response
Director of Public Policy	H.Uhing	10	39.19	\$391.90				
					7/18	0.5	S.Walker	adjusting grant requests, donor communications prep
					7/17/24	1	S. Smith, A. Morfeld, K. Cartwright	work time - reading about the statements from state leaders, internal strategy meetings, planning next steps, getting up to speed with AG opinion, reading/researching, reviewed AG opinion and SOS statement, prepared media statement, comms
					7/17/24	0.75	debrief nonprofits partners i.e. Cc	inform them that outreach efforts must cease to those with felony convictions
					7/17/25	1	O.Larson, B.Sallis, Heidi.Uhing.	4:15-5:15pm Emergency LB20 Response Meeting, LB53 consequences, and debrief
					7/17/24	1	H.Uhing contacted advisors to	meetings scheduled for 7/18/24 a.m.
					7/18/24	0.25	H.Uhing contacted Canvassing	email to inform them that outreach efforts must cease to those with felony convictions
					7/18/24	2	Voting Rights Restoration Coaliti	11AM Advised on next steps, including how to reframe a kickoff event for affected Nebraskans planned in Omaha on 7/20 because of the complications that resulted from Evmen's order
					7/18/24	1	N. Rhoades, H. Uhing	planning, strategy discussion for potential outcomes for LB20
					7/19/24	1	H.Uhing and Voting Rights Rest	10AM Voting Rights Restoration Coalition Steering Committee
					7/19/24	0.5	H.Uhing	editing donor communications on how this affects WTA and LB20, sent out at 3pm
					7/24/24	0.5	H.Uhing, S.Smith	updating eachother on comms and the press conference, preparing comms for news conference and associated communications, logistics, participants, content
					7/25/24	1	voting rights coalition zoom + pm	provide update to nonprofit coalition organizations, answer questions
Former Executive Director and Founder	A.Morfeld	6.25	61.78	\$386.13				
					7/17/24	1	A.Morfeld	reviewed AG opinion, SOS statement
					7/18/24	1	Voting Rights Restoration Coaliti	11AM Advised on next steps, including how to reframe a kickoff event for affected Nebraskans planned in Omaha on 7/20 because of the complications that resulted from Evmen's order
					7/18/24	2	A.Morfeld, Major Civic Nebraska	provide updates to them from an organizational programmatic perspective that Civic Nebraska is taking action and they will know more soon
					7/18/24	0.5	A.Morfeld contacted Canvassing	revise voter registration outreach plan, must cease to those with felony convictions
					7/18/24	0.5	board communication	draft email to board informing of the ramifications of Evmen's decision on LB20 and LB53
					7/19/24	0.25	H.Uhing, A.Morfeld	update call on LB20 legal strategy and coalition updates
					7/22/24	1	S. Smith	Discussed four (4) social media graphics and posts internally for review; discussed location of potential news conference
Director of Communications	S. Smith	21.50	38.23	\$821.95				
					7/17/24	1	H. Uhing, K. Cartwright, S. Walke	work- Reviewed opinion/statement, discussed media statement and day-of comms
					7/17/24	1	O.Larson, B.Sallis, Heidi.Uhing.	4:15-5:15pm Emergency LB20 Response Meeting, LB53 consequences, and debrief
					7/17/24	2	S.Smith	Wrote <a href="#">statement</a> about Evmen's decision & shared with coalition; built web graphics conveying response to Evmen's decision; distributed news release reading to Evmen's decision; posted messages and graphics to all CN social platforms
					7/18/24	1	Voting Rights Restoration Coaliti	11AM Advised on next steps, including how to reframe a kickoff event for affected Nebraskans planned in Omaha on 7/20 because of the complications that resulted from Evmen's order
					7/18/24	1	S.Smith, T. Cano	Met to pause/remove digital ad campaign set to start 7/19/24 that targeted affected Nebraskans to help them understand how to register to vote
					7/18/24	4	S. Smith	Captured, curated, shared initial media mentions and social echo about Evmen's directive internally
					7/18/24	1	S.Smith, K. Cartwright	Discussed specifics on email to supporters about Evmen's decision and our next steps, to be circulated on 7/19/24
					7/18/24	2	S. Smith	Edited, then removed "Get My Vote Back" page, targeting affected Nebraskans, from Civic Nebraska website
					7/19/24	3	S. Smith	Wrote, built, sent <a href="#">email blast</a> to main list about developments; monitored and answered queries & comments
					7/19/24	1.5	S.Smith, N. Rhoades	Discussed communications strategy for LB20's affected populations
					7/19/24	4	S.Smith	Discussed, designed, and shared four (4) social media <a href="#">graphics</a> about Evmen's directive, as well as shared posts internally for review; discussed location of potential news conference for pending legal action
TOTAL		80.25	\$314.88	\$3,015.19				

# Certificate of Service

I hereby certify that on Monday, August 19, 2024 I provided a true and correct copy of this *Brief of All Petitioners* to the following:

American Probation & Parole Association represented by John David Cartier (26307) service method: Electronic Service to **johncartierlaw@gmail.com**

NE Criminal Defense Attorneys Assoc represented by Christopher Lee Eickholt (21472) service method: Electronic Service to **spike@eickholtlaw.com**

Nebraska Appeseed Center For Law represented by Nicholas Kyle Grandgenett (27323) service method: **Email**

Nebraska Appeseed Center For Law represented by Robert Edward McEwen (24817) service method: Electronic Service to **rmcewen@neappleseed.org**

Brian W Kruse represented by Timothy Michael Coffey (27120) service method: Electronic Service to **tim.coffey@douglascounty-ne.gov**

Brian W Kruse represented by William E Rooney III (24281) service method: Electronic Service to **wrooney@pheblaw.com**

Robert Evnen represented by Eric James Hamilton (25886) service method: Electronic Service to **eric.hamilton@nebraska.gov**

Robert Evnen represented by Hallie Ann Hamilton (27327) service method: Electronic Service to **hhamilton@akclaw.com**

Robert Evnen represented by Lincoln Jacob Korell (26951) service method: Electronic Service to **lincoln.korell@nebraska.gov**

Robert Evnen represented by Zachary Brent Pohlman (27376) service method: Electronic Service to **zachary.pohlman@nebraska.gov**

Tracy Overstreet represented by Martin R Klein (22917) service method: Electronic Service to **courtnotices@hallcountyne.gov**

Signature: /s/ SEU, JANE (27452)