

# TOWNSHIP GOVERNMENT

## When and how did townships begin?

The first references to townships appear in the 1875 version of the Nebraska constitution.<sup>1</sup> Most of the subsequently enacted statutes show either an 1885 or 1895 adoption date. The legislative history is limited, but it appears that the township form of government was created not long after Nebraska achieved statehood in 1867. In 1998, a proposed constitutional amendment to eliminate references to the township form of government within the constitution was defeated by voters.<sup>2</sup>

## How many townships are there in Nebraska?

Currently 24 counties operate under the township form of government. Most recently, Antelope County changed from a township form to a commissioner form of government effective in January 2017. Hall County voters approved a change to a commissioner form, effective in 2020. There were 419 townships in the state in 2016.<sup>3</sup>

These counties operate under the township form as of December 31, 2016. The number of active townships within the county is listed in parentheses: Adams (16), Boyd (9), Burt (7), Butler (17), Clay (16), Cuming (16), Custer (31), Dixon (13), Dodge (14), Fillmore (28), Franklin (11), Gage (24), Hall (0), Harlan (16), Holt (37), Kearney (1), Knox (30), Merrick (11), Nance (12), Platte (18), Saunders (24), Thurston (11), Valley (3) and Washington (11).<sup>4</sup>

The number of counties with the township form of government appears to have remained relatively consistent since the turn of the century. One source notes that there were 30 counties under the township form in 1898.<sup>5</sup>

## Have any counties voted recently on elimination of the township form of government in the county?

Voters in Phelps County approved the transition to a commissioner form of government at the 2008 general election. Buffalo County voters approved the transition to a commissioner form, effective January 2015. Voters in the 2014 general election in Antelope County approved the transition to a commissioner form, effective January 2017. Hall County will become a commissioner county in 2020. The issue has recently appeared on the ballot in Fillmore and Harlan counties and been defeated. Prior to the 2008 election, the most recent change from a township form to a commissioner form of government occurred in Sherman County in 1987.

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<sup>1</sup> Nebraska Constitution, Article IX, section 4 and 5

<sup>2</sup> LR45CA (1998)

<sup>3</sup> Nebraska Department of Revenue, Property Assessment Division 2016 Annual Report

<sup>4</sup> Nebraska Department of Revenue Property Assessment Division Reference List of All Individual Taxing Subdivisions and Tax Rates for Tax Year 2016

<sup>5</sup> Gordon, Harold F., *Nebraska Township Government: A Handbook for Officials*, Department of Public Administration, University of Nebraska at Omaha, April 1975

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### **How many people live in townships?**

In some respects, all Nebraska residents live in townships due to the terminology used in legal descriptions related to real property. These are sometimes called civil townships because they are based upon the boundaries established by surveys.

Attachment A lists the population of each county that operates under the township form.<sup>6</sup>

### **What functions do townships perform?**

“The purpose of a township is “to carry into effect with ease and facility certain powers and functions. . . which may be more readily and conveniently carried on by subdivision of the territory of the state into smaller areas.”<sup>7</sup> Although state statutes provide for townships to have cemeteries and libraries, construct wells, protect against prairie fires, and perform other governmental functions,<sup>8</sup> most townships limit their activities to roads. Employees operate road graders, spread gravel, remove snow and perform other road functions. Some townships contract with the county to perform road functions so they have no employees and are considered inactive.

### **How are township representative elected?**

Township officials are elected on a nonpartisan basis for a four-year term pursuant to the terms of the Election Act.<sup>9</sup> The three candidates receiving the highest number of votes in the general election serve as the township clerk, township treasurer and chairperson of the township board. The three officers determine by majority vote who will serve in each of these offices.<sup>10</sup>

### **Are township officials paid?**

The members of the town board are entitled to a per diem payment at a rate fixed by the town board at its annual meeting.<sup>11</sup>

### **Are township employees considered county employees?**

No. Townships hire their own employees and are subject to wage and hour laws, as well as other state and federal requirements. For example, certain township road employees may need to hold a commercial driver’s license or comply with other training requirements. Because they are not county employees, township employees do not receive county benefits and do not contribute to the county retirement system.

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<sup>6</sup> U.S. Census Bureau, 2010 census

<sup>7</sup> *Wilson v. Ulysses Township*, 72 Neb. 807, 101 N.W. 986 (1904)

<sup>8</sup> Neb.Rev.Stat. §23-224

<sup>9</sup> Neb.Rev.Stat. §32-101 et seq.

