



June 26, 2024

VIA EMAIL

Nebraska Secretary of State
1445 K Street, Suite 2300
Lincoln, NE 68509
SOS.RecordsManagement@nebraska.gov

Re: Public Records Statute Request

Dear Record Custodian:

Pursuant to the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following records within four business days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the officials listed below regarding any proposed ballot initiative seeking to guarantee abortion access until fetal viability in the Nebraska state constitution.¹

Office of the Secretary of State Officials:

- a. Secretary of State Robert Evnen
 - b. Chief Deputy Secretary of State Colleen Byelick
 - c. Deputy Secretary of State Wayne Bena
 - d. Assistant Deputy for Elections Andrew Buller
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the officials above in part 1 and containing of the key terms listed below.

Key Terms:

- i. "abortion access"
- ii. "abortion amendment"

¹ For further identifying information, please see Elizabeth Rembert, *Initiative to Put Abortion Protections On November Ballot 'On Track,' Organizer Says*, Nebraska Public Media (March 7, 2024, 5:00 AM), <https://nebraskapublicmedia.org/en/news/news-articles/initiative-to-put-abortion-protections-on-november-ballot-on-track-organizer-says/>.



- iii. “abortion ban”
- iv. “abortion initiative”
- v. “abortion law”
- vi. “ballot candy”
- vii. “ballot initiative”
- viii. “ballot measure”
- ix. “petition signature”
- x. “review signature”
- xi. “signature gathering”
- xii. “signature withdrawal”
- xiii. “withdraw signature”
- xiv. “withdraw their signature”
- xv. “withdraw your signature”
- xvi. Referendum
- xvii. Reproductive
- xviii. Viability

In an effort to accommodate the Office of the Secretary of State and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited both parts of this request to emails sent by the officials listed above. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both a specific individual’s response to an email regarding any proposed ballot initiative and the initial received message are responsive to this request and should be produced.

For both parts of this request, please provide all responsive records from January 1, 2024, through the date the search is conducted.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee. Pursuant to Neb. Rev. Stat. § 84-712(3)(b), we further request that any fees are limited to the actual costs and exclude fees for search time in excess of four hours.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in

files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.

- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records.² If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and X.com (formerly Twitter).³

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not

² Neb. Rev. Stat. § 84-712.06.

³ American Oversight currently has approximately 16,000 followers on Facebook and 111,500 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 11, 2024); American

understand any part of this request, please contact Emma Lewis at records@americanoversight.org or (202) 919-6303.

Sincerely,

/s/ Emma Lewis
Emma Lewis
on behalf of
American Oversight

Oversight (@weareoversight), X (formerly Twitter),
<https://twitter.com/weareoversight> (last visited June 11, 2024).