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Commodity	Delivery	Price	Basis	Date (as of)
Corn	Aug 2022	7.18	44.00	08:41
Corn	Oct 2022	6.67	-5.00	08:41
Milo	Aug 2022	6.47	-25.00	08:41
Milo	Oct 2022	6.12	-60.00	08:41
Soybeans	Aug 2022	14.13	-35.00	08:41
Soybeans	Oct 2022	13.83	-65.00	08:41
Wheat	Aug 2022	8.12	-75.00	08:41
Wheat	Jul 2023	7.91	-85.00	08:41

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LJS: New Nebraska Republican leader aims for filibuster-proof legislative majority

Republican State Chairman Eric Underwood of Lincoln said Friday that along with the election of GOP gubernatorial nominee Jim Pillen and reelection of the state's three Republican congressmen in November, the party is focused on building the Republican majority in the nonpartisan Legislature to 36 senators.

In studying upcoming legislative contests, Underwood said, "that's a realistic number" to set as a goal and the party has organized a "36-strong" campaign effort.

Republicans currently hold 32 seats in the 49-member Legislature.

With 33 votes required to break a filibuster that can block legislative action, the GOP has long been focused on electing a "filibuster-proof" Republican majority.

In actual practice, Republican senators have not voted in unison on a number of key issues, but five of the more independent registered Republicans will be leaving the Legislature at the end of the year because of term limits.

"If all Republicans turn their eyes to Nov. 8, good things can happen," the newly elected GOP state chairman said.

Underwood, who was Lancaster County Republican chairman, was elected at a contentious state party convention in Kearney in July, ousting Dan Welch of Omaha and, in the process, removing control of the party from Gov. Pete Ricketts.

"The 36-strong goal can only happen if all Republicans believe in that end," Underwood said during an interview at GOP state headquarters in Lincoln.

If the party is divided with some members internally focused on "vengeance or retaliation," he said, "we can never reach that goal."

Underwood said general election goals will also include electing conservative Republicans to the State Board of Education and reelecting Lancaster County Attorney Pat Condon in his contest with Sen. Adam Morfeld, the Democratic nominee.

As the new party chairman, Underwood said he is focused on inclusion and unity.

"Don't use the word RINO (Republican in name only) and don't degrade others," he said.

The party's legislative agenda will concentrate on fiscal responsibility, less government intrusion, tax reform, agriculture and education, Underwood said.

"There'll be a pro-life element and support for abolishing Roe v. Wade," he said.

Asked if the abrupt change in party leadership has resulted in "two Republican parties" in the state, Underwood said: "I hope not and I don't believe so."

Underwood said his current abbreviated term ends May 1 and he plans to be a candidate for reelection. That decision will be made by the party's state central committee.

"I think the Republican Party still has healing to do after decades of internal struggle," Underwood

said.
But he stressed that the party continues to remain "100% in support of Gov. Ricketts' policies," pointing to the governor's record in combating the COVID-19 pandemic and in leading the state's economic recovery.
By Don Walton