<sup>10</sup> Neb.Rev.Stat. §32-530

<sup>11</sup> Neb.Rev.Stat. §23-260

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### **To whom are townships accountable?**

Like other forms of government, township representatives are responsible to their electorate and may be subject to recall. However, there have been many instances over the years in which no names appear on the ballot and county clerks must try to recruit residents to fill the vacancies.

From a levy perspective, county boards allocate levy authority or directly distribute funds to townships, so an adjustment could be made during the following budget cycle if funds are deemed to be used improperly. However, county boards rarely, if ever, attempt to regulate townships through this mechanism.

### **How do townships generate property taxes?**

When levy limits were adopted in 1996, townships lost their independent levy authority and instead became subject to levy allocation by the county board. In general, the county determines whether funding will be provided to the township through levy authority, a dollar amount appropriation, or not at all. In any case, the property tax dollars are collected by the county and distributed to townships.

By law, townships are limited to a levy of 28 cents per one hundred dollars of valuation, if approved by the county board. However, because counties may only allocate up to 15 cents of levy authority to miscellaneous districts, which include townships, no township receives the equivalent of 28 cents. Counties are not obligated to allocate any levy authority to townships. As outlined below, townships may hold an election or townhall meeting to exceed the levy authority granted by the county.<sup>12</sup>

### **What is the procedure to override a township's levy allocation?**

Townships may override their levy allocation from the county by holding a townhall meeting or an election. At a townhall meeting, at least 10 percent of the registered voters residing in the township constitutes a quorum for purposes of taking action. If a majority of those registered voters present at the meeting vote in favor of exceeding levy limits, the levy is considered overridden for one year. If a township holds an election to override the levy allocation, the override is valid for up to five years.<sup>13</sup> If a township levy is overridden, only the residents of that township are subject to the increased levy.

### **How much do townships spend annually?**

Townships levied \$17,037,332 in property taxes in 2016. In comparison, in 1997, townships levied \$9,126,158. Total property taxes levied statewide by counties, cities, townships, miscellaneous districts, natural resource districts, fire districts, educational service units, school districts and community colleges totaled \$3,904,884,977 in 2016.<sup>14</sup> In comparison, the 1974-75 budgets of 492 townships on file in the Auditor's office totaled approximately \$5 million. Nine townships had budgets of less than \$1,000 and 54 budgeted more than \$20,000 apiece.<sup>15</sup>

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<sup>12</sup> Neb.Rev.Stat. §77-3443

<sup>13</sup> Neb.Rev.Stat. §77-3444

<sup>14</sup> Nebraska Department of Revenue, Property Assessment Division 2016 Annual Report

<sup>15</sup> Gordon, *supra*

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The total valuation of townships in 2016 was \$53,305,599,791. In 1997, total valuation was \$11,961,137,341.<sup>16</sup>

### **How can townships spend their tax dollars?**

The general authority of townships to perform governmental functions is found in §23-224, which is labeled Attachment B.

### **Are township records audited?**

The township clerk, treasurer and chairperson must audit all charges and claims and compensation of officers. At its expense, a county board may require an audit of township accounts whenever it judges that an audit is necessary.<sup>17</sup> The State Auditor may waive the audit requirements for townships and certain other political subdivisions.<sup>18</sup>

### **Are townships subject to open meetings and public records laws?**

Yes, Nebraska's Open Meetings Act applies to governing bodies of all political subdivisions of the State of Nebraska, including townships.<sup>19</sup>

### **What are the reasons to operate under a township form of government?**

Advocates of the township form of government cite local control as the main benefit of townships. The "use of town meetings to realize direct local self-government makes township organization "one of the rare examples in Nebraska of direct democracy.""<sup>20</sup>

For example, in counties where townships are active, a property tax savings may be realized because regular road maintenance is handled by an employee who lives in the township and can address local needs before major problems develop.

On the other hand, in counties without an active form of township government, there may be efficiencies of scale that can be achieved by the county performing all road functions.

### **Does the state provide direct or indirect financial support to townships?**

The State of Nebraska does not provide financial aid directly to townships. Arguably, indirect support to townships would be comparable to that provided to other political subdivisions, e.g. general legal guidance from the Attorney General, ability to purchase from the state bid prepared by the Department of Administrative Services, assistance with road standards from the Department of Roads, and the like.

