

ONE HUNDRED EIGHTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 27CA

PROPOSED CONSTITUTIONAL AMENDMENT

Introduced by McKinney, 11.

Read first time January 18, 2023

Committee: Judiciary

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

3 Section 1. At a special election to be held in conjunction with the
4 statewide primary election in May 2024, the following proposed amendment
5 to the Constitution of Nebraska shall be submitted to the electors of the
6 State of Nebraska for approval or rejection:

7 To amend Article IV, section 13:

8 IV-13 (1) For purposes of this section, offense means any offense
9 against the criminal laws of this state except treason and cases of
10 impeachment.

11 (2) The Legislature shall provide by law for the establishment of a
12 Board of Parole and the qualifications of its members. Said board, or a
13 majority thereof, shall have power to grant paroles after conviction and
14 judgment, under such conditions as may be prescribed by law, for any
15 offense offenses committed against the criminal laws of this state except
16 treason and cases of impeachment.

17 (3)(a) The Board of Pardons Governor, Attorney General and Secretary
18 of State, sitting as a board, shall have power to remit fines and
19 forfeitures and to grant respites, reprieves, pardons, or commutations in
20 all cases of conviction for an offense offenses against the laws of the
21 state, except treason and cases of impeachment.

22 (b) The Board of Pardons shall consist of the Governor, the Attorney
23 General, the Secretary of State, and the following members appointed by

1 the Governor and approved by the Legislature to serve for the remainder
2 of the Governor's term in office:

3 (i) An individual who was formerly incarcerated;

4 (ii) An individual with experience in restorative justice and
5 reentry into society;

6 (iii) An individual with experience as a victim's rights
7 representative; and

8 (iv) An individual with experience in mental health, conflict
9 resolution, trauma counseling, and trauma therapy.

10 (c) The Board of Parole may advise the Board of Pardons Governor,
11 Attorney General and Secretary of State on the merits of any application
12 for remission, respite, reprieve, pardon or commutation but such advice
13 shall not be binding on the Board of Pardons them.

14 (4) The Governor shall have power to suspend the execution of the
15 sentence imposed for treason until the case can be reported to the
16 Legislature at its next session, when the Legislature shall either grant
17 a pardon, or commute the sentence, or direct the execution, or grant a
18 further reprieve.

19 Sec. 2. At a special election to be held in conjunction with the
20 statewide primary election in May 2024, the following proposed amendment
21 to the Constitution of Nebraska shall be submitted to the electors of the
22 State of Nebraska for approval or rejection:

23 To amend Article IV, section 13:

24 IV-13 (1) For purposes of this section, offense means any offense
25 against the criminal laws of this state except treason and cases of
26 impeachment.

27 (2) The Legislature shall provide by law for the establishment of a
28 Board of Parole and the qualifications of its members. Said board, or a
29 majority thereof, shall have power to grant paroles after conviction and
30 judgment, under such conditions as may be prescribed by law, for any
31 offense offenses committed against the criminal laws of this state except

1 ~~treason and cases of impeachment.~~

2 (3)(a) The Governor, Attorney General and Secretary of State,
3 sitting as a Board of Pardons board, shall have power to remit fines and
4 forfeitures and to grant respites, reprieves, pardons, or commutations in
5 all cases of conviction for an offense ~~offenses against the laws of the~~
6 ~~state, except treason and cases of impeachment.~~

7 (b) An individual is eligible for pardon immediately after
8 conviction of an offense.

9 (c) The Board of Pardons shall not deny a hearing for a pardon for
10 any individual convicted of an offense.

11 (d) The Board of Pardons shall make an individual decision for each
12 request for a pardon.

13 (e) All members of the Board of Pardons shall meet at least twice
14 each month to hear any requests for pardons from any individual convicted
15 of an offense.

16 (f) The Board of Parole may advise the Board of Pardons ~~Governor,~~
17 ~~Attorney General and Secretary of State~~ on the merits of any application
18 for remission, respite, reprieve, pardon or commutation but such advice
19 shall not be binding on the Board of Pardons ~~them~~.

20 (4) The Governor shall have power to suspend the execution of the
21 sentence imposed for treason until the case can be reported to the
22 Legislature at its next session, when the Legislature shall either grant
23 a pardon, ~~or~~ commute the sentence, ~~or~~ direct the execution, or grant a
24 further reprieve.

25 Sec. 3. At a special election to be held in conjunction with the
26 statewide primary election in May 2024, the following proposed amendment
27 to the Constitution of Nebraska shall be submitted to the electors of the
28 State of Nebraska for approval or rejection:

29 To amend Article IV, section 13:

30 IV-13 (1) For purposes of this section, offense means any offense
31 against the criminal laws of this state except treason and cases of

1 impeachment.