Wahoo Newspaper: Kracl appointed as judge in Fifth Judicial District

LINCOLN – On Aug. 19, Gov. Pete Ricketts appointed Denise Kracl of Schuyler to the County Court, Fifth Judicial District (consisting of Boone, Butler, Colfax, Hamilton, Merrick, Nance, Platte, Polk, Saunders, Seward and York counties).
Kracl, 48, has served as Colfax County Attorney and the City of Schuyler's prosecutor since December 2011. From 2007 to 2010, she served as Deputy County Attorney for Colfax and Butler counties. As needed, she has also served as Special Prosecutor for Dodge, Platte, Saunders, Seward and York counties since 2011.
As a county prosecutor, she has handled complicated criminal cases including a murder investigation, attempted murder prosecution, grand juries and fingerprint and DNA evidence. As Schuyler City Prosecutor, she has prosecuted numerous city ordinance or municipal violations. In her capacity as County Attorney, she has reviewed search warrants, issued county attorney subpoenas, and reviewed probable cause affidavits prior to asking for arrest warrants to be issued. Her experience as a Special Prosecutor has included handling a grand jury for a death in a jail and investigating alleged prosecutorial misconduct for attempt to influence the testimony of a law enforcement officer.
Kracl has practiced law in Schuyler since August 2010, where she handles real estate contracts, wills, and powers of attorney.
Kracl holds a Bachelors Degree in Education from Wayne State College (graduating cum laude) and a Juris Doctor from the University of South Dakota School of Law. She also holds an executive certificate from the McCourt School of Public Policy at Georgetown University. She is a member of the Nebraska Bar Association, Nebraska County Attorneys Association and the National District Attorneys Association.
Kracl is very active in community service endeavors. She has been a leader of the Colfax County Food and Toy Corporation, which serves families facing food insecurity during the Winter Break from school. For over a decade, the group has come together to provide food, toys and clothing to families in need during the month of December.
She serves on numerous boards and committees, including: the County Attorney Standards Advisory Committee, Columbus Public Schools Foundation Board of Directors, Colfax County Food Pantry Board, Nebraska Mediation Center Board, Northeast Nebraska Human Trafficking Taskforce, CHI Mental Health Committee of Colfax County, Colfax County Juvenile Services Committee, Schuyler Community Development and others.
Earlier this year, Kracl was selected to represent Nebraska at the Coalition for Juvenile Justice Conference in Washington, DC. She was recognized by the Nebraska Bar Association with an Award of Appreciation in 2021. She has also previously been honored with the Schuyler Sertoma Service to Mankind Award and as Volunteer of the Year by the Schuyler Chamber of Commerce.
Kracl fills the vacancy created by the retirement of Judge Frank J. Skorupa.
The primary place of office for the judgeship is Columbus.

Nebraska Examiner: Nebraska Freedom Festival loses key speaker after Charles Herbster pulls out

OMAHA — A group aiming to amplify Nebraska's populist right won't get to show quite the level of Republican unity that its leaders hoped to convey at a Saturday event called the Second Annual Nebraska Freedom Festival.

The Nebraska Freedom Coalition, which is organizing the event, intended to have four of the top GOP candidates for governor speak at the event — although not Jim Pillen, who won the race.

Then on Thursday, Charles Herbster informed the group he wouldn't be attending, either. Herbster, who finished second behind Pillen, is a longtime supporter of the Freedom Coalition, and the organization has been promoting Herbster's appearance online for weeks.

The Freedom Coalition membership is a blend of libertarian Republicans and people who want to more aggressively support former President Donald Trump. The group spent much of the GOP primary race touting Herbster, who had been endorsed by Trump. Members of the coalition helped oust Gov. Pete Ricketts' team from the leadership of the Nebraska Republican Party.

Leaders of the coalition had criticized Pillen during the primary campaign but invited him to speak at their event. Pillen told the group weeks ago, however, that he would not be attending. The University of Nebraska regent's campaign staff said Pillen had a scheduling conflict.

A Herbster staffer reached Friday blamed "miscommunications in the planning process" for Herbster being unable to participate Saturday. Herbster had promoted the event on his Facebook page until Thursday, when the post was pulled.

The staffer declined to detail the miscommunications, saying he would not "discuss private conversations about the event planning and Charles' participation." He said Herbster looked forward to seeing his "Patriot friends" again soon.

"We wish them a safe event and great success," said Rod Edwards, who is now overseeing a new political action committee, Nebraska First, which Herbster launched Thursday to boost conservative candidates.

Patrick Peterson, executive director of the Freedom Coalition, said that he was "disappointed that Charles can't attend," and that he was also disappointed with the timing of Herbster's decision.

Peterson declined to explain why Herbster told them he wasn't attending, except to say that Herbster "couldn't seem to give up the limelight for himself to help other candidates, especially those running down ballot."

Peterson said the event was geared to help candidates in lower-profile races, including the State Board of Education, and school boards, county sheriffs and county boards in eastern Nebraska.