The State of Nebraska no longer provides direct state aid to counties. However, to the extent that state aid to counties might be available in the future and used to reduce the amount of property taxes levied for

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<sup>16</sup> Nebraska Department of Revenue, Property Assessment Division 2016 Annual Report

<sup>17</sup> Neb.Rev.Stat. §23-252

<sup>18</sup> Neb.Rev.Stat. §84-304

<sup>19</sup> Neb.Rev.Stat. §84-1408 et seq.

<sup>20</sup> *Butler County Dairy v. Butler County*, 285 Neb. 408, 827 N.W.2d 267 (2013) citing *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb.App. 656, 735 N.W.2d 399 (2007)

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county operations, more levy authority might be available, should the county choose to allocate it, to townships. Because any additional allocation to townships would be subject to the county levy and budget limits, additional state aid to counties might or might not result in additional financial support to townships. In addition to a levy allocation, some counties provide gravel or other assistance to townships.

**How can a county change from a township form of government to a commissioner form of government?**

The form of government is decided by a vote of the residents of the county. The issue can be placed on the ballot by a petition signed by registered voters equal in number to 5 percent of the voters registered in the county at the preceding statewide general election. The issue can also be placed on the ballot by a majority vote of the county board in support of a resolution to place the issue on the ballot.<sup>21</sup> See Attachment C for discontinuance statutes.

**If a county changes from a township form to a commissioner form of government, what is the number of commissioners?**

The petition or resolution to discontinue the township form must specify whether the proposed county board of commissioners will have five or seven members.<sup>22</sup> The question on the ballot must state: “For discontinuance of township organization and creation of a five-member [seven-member] county board of commissioners; or Against changing to a commissioner form of government.”<sup>23</sup> See Attachment D for the number of commissioners and supervisors in each county.

**When does the transition from a township form to a commissioner form occur?**

The petition or resolution for discontinuance must specify that reorganization of the county board will be effective at the expiration of the supervisors’ term of office in January of the third calendar year following the election to discontinue township organization.<sup>24</sup>

If a seven-member board is adopted, the supervisors whose terms have not expired on the effective date of the reorganization will continue in office for the remainder of their unexpired term.

If three supervisors are elected for a four-year term at the election to create a five-member board of commissioners, these three supervisors will serve two terms as supervisors and two terms as commissioners in the newly established districts. Two commissioners will be elected for four-year terms from the newly-established districts at the next general election.

If four supervisors are elected for a four-year term at the election to create a five-member board of commissioners, the three receiving the most votes will serve two years as a supervisor and two years as a commissioner representing the newly-established district. The fourth supervisor will serve a two-year term as a supervisor. Two commissioners will be elected for four-year terms from the newly-established districts at the next general election.<sup>25</sup>

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<sup>21</sup> Neb.Rev.Stat. §23-293

<sup>22</sup> Neb.Rev.Stat. §23-293

<sup>23</sup> Neb.Rev.Stat. §23-294

<sup>24</sup> Neb.Rev.Stat. §23-23-293 and §23-295

<sup>25</sup> Neb.Rev.Stat. §23-297



**If a commissioner form is adopted, are district boundaries redrawn?**

If the voters support the creation of a seven-member board of commissioners, the commissioner districts are the same as the supervisor districts unless they are changed at a later date. The supervisors whose terms have not expired on the effective date of the reorganization continue in office for the remainder of their unexpired term.

If the voters support the creation of a five-member board of commissioners, the county clerk, county treasurer and county attorney must meet on the first Saturday after the first Tuesday of January after the election and redistrict the county into five districts with substantially equal population. This redistricting must be completed within 30 days after the initial meeting. If necessary, it must specify the new districts where existing members will serve the balance of their unexpired terms. Except for purposes of being nominated and elected for office from the district, the newly established districts do not become effective until the terms of office expire in January three calendar years after the vote to discontinue the township form.<sup>26</sup>

**What happens to the assets of the township?**

When the township form is discontinued, as soon as the county board of commissioners is qualified, the town clerk of each town must deposit the town records, papers and documents with the county clerk. The town clerk must also certify the amount of outstanding indebtedness of the town. The county board can settle all unfinished business and dispose of any and all property. After paying all indebtedness, any proceeds shall be credited to the benefit of the taxable inhabitants by crediting the amount to the district road fund. The county board shall levy a tax against the taxable property of the town to pay any unliquidated indebtedness that may be outstanding.<sup>27</sup>

Because there is no specific process addressing the disposition of a township library, it is subject to the county board’s general authority to settle all unfinished business unless the township library was merged with a county library<sup>28</sup> or part of an intra- or inter-county public library federation.<sup>29</sup>

When the township form of government is discontinued, the county assumes responsibility for abandoned or neglected cemeteries located within the township.<sup>30</sup> Because there is no statutory process for the disposition of township cemeteries that are not abandoned or neglected, they would be subject to the oversight of the county board.

