

# Nebraska State Legislature

SENATOR TOM BREWER

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Ms. Emma Lewis, Esq.  
American Oversight  
1030 15th Street NW, Suite B255  
Washington, DC 20005

April 18, 2024

Dear Ms. Lewis:

I am writing in response to your April 12, 2024 letter requesting calendars for Senator Tom Brewer dating from April 1st until the date of the request's fulfillment. I must deny this request for the following reasons:

First, *Neb. Rev. Stat.* § 84-712.05 provides that the following records, unless publicly disclosed in open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(14) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the legislative Council, shall release its correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

Second, in addition to the statutory language above, members of the legislature possess a privilege derived from Article III, Section 26 of the Nebraska Constitution. This provision of the Nebraska Constitution states that "[n]o member of the legislature shall be liable in any civil or criminal action whatever for words spoken in debate." The Nebraska Attorney General has concluded that this provision of the Nebraska Constitution grants "immunity from the disclosure of any records," including electronic records and communications (Attorney General letter to Dr. Paul Von Behren, File No. 16-R-133 - 2016).

Please be advised that I, Senator Tom Brewer, am responsible for the decision to deny your request. *Neb. Rev. Stat. § 84-712.03* provides that any person has the right to an administrative or judicial review based on the denial of all or certain portions of a request. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Brewer". The signature is written in a cursive style with a long horizontal stroke at the beginning.

Senator Tom Brewer