2 (2) The Legislature shall provide by law for the establishment of a
3 Board of Parole and the qualifications of its members. Said board, or a
4 majority thereof, shall have power to grant paroles after conviction and
5 judgment, under such conditions as may be prescribed by law, for any
6 offense ~~offenses committed against the criminal laws of this state except~~
7 ~~treason and cases of impeachment.~~

8 (3)(a) The Governor, Attorney General and Secretary of State,
9 sitting as a Board of Pardons board, shall have power to remit fines and
10 forfeitures and to grant respites, reprieves, pardons, or commutations in
11 all cases of conviction for an offense ~~offenses against the laws of the~~
12 ~~state, except treason and cases of impeachment.~~

13 (b) All members of the Board of Pardons shall meet at least twice
14 each month to hear any requests for pardons from any individual convicted
15 of an offense. If the Board of Pardons fails to meet as required by this
16 subsection during three months within a calendar year, for the remainder
17 of the calendar year the Judiciary Committee of the Legislature may hear
18 and may grant or deny any requests for pardons received during such
19 calendar year.

20 (c) The Board of Parole may advise the Board of Pardons ~~Governor,~~
21 ~~Attorney General and Secretary of State~~ on the merits of any application
22 for remission, respite, reprieve, pardon or commutation but such advice
23 shall not be binding on the Board of Pardons ~~them~~.

24 (4) The Governor shall have power to suspend the execution of the
25 sentence imposed for treason until the case can be reported to the
26 Legislature at its next session, when the Legislature shall either grant
27 a pardon, ~~or~~ commute the sentence, ~~or~~ direct the execution, or grant a
28 further reprieve.

29 Sec. 4. At a special election to be held in conjunction with the
30 statewide primary election in May 2024, the following proposed amendment
31 to the Constitution of Nebraska shall be submitted to the electors of the

1 State of Nebraska for approval or rejection:

2 To amend Article IV, section 13:

3 IV-13 (1) For purposes of this section, offense means any offense
4 against the criminal laws of this state except treason and cases of
5 impeachment.

6 (2) The Legislature shall provide by law for the establishment of a
7 Board of Parole and the qualifications of its members. Said board, or a
8 majority thereof, shall have power to grant paroles after conviction and
9 judgment, under such conditions as may be prescribed by law, for any
10 offense ~~offenses committed against the criminal laws of this state except~~
11 ~~treason and cases of impeachment.~~

12 (3)(a) The Governor, Attorney General and Secretary of State,
13 sitting as a Board of Pardons board, shall have power to remit fines and
14 forfeitures and to grant respites, reprieves, pardons, or commutations in
15 all cases of conviction for an offense ~~offenses against the laws of the~~
16 ~~state, except treason and cases of impeachment.~~

17 (b) The Board of Parole may advise the Board of Pardons ~~Governor,~~
18 ~~Attorney General and Secretary of State~~ on the merits of any application
19 for remission, respite, reprieve, pardon or commutation but such advice
20 shall not be binding on the Board of Pardons ~~them.~~

21 (4)(a) The Board of Commutation shall have power to commute the
22 sentence of any individual convicted of an offense.

23 (b) The Board of Commutation shall consist of the following members:

24 (i) Two members shall be elected from each congressional district
25 for two-year terms at the general election in 2026 and at each general
26 election thereafter. If a vacancy occurs, the Governor shall appoint a
27 replacement member to serve the remainder of the term. Such replacement
28 member shall be subject to approval by the Legislature; and

29 (ii) One member appointed by the Governor in December of 2026 and
30 during December of each even-numbered year thereafter. Such appointed
31 member shall serve for a two-year term and shall have experience in

1 restorative justice and reentry into society. Such appointed member shall
2 be subject to approval by the Legislature. If a vacancy occurs, the
3 Governor shall appoint a replacement member to serve the remainder of the
4 term. Such replacement member shall be subject to approval by the
5 Legislature.

6 (5) The Governor shall have power to suspend the execution of the
7 sentence imposed for treason until the case can be reported to the
8 Legislature at its next session, when the Legislature shall either grant
9 a pardon, ~~or~~ commute the sentence, ~~or~~ direct the execution, or grant a
10 further reprieve.

11 Sec. 5. The proposed amendments shall be submitted to the electors
12 in the manner prescribed by the Constitution of Nebraska, Article XVI,
13 section 1, with the following ballot language:

14 A constitutional amendment to change the membership of the Board of
15 Pardons.

16 For

17 Against.

18 A constitutional amendment to change the powers and duties of the
19 Board of Pardons.

20 For

21 Against.

22 A constitutional amendment to allow the Judiciary Committee of the
23 Legislature to hear requests for pardons during a year in which the Board
24 of Pardons fails to meet as required.

25 For

26 Against.

27 A constitutional amendment to create the Board of Commutation and
28 provide for its powers and membership.

29 For

30 Against.