**What happens if no one is willing to serve on the township board?**

If the county board has tried unsuccessfully for six months to fill two or more vacancies on a township board, the county board shall hold a public hearing on the issue of termination of the township board. If within 30 days no resident has provided written notice to the county board of their willingness to serve, the county board may adopt a resolution to terminate that township. During this period, no tax distributions are made to

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<sup>26</sup> Neb.Rev.Stat. §23-297

<sup>27</sup> Neb.Rev.Stat. §23-299

<sup>28</sup> Neb.Rev.Stat. §51-201.04 to §51-201.06

<sup>29</sup> Neb.Rev.Stat. §51-801 et seq.

<sup>30</sup> Neb.Rev.Stat. §23-224

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the township. Instead, the township funds are held by the county in a separate fund and used to pay the outstanding obligations of the township.

Upon termination of a township board, the county board settles all unfinished business of the township board and disposes of all property owned by the township. Any remaining township board members must deposit all township records, papers, and documents with the county clerk and certify the amount of outstanding indebtedness. Proceeds of the sale of township assets are used to pay any outstanding obligations of the township and the rest is credited to the road fund of the county board. The county board levies a tax upon the property within the township to pay for construction and maintenance of township roads within the township and any outstanding indebtedness. The county board's authority to construct and maintain township roads within the township and perform other operational functions continues until the township board is reconstituted by a general election that results in the filing of all vacancies on the township board.

If more than 50 percent of the township boards in a county have been terminated through this process, the county board must file a resolution with the election commissioner or county clerk to place the issue of discontinuing the township form of government on the ballot.<sup>31</sup>

### **Can a county or township official express opposition or support of a ballot measure?**

Section 49-14,101.02 of the Nebraska Accountability and Disclosure Act sets out the actions that public officials or employees may and may not take in response to a ballot question.<sup>32</sup>

A public official or employee:

- May campaign for or against the qualification, passage, or defeat of a ballot question when no public resources are used (8);
- May make governmental facilities available to a person for the support or opposition to a ballot question when it is not a factor in making the facility available or in determining the cost or conditions of use (3);
- May discuss and vote upon a resolution supporting or opposing a ballot question (4);
- May respond on behalf of their direct supervisor to inquiries by the press or the public as to the supervising official's opinion regarding a ballot question (5);
- May, under the direct supervision and in the normal course of their duties, use public resources to research and prepare materials to assist the governmental body in determining the effect of a ballot question on the governmental body (7); and
- May identify himself or herself by his or her official title (11).

A public official or employee:

- Shall not use or authorize the use of public resources to campaign for or against the qualification, passage or defeat of a ballot question (2); and
- Shall not perform mass mailings, mass duplication, or other mass communications at the public expense for the purpose of qualifying, supporting, or opposing a ballot question (7); and

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<sup>31</sup> Neb.Rev.Stat. §23-2,100

<sup>32</sup> Neb.Rev.Stat. §49-14,101.02

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- Shall not engage in campaign activity for or against the qualification, passage, or defeat of a ballot question while on government work time or when otherwise engage in his or her official duties (9).

See Attachment E for the full text of Neb.Rev.Stat. §49-14,101.02.

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**Attachment A**

Population in Counties Operating Under a Township Form of Government

Adams County	31,364
Boyd County	2,099
Burt County	6,858
Butler County	8,395
Clay County	6,542
Cuming County	9,139
Custer County	10,939
Dixon County	6,000
Dodge County	36,691
Fillmore County	5,890
Franklin County	3,225
Gage County	22,311
Hall County	58,607
Harlan County	3,423
Holt County	10,435
Kearney County	6,489
Knox County	8,701
Merrick County	7,845
Nance County	3,735
Platte County	32,237
Saunders County	20,780
Thurston County	6,940
Valley County	4,260
Washington County	20,234

Source: U.S. Census Bureau, 2010 Census

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## Attachment B

### **23-224. Annual town meeting; powers of electors present.**

The electors present at the annual town meeting shall have power:

- (1) To make all orders for sale, conveyance, regulation, or use of the corporate property of the town that may be deemed to be conducive to the interests of the inhabitants;
- (2) To take all necessary measures and give directions for the exercise of their corporate powers;
- (3) To provide for the institution, defense, or disposition of suits at law or in equity in which the town is interested;
- (4) To take such action as shall induce the planting and cultivation of trees along the highways in such towns and to protect and preserve trees standing along or on highways;
- (5) To construct and keep in repair public wells and to regulate the use thereof;
- (6) To prevent the exposure or deposit of offensive or injurious substances within the limits of the town;
- (7) To make such bylaws, rules, and regulations as may be deemed necessary to carry into effect the powers herein granted and to impose such fines and penalties, not exceeding twenty dollars for one offense, as shall be deemed proper, except when a fine or penalty is already allowed by law, which fine or penalty shall be imposed by the county court;
- (8) To direct the raising of money by taxation, subject to approval by the county board, (a) for constructing and repairing roads and bridges within the town to the extent allowed by law; (b) for the prosecution or defense of suits by or against the town or in which it is interested; (c) for any other purpose required by law; (d) for the purpose of building or repairing bridges over streams dividing the town from any other town; (e) for the compensation of town officers at the rate allowed by law and, when no rate is fixed for such amount, as the electors may direct; and (f) for the care and maintenance of abandoned or neglected cemeteries within the town, except that the town board shall not expend more than one hundred dollars in any one year for such purposes. When any county discontinues township organization, the county shall care for and maintain such abandoned or neglected cemeteries;
- (9) To guard against the destruction of property in the town by prairie fire;
- (10) To restrain, regulate, or prohibit the running at large of cattle, horses, mules, asses, swine, sheep, and goats and determine when such animals may go at large, if at all. All votes thereon shall be by ballot;

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(11) To authorize the distraining, impounding, and sale of cattle, horses, mules, asses, sheep, goats, and swine for penalties incurred and costs of proceedings. The owner of such animals shall have the right to redeem the same from the purchaser thereof at any time within one month from the day of sale by paying the amount of the purchaser's bid, with reasonable costs for their keeping and interest at the rate of seven percent per annum;

(12) To purchase, hold, plat, improve, and maintain grounds for cemetery purposes; to sell and convey lots in such cemeteries for the burial of the dead and to contract with the purchaser to perpetually care for and keep in order the lots so sold; and to elect trustees who shall have power to manage such cemetery under such bylaws as the electors of the township at the annual town meeting shall from time to time adopt. When any county discontinues township organization, the county shall care for and maintain such abandoned or neglected cemeteries; and

(13) To hold an election or town meeting to exceed the levy limits established by section 77-3443.

Source: Laws 1895, c. 28, § 22, p. 137; Laws 1903, c. 36, § 1, p. 285; R.S.1913, § 1008; Laws 1919, c. 60, § 1, p. 166; C.S.1922, § 910; Laws 1927, c. 58, § 1, p. 218; C.S.1929, § 26-224; R.S.1943, § 23-224; Laws 1967, c. 120, § 1, p. 382; Laws 1972, LB 1032, § 111; Laws 1996, LB 1114, § 39.

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## Attachment C

### Township Discontinuance Statutes

#### **23-292. Township organization; how discontinued.**

Any county which has township organization shall discontinue the same whenever the majority of the registered voters of the county voting on the question of such discontinuance so decide in the manner provided in sections 23-293 to 23-295.

*Source:* Laws 1885, c. 43, § 1, p. 235; R.S.1913, § 1056; C.S.1922, § 958; C.S.1929, § 26-272; R.S.1943, § 23-292; Laws 2008, LB269, § 5.

#### **23-293. Township organization; discontinuance; procedure.**

(1) In counties under township organization, a registered voter may file a petition or petitions for submission of the question of the discontinuance of township organization to the registered voters of the county. The petition or petitions shall be signed by registered voters equal in number to five percent of the voters registered in the county at the preceding statewide general election. When the petition or petitions are filed in the office of the county clerk or election commissioner, the question shall be submitted to the registered voters at the next general election held not less than seventy days after the filing of the petitions.

(2) In counties under township organization, if a resolution supported by a majority of the county board is filed in the office of the county clerk or election commissioner for submission of the question of discontinuance of township organization to the registered voters of the county, the question shall be submitted to the registered voters at the next general election held not less than seventy days after the filing of the resolution.

(3) A petition or county board resolution for discontinuance of township organization shall specify whether the county board of commissioners to be formed pursuant to section 23-151 will have five or seven members and that reorganization as a county board of commissioners will be effective at the expiration of the supervisors' terms of office in January of the third calendar year following the election to discontinue township organization.