Peterson also just found out that State Sen. Brett Lindstrom, who finished third in the GOP governor's race, won't be speaking.

Lindstrom said he decided to attend the event because organizers asked him to show unity.

He said he had told the group that his new private-sector job limits his ability to speak at political events. He said he was surprised to see that the festival schedule online listed him as a speaker.

At least one of the four gubernatorial candidates is still on board to speak Saturday: Former State Sen. Theresa Thibodeau of Omaha, who finished fourth in the race. Thibodeau said she hopes people don't see disunity in Herbster's and Lindstrom's decisions not to speak.

"Without knowing the details of why each person has pulled out of the event, I am disappointed that it has happened in the 11th hour," she said. "Tomorrow's event is a perfect time to showcase that all

Republicans can come together as a united front to promote and support our conservative candidates."
Thibodeau and Lindstrom both endorsed Pillen on Election Night. Herbster has not endorsed Pillen in the general election.
Breland Ridenour, the other advertised speaker from among the gubernatorial candidates, did not immediately return a message left Friday asking whether he still intended to speak. He was still on the schedule the Freedom Coalition shared Friday morning, however.

Peterson said Friday afternoon that Ridenour confirmed that he would speak at the event. Ridenour finished fifth in the primary.
Nebraska Freedom Festival
When: Saturday. Gates open at 2 p.m. Speakers start at 4 p.m.
Where: Sarpy County Fairgrounds
Cost: $25 per adult, $20 for students, available here.
Speakers include: National conservative personalities Alex Stein, who posts videos of himself trolling Democrats on Capitol Hill and elsewhere; rapper Nick Nittoli; musician Bryson Gray; and Ali Alexander, who helped organize "Stop the Steal" rallies in the run-up to Jan. 6, 2021, in Washington, D.C., before the U.S. Capitol was stormed.
By Aaron Sanderford

The Hill: Nebraska Democrats hope abortion fury delivers rare House win

Four days after the Supreme Court overturned Roe v. Wade, Patty Pansing Brooks almost became the first Democrat to represent Nebraska's 1st Congressional District in more than half a century. She lost to Rep. Mike Flood (R), a fellow state senator, by 6,234 votes in a special election on June 28 spurred by the resignation of nine-term Republican Rep. Jeff Fortenberry (R).
Now Pansing Brooks and Flood are set for a rematch in November's general election. And the Democrat is hoping to use her opponent's brief voting record in Congress against him, highlighting Flood's opposition to federal protections for contraceptives, abortion and same-sex and interracial marriage.
"We know a lot," Pansing Brooks told The Hill. "I mean that special election was almost a gift because it's given us the path to victory and helps us to understand what we have to do, where we have to be."
A number of the House votes came in response to a concurring opinion from Justice Clarence Thomas in the Supreme Court's decision to overturn the constitutional right to abortion, in which he suggested revisiting a number of other rights related to privacy.
Pansing Brooks said the votes are also personal to her, as the mother of a 25-year-old daughter and two sons, one of whom is gay. She said her son told her that if marriage protections look to be in jeopardy, he and his partner could do a wedding quickly.
"But that's not fair, I don't want that to be quick," Pansing Brooks said. "I want to be there; I want to be part of it. So it just, to me, this is heartrending times we're in. It's like a gut-kick on thing after thing."
Flood, through his campaign, declined multiple requests for an interview.
Todd Watson, who is leading the team helping the Nebraska GOP transition to new leadership, said the special election was significant because Flood won despite the national headwinds.

Watson said Democrats were “highly motivated, highly charged” following mass shootings in Buffalo, N.Y., and Uvalde, Texas, as well the Supreme Court ruling on abortion, and yet Pansing Brooks still lost.

“I don’t think there’s any external forces that were really in our favor at that time, and we still kind of carried that day,” Watson told The Hill. “We’re looking forward to doing our part for the red wave and seeing significant change.”

Pansing Brooks said if she had another week after the court’s ruling on abortion, things might have turned out differently.