*Source:* Laws 1885, c. 43, § 2, p. 236; Laws 1895, c. 29, § 1, p. 154; R.S.1913, § 1057; C.S.1922, § 959; C.S.1929, § 26-273; R.S.1943, § 23-293; Laws 1973, LB 75, § 18; Laws 1985, LB 422, § 1; Laws 2008, LB269, § 6.

#### **23-294. Township organization; discontinuance; election; ballot; form.**

(1) If the petition or county board resolution to discontinue township organization specifies a five-member county board of commissioners pursuant to section 23-293, the questions on the ballot shall be respectively: For discontinuance of township organization and creation of a five-member county board of commissioners; or Against changing to a commissioner form of county government.

(2) If the petition or county board resolution to discontinue township organization specifies a seven-member county board of commissioners pursuant to section 23-293, the questions on the ballot shall be respectively: For

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discontinuance of township organization and creation of a seven-member county board of commissioners; or Against changing to a commissioner form of county government.

(3) Elections shall be conducted regarding discontinuance of township organization as provided in the Election Act.

*Source:* Laws 1885, c. 43, § 3, p. 236; R.S.1913, § 1058; C.S.1922, § 960; C.S.1929, § 26-274; R.S.1943, § 23-294; Laws 2008, LB269, § 7; Laws 2009, LB434, § 2.

**23-295. Township organization; discontinuance; when effective.**

If a majority of the votes cast on the question are for the discontinuance of township organization, then such organization shall cease to exist effective at the expiration of the supervisors' terms of office in January of the third calendar year following such election.

*Source:* Laws 1885, c. 43, § 4, p. 236; R.S.1913, § 1059; C.S.1922, § 961; C.S.1929, § 26-275; R.S.1943, § 23-295; Laws 2008, LB269, § 8; Laws 2009, LB434, § 3.

**23-296. Township organization; cessation; establishment of commissioner system.**

When township organization ceases in any county as provided by sections 23-292 to 23-295, a commissioner system shall be established. The county board of commissioners shall have five or seven members as specified in the petition or county board resolution pursuant to section 23-293.

*Source:* Laws 1885, c. 43, § 5, p. 236; R.S.1913, § 1060; C.S.1922, § 962; C.S.1929, § 26-276; R.S.1943, § 23-296; Laws 1945, c. 42, § 2, p. 203; Laws 2008, LB269, § 9.

**23-297. Commissioner system creation; districts; elected members; how treated.**

(1) If the voters vote for creation of a seven-member county board of commissioners, the commissioner districts shall be the same districts as the former supervisor districts unless changed at a later date as provided by section 23-149 and the supervisors whose terms have not expired on the effective date of the reorganization prescribed in section 23-293 shall continue in office as commissioners for the remainder of their unexpired terms.

(2)(a) If the voters vote for creation of a five-member county board of commissioners, the county clerk, county treasurer, and county attorney shall meet on the first Saturday after the first Tuesday of January following such election and redistrict the county into five commissioner districts with substantially equal population. Such redistricting shall be completed within thirty days after such initial meeting and shall specify where necessary the newly established districts which the members will serve for the balance of the unexpired terms as designated in subdivision (b) of this subsection. The newly established districts will not be effective until the

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effective date of the reorganization prescribed in section 23-293 except for purposes of being nominated and elected for office from such districts.

(b)(i) If three members of the county board of supervisors were elected for four-year terms at the election to create a five-member county board of commissioners, each such supervisor shall serve two of such years as a supervisor and two of such years as a commissioner representing the newly established districts as designated under subdivision (a) of this subsection and two commissioners shall be elected for four-year terms from the newly established districts at the next general election.

(ii) If four members of the county board of supervisors were elected for four-year terms at the election to create a five-member county board of commissioners, the three of such supervisors receiving the most votes at such election shall serve two of such years as a supervisor and two of such years as a commissioner representing the newly established districts as designated under subdivision (a) of this subsection, the fourth of such supervisors shall serve a term of two years as a supervisor, and two commissioners shall be elected for four-year terms from the newly established districts at the next general election.

*Source:* Laws 1885, c. 43, § 6, p. 237; R.S.1913, § 1061; C.S.1922, § 963; C.S.1929, § 26-277; R.S.1943, § 23-297; Laws 1945, c. 42, § 3, p. 203; Laws 1979, LB 331, § 7; Laws 2008, LB269, § 10.

**23-298. Township organization; cessation; commissioners; succeed supervisors.**

The board of county commissioners, as herein provided, shall be the legal successor of the board of supervisors in said county. Such board shall thereafter be governed by the laws that shall govern counties not under township organization, and in the same manner that said county would have been governed had not such organization been adopted.

*Source:* Laws 1885, c. 43, § 7, p. 237; R.S.1913, § 1062; C.S.1922, § 964; C.S.1929, § 26-278; R.S.1943, § 23-298; Laws 1945, c. 42, § 4, p. 204.

**23-299. Township organization; cessation; town records; indebtedness and unexpended balances; how discharged.**

When township organization is discontinued in any county, the town clerk in each town in such county, as soon as the county board of commissioners is qualified pursuant to section 23-297, shall deposit with the county clerk of the county all town records, papers, and documents pertaining to the affairs of such town and certify to the county clerk the amount of indebtedness of such town outstanding at the time of such discontinuance. The county board shall have full and complete power to settle all the unfinished business of the town as fully as might have been done by the town itself and to dispose of any and all property belonging to such town, the proceeds of which, after paying all indebtedness, shall be disposed of by the county board for the benefit of the taxable inhabitants thereof by such board crediting all unexpended balances of the town to the district road

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fund and in no other manner. The county board, at such time as provided by law, shall levy a tax upon the taxable property of such town to pay any unliquidated indebtedness it may have outstanding.

*Source:* Laws 1885, c. 43, § 8, p. 237; R.S.1913, § 1063; C.S.1922, § 965; C.S.1929, § 26-279; R.S.1943, § 23-299; Laws 1945, c. 42, § 5, p. 204; Laws 2008, LB269, § 11.

**23-2,100. Termination of township board; public hearing; notice; resolution; termination date; conduct of business; disposal of property; discontinuance of township organization of county.**

(1) If a township board has become inactive, the county board of supervisors shall hold a public hearing on the issue of termination of the township board. Notice of the hearing shall be published for two consecutive weeks in a newspaper of general circulation in the county. For purposes of this section, a township board has become inactive when two or more board positions are vacant and the county board has been unable to fill such positions in accordance with sections 32-567 and 32-574 for six or more months.

(2) If no appointment to the township board has been made within thirty days after the public hearing because no resident of the township has provided written notice to the county board that he or she will serve on the township board, the county board may adopt a resolution to terminate the township board. The resolution shall state the effective date of the termination.

(3) Between the date of the public hearing and the date of termination of the township board, the business of the township shall be handled according to this subsection. No tax distributions shall be made to the township. Such funds shall be held by the county board in a separate township fund and disbursed only to pay outstanding obligations of the township board. All claims against the township board shall be filed with the county clerk and heard by the county board. Upon allowance of a claim, the county board shall direct the county clerk to draw a warrant upon the township fund. The warrant shall be signed by the chairperson of the county board and countersigned by the county clerk.

(4) Upon termination of a township board, the county board shall settle all unfinished business of the township board and shall dispose of all property under ownership of the township. Any proceeds of such sale shall first be disbursed to pay any outstanding obligations of the township, and remaining funds shall be credited to the road fund of the county board. Any remaining township board members serving as of the date of termination shall deposit with the county clerk all township records, papers, and documents pertaining to the affairs of the township and shall certify to the county clerk the amount of outstanding indebtedness in existence on the date of termination. The county board shall levy a tax upon the taxable property located within the boundaries of the township to pay for construction and maintenance of township roads within the township and any outstanding indebtedness not paid for under this subsection. The county board shall have continuing authority to construct and maintain township roads within the township and to perform the functions provided in section 23-224 until such time as the township board is reconstituted by general election that results in the filling of all vacancies on the township board.

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(5) If more than fifty percent of the township boards in a county have been terminated, the county board shall file with the election commissioner or county clerk a resolution supporting the discontinuance of the township organization of the county pursuant to subsection (2) of section 23-293.

*Source:* Laws 2010, LB768, § 1; Laws 2012, LB936, § 1; Laws 2015, LB65, § 1; Laws 2015, LB575, § 4.