“They hadn’t had a moment to take a breath and say, ‘Oh my gosh, our first vote. Our first ability to say not just no but heck no,’ ” she said.

But on Aug. 2, with more time to prepare, Kansans across the border rejected a proposed constitutional amendment that would have allowed the state legislature the authority to restrict abortion.

That momentum has continued for Democrats in Minnesota and New York who have outperformed President Biden’s 2020 results. This has fueled hopes Democrats will fend off an expected “red wave” of Republican victories.

David Wasserman, the senior editor of U.S. House and redistricting for the nonpartisan Cook Political Report, told The Hill “it’s clear that Democrats’ energy level is up,” but he expects Republicans to have a larger advantage in the fall.

He also noted the Nebraska race is still rated “solid Republican,” though continued momentum in Democrats’ direction could cause reconsideration, which would take improvements in Biden’s approval rating and a further focus on abortion.

Wasserman tweeted Tuesday that Cook Political Report’s House outlook in May was a GOP gain of 20-35 seats, but “recent developments” have revised this to a 10-20 GOP gain with a Democratic hold in the House “not out of the question.”

Pansing Brooks ran a “robust campaign” where Democrats hadn’t run one in a long time, Wasserman said, tapping into anger in the four days after the Supreme Court’s ruling

“It was a good performance for Democrats, and it’s possible to win by losing sometimes,” he added. “This was a moral victory for Democrats.”

Other Democratic candidates in Nebraska also see cause for optimism from the closer-than-expected special election, including state Sen. Tony Vargas (D), who is looking to unseat three-term Rep. Don Bacon (R) in Nebraska’s 2nd District.

Like Pansing Brooks, Vargas said his strategy is emphasizing “pain points” for voters, including access to abortion and struggles to pay for rent, gas, health care and prescription drugs amid high inflation.

“That is what’s on the ballot here this November,” Vargas said. “That is going to be what turns the tide here in Nebraska’s 2nd District.”

Derek Oden, Bacon’s campaign manager, said his candidate was spotlighting similar “pocketbook” issues, as well as immigration and the FBI search at Mar-a-Lago. And he shrugged off the notion that abortion rights would be a decisive issue.

“This idea that Roe v. Wade is just going to sort of totally drive up turnout and squash Republican energy, I don’t think that’s necessarily the case,” Oden said. “I think voters are still waiting to decide.”

Bacon beat Rep. Brad Ashford (D) in 2016 on the same ticket as former President Trump, and he went on to win in 2018 — a “blue wave” year — and again in 2020.

After the Nebraska special election and Kansans rejected the abortion amendment, Cook Political