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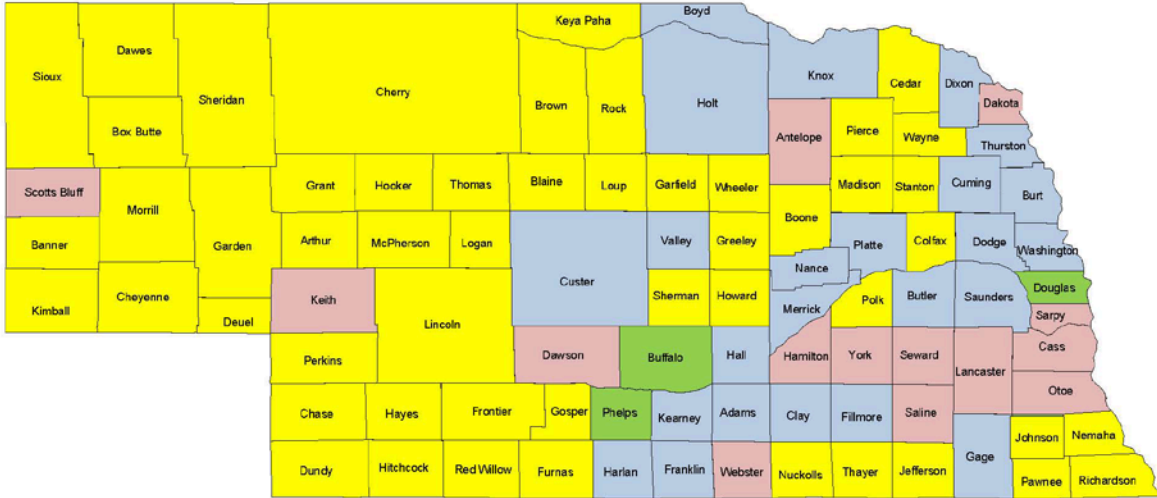
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Attachment D

## Nebraska Commissioner & Supervisor County Boards - January 2017



Hall County will be a seven member commissioner board effective January 2019. A vote to discontinue the township form of government was held at the 2016 General Election.

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## Attachment E

### **49-14,101.02. Public official or public employee; use of public resources or funds; prohibited acts; exceptions.**

(1) For purposes of this section, public resources means personnel, property, resources, or funds under the official care and control of a public official or public employee.

(2) Except as otherwise provided in this section, a public official or public employee shall not use or authorize the use of public resources for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question.

(3) This section does not prohibit a public official or public employee from making government facilities available to a person for campaign purposes if the identity of the candidate or the support for or opposition to the ballot question is not a factor in making the government facility available or a factor in determining the cost or conditions of use.

(4) This section does not prohibit a governing body from discussing and voting upon a resolution supporting or opposing a ballot question or a public corporation organized under Chapter 70 from otherwise supporting or opposing a ballot question concerning the sale or purchase of its assets.

(5) This section does not prohibit a public official or a public employee under the direct supervision of a public official from responding to specific inquiries by the press or the public as to his or her opinion regarding a ballot question or from providing information in response to a request for information.

(6) This section does not prohibit a member of the Legislature from making use of public resources in expressing his or her opinion regarding a candidate or a ballot question or from communicating that opinion. A member is not authorized by this section to utilize mass mailings or other mass communications at public expense for the purpose of campaigning for or against the nomination or election of a candidate. A member is not authorized by this section to utilize mass mailings at public expense for the purpose of qualifying, supporting, or opposing a ballot question.

(7) This subsection applies to public officials other than members of the Legislature provided for in subsection (6) of this section. This section does not prohibit, in the normal course of his or her duties, a public official or a public employee under the direct supervision of a public official from using public resources to research and prepare materials to assist the government body for which the individual is a public official or public employee in determining the effect of the ballot question on the government body. This section does not authorize mass mailings, mass duplication, or other mass communications at public expense for the purpose of qualifying, supporting, or opposing a ballot question. Mass communications shall not include placing public records

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demonstrating the consequences of the passage or defeat of a ballot question affecting the government body for which the individual is a public official or public employee on existing web sites of such government body.

(8) Nothing in this section prohibits a public official from campaigning for or against the qualification, passage, or defeat of a ballot question or the nomination or election of a candidate when no public resources are used.

(9) Nothing in this section prohibits a public employee from campaigning for or against the qualification, passage, or defeat of a ballot question or the nomination or election of a candidate when no public resources are used. Except as otherwise provided in this section, a public employee shall not engage in campaign activity for or against the qualification, passage, or defeat of a ballot question or the nomination or election of a candidate while on government work time or when otherwise engaged in his or her official duties.

(10) This section does not prohibit an employee of the Legislature from using public resources consistent with this section for the purpose of researching or campaigning for or against the qualification, passage, or defeat of a ballot question if the employee is under the direction and supervision of a member of the Legislature.

(11) Nothing in this section prohibits a public official or public employee from identifying himself or herself by his or her official title.

*Source:* Laws 2001, LB 242, § 20; Laws 2005, LB 242, § 45; Laws 2009, LB626, § 5.

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