Report moved the second district from “likely Republican” to “toss-up.”
John Hibbing, a political science professor at the University of Nebraska-Lincoln, said the June outcome was a “good sign” for Democrats in November, even though the president’s party usually gets “shellacked” in midterms.
The last time Nebraska sent a Democrat to the U.S. House from the 1st District was Rep. Clair Callan, who won in 1964 (and then lost two years later). And though Republicans still have a heavy advantage in the district, Pansing Brooks may have the track record to reach beyond party lines.
Pansing Brooks, an attorney finishing up her eighth and final year in the Nebraska legislature, was a Republican most of her life, which included a stint as co-chair of the local county GOP in the late 1980s. In 2008, however, she switched parties as her support for abortion and LGBTQ rights clashed with new party positions, according to the Omaha World-Herald.
Flood served in Nebraska’s unicameral statehouse for 10 years, including as Speaker for six years in which he was elected the state’s youngest and longest-serving leader in that legislature. In 1999, before politics, he founded Flood Communications, which owns a host of local television and radio stations that cover statewide news. He is also an attorney.
Hibbing said that while Lincoln, the state’s capital city, is growing — helping Democrats, who do better in urban areas — overcoming GOP dominance in rural parts of the district is “too high a hill to climb right now.”
“Hope’s one thing but actually winning the seat’s another,” Hibbing said. “And I still don’t see Democrats having a good chance to do that, even with a bump that they’re getting because of the Dobbs decision or various other things.”
However, other leading Democrats are, perhaps unsurprisingly, more optimistic.
State Sens. Carol Blood (D), who is running for governor, and Machaela Cavanaugh (D), who is seeking reelection, see the special election as evidence people want the government out of private decisions.
“That’s true in Nebraska, it’s true in Kansas and it’s true across the country,” Cavanaugh told The Hill. “This is not a winning issue for anyone who wants to hinder women’s rights to reproductive health; it is a losing issue.”
Cavanaugh is one of two Democrats targeted by Republicans for voting against a proposed abortion ban this spring, which failed to advance in the unicameral legislature by two votes.
Nebraska Gov. Pete Ricketts (R) announced on Aug. 9 that there would not be a special session on abortion after senators failed to garner the necessary votes, though Republicans likely would have had the votes had Pansing Brooks been elected to Congress.
Nebraska Democratic Party Chair Jane Kleeb said the election showed the effects of work on the ground, but she expressed frustration at the lack of national Democratic support for Pansing Brooks.
“We don’t need outside consultants or outside kind of magical tools that the latest vendors are selling,” Kleeb said. “What we need is resources from national party groups to actually believe and invest in what’s happening on the ground.”
A spokesperson for the Democratic Congressional Campaign Committee said the committee is focused on the Vargas-Bacon match-up as the party’s “best chance at success,” and one of 33 seats the committee is seeking to flip blue.
A spokesperson for the National Republican Congressional Committee said the margins of the special election were closer than anticipated, but that Democratic hopes for an even better outcome in November were “probably misplaced.”
By Zach Wendling

LJS: Are we in a recession? Probably, Nebraska economists say, but state may fare better than nation

The U.S. economy has met the technical definition of a recession, with two straight quarters of a decline in gross domestic product.

But are we really in a recession? Some experts have questioned whether the economy can truly be in a recession when unemployment is at a historically low level and continues to decline. In fact, the country as a whole added 500,000 jobs in July. Some other economic indicators continue to be positive as well. For example, retail spending was up 10.1% last month compared with a year ago.

A recent survey by the National Association for Business Economics found that fewer than 1 in 5 economists believe we are currently in a recession, although nearly half think we will be in one by the end of the year or early next year.

The debate over whether the national economy is in a recession also begs the question: Is Nebraska in a recession?

Eric Thompson, director of the Bureau of Business Research at the University of Nebraska-Lincoln, said it's unclear at this point whether the nation or Nebraska is experiencing recessionary conditions at this time.

But he said the state "will most likely fall into recession if the national economy enters recession."

However, he said the state's large agriculture sector could blunt the effects of a national recession somewhat thanks to high commodity prices, particularly corn prices, which are near all-time highs.

Thompson also said the state's labor situation could be a mitigating factor, too.

"Employers will try very hard to retain their workers even as the economy slows, he said. "This also may help Nebraska avoid recession."

The most recent data from the Nebraska Department of Labor shows the state has added nearly 20,000 jobs over the past year, and employment numbers are higher than they were before the coronavirus pandemic.

One industry that is doing particularly well in the state is manufacturing, which as of July employed 103,000 people, the most since January 2003.

Creighton University economist Ernie Goss, however, said strong job numbers are somewhat misleading.

"Healthy job gains overstate the strength in the U.S. and Nebraska economies for several reasons," he said.

Among them: the number of people holding more than one job has increased and the percentage of people participating in the labor force has continued to decline.

"The primary factor rendering both the U.S. and Nebraska employment gains is the steep decline in labor productivity," Goss said.

The first-quarter decline in U.S. labor force productivity was the largest since 1947, he said, and though data for Nebraska is not yet available, Goss said he expects it also will show a decline.

Despite that, he said, Nebraska's labor market remains stronger than the nation as a whole. The state's current labor participation rate actually is higher than it was before the pandemic started.

"This combined with the state's ultra-low unemployment rate (lowest in the last 50 years) attest to a Nebraska economy that is stronger than the national economy," Goss said.

He also noted the relative strength in both agriculture and manufacturing. That could be why Goss' monthly Rural Mainstreet Survey shows that job growth in rural areas of Nebraska has been nearly

three times higher than in the state's metro areas over the past 12 months.
On the other hand, Goss said the U.S. dollar's relative strength to European, Chinese and Japanese currencies is bad for both of those sectors long term. He also noted that the state's low unemployment rate has led to a labor shortage that is likely to limit the ability of the state's companies to grow.
Whether Nebraska truly is in a recession or not, recent reports do show the economy slowing down. Nebraska's leading economic indicator, which is designed to predict economic activity for the next six months, fell 0.08 percentage points in July.
Thompson, who authors the report, said it "suggests slow economic growth in Nebraska for the rest of year and the beginning of 2023."
Goss authors two surveys that cover the Midwest economy — the Rural Mainstreet Survey and Mid-America Business Conditions — and he said both, "point to slower, but positive, growth for the remainder of 2022 for Nebraska."
By Matt Olberding

OWH: U.S. Supreme Court asked to rule on Nebraska's 'home equity theft' law

LINCOLN — All it took for Kevin Fair and his now-deceased wife, Terry, to lose their home of 27 years was failing to pay a $588.21 property tax bill.
That set off a process outlined in Nebraska law through which a private firm claimed their mortgage-free, $60,000 home — all 912 square feet of it, with its three bedrooms, one bathroom and partially finished basement.
The Scottsbluff couple ended up with nothing.
In March, the Nebraska Supreme Court ruled that the tax sale process in the Fair case was legal and constitutional. But a national legal organization that fights government overreach and abuse called it "government-sanctioned home equity theft."
Earlier this month, the Pacific Legal Foundation, working with Legal Aid of Nebraska, asked the U.S. Supreme Court to hear the case. The petition for writ of certiorari argues that the process amounts to an unconstitutional taking of property and violates constitutional protections against excessive fines.
"PLF has an initiative to end predatory tax foreclosure laws that allow government (and its private partners) to take homes that are worth much more than the tax debts," said Christina Martin, a senior attorney for the group. "Government should not take more than it is owed in taxes, penalties, interest and costs. And it should not ignore the value of what it takes when it is collecting a debt."
The issue stems from a Nebraska law dating to the 1870s, which provides a means for counties to collect delinquent property taxes.
Under the law, when property taxes go unpaid, counties can take out a lien — a legal claim — on the property, which makes it unable to be sold or refinanced until the debts are paid. These liens are advertised in a local newspaper and sold to third parties.
Once a third party purchases the lien and pays the property owner's debt, that party begins paying taxes on the property. After three years of paying taxes, the third party can then apply for a tax deed. At that time, they must notify the owner of their intent to obtain a tax deed so that the owner has a chance to pay the debt and keep the property.
If the owner cannot or does not pay, the third party ends up with property worth several times the amount of the tax delinquency, even with interest and fees added in. In the Fairs' case, the total

owed was about $5,200, less than a tenth of the assessed value of their home.
In an earlier Nebraska case, a 94-year-old widow living in a nursing home lost a farm worth $1.1 million over a $50,000 tax lien. Although one Nebraska Supreme Court judge described the situation as "a windfall that borders on the obscene," the court upheld the law.
The Nebraska law, like those of 13 other states, does not require that property owners be reimbursed the difference between the tax debt and the value of their property.
Jennifer Gaughan, legal program director for Legal Aid, said the tax sale law is a concern for Legal Aid because it often affects low-income homeowners, especially those who are elderly, disabled or from minority groups. The Nebraska Department of Revenue's property tax division listed more than 20,000 properties as tax-delinquent in the past year.
"Homes are how most people accumulate wealth," she said. "Through this process, all of the wealth that Mr. Fair has accumulated will be lost. Even if he didn't pay his taxes, is it really fair to take his entire house?"
Based on court documents, the Fairs' saga began with their 2014 property tax bill.
A year earlier, Terry Fair had developed multiple sclerosis and lost her job at Walmart. Kevin Fair took early retirement to care for her. Between medical bills and the reduced income, they were unable to pay the $588.21 owed.
County officials published a notice of tax delinquency in a local newspaper, as the law requires. The February 2015 notice listed 685 properties, each identified only by a legal description of the property.
A month later, an Omaha-based company called Continental Resources bought the tax lien on the Fairs' home for the cost of the taxes owed. The company then received and paid the tax bills in 2015 and 2016. By then, the tax debt with interest and fees had reached $5,268.
Continental sent the required notice to the Fairs, giving them three months to pay off the total and save their home.
But the Fairs did not have the money and were rebuffed in their attempts to get a loan. When the three months expired, Scotts Bluff County officials transferred the home's title to Continental.
The Fairs turned to Legal Aid for help. Although Terry Fair died in 2019, Kevin Fair has been able to stay in their home during the legal battle.
Pacific Legal Foundation got involved with the case because it encounters similar stories in the states that allow governments and private partners to take properties worth more than the amount of tax debts, Martin said. In one case involving a homeowner who accidentally underpaid his taxes by $8, the Michigan Supreme Court ruled that government had taken the property without providing just compensation.
She said the organization plans to file a petition with the U.S. Supreme Court on behalf of a second Nebraskan soon. In that case, Sandra Nieveen of Lincoln lost her home of 50 years over unpaid property taxes that accumulated while she was struggling with severe depression and anxiety. She also lost her appeal before the State Supreme Court.
They face long odds in getting their cases before the U.S. Supreme Court. A total of 5,307 cases were filed with the court during its 2020 term, according to a 2021 report on the federal judiciary. During the same term, only 72 cases were actually argued before the court. The court tends to take cases with compelling factors, such as a conflict with a previous ruling or a need to settle an unanswered question on an important topic.
"We are hopeful that the Supreme Court will agree to hear the cases because it is a very important issue, affecting property owners in many states," Martin said.

By Martha Stoddard

OWH: Omaha parents, former teachers take education into their own hands with 'microschools'

Rachel Benson grew up attending a small public school in Kansas, a place where she was a classic achiever — all A's, valedictorian, a teacher's star pupil.

She moved to Omaha for college, became an elementary teacher and spent a decade trying to find the right fit at schools around Omaha. But after being laid off, dealing with escalating behavioral issues and eventually leaving education altogether, Benson said she started to miss helping children.

In 2018, she decided the best way to get back into teaching and avoid the pitfalls that previously derailed her career was to create her own school.

"When I said yes, I felt really nervous, like, 'Can I do this?'" Benson recalled. "And with my husband and a few other people around me, I just kept whispering to them, 'I'm going to start a school.' They helped pour fire on my vision and validated me."

Benson is among what one advocate says is a burgeoning number of parents and former teachers banding together to create their own schools — commonly referred to as microschools — around the Omaha metro area. Many of them have popped up since the pandemic began.

Former teachers say they couldn't thrive in the public or private school systems, while parents were seeking alternative education styles or curriculum.

The learning style isn't feasible for all families though, particularly those who can't afford tuition and other costs. They also lack the ability to convey meaningful certifications or diplomas to their students, according to a state official.

As far as the state is concerned, there's no such thing as a microschool, said David Jespersen, spokesman for the Nebraska Department of Education.

Schools are either accredited or exempt from state standards, he explained. Home-school students who are taught by just their parents are labeled as an exempt "single family" and home-school families who come together to learn, like in a microschool, are deemed an exempt "multi-family unit."

"A microschool isn't really a school, it's just people helping a student learn different subjects," Jespersen said. "It's a more common term in that industry. There is no requirement for them to be registered with the state because they don't have any students necessarily, they are basically working as a contractor for a group of exempt families."

As of Aug. 19, there were 35 multi-family units registered for the 2022-23 school year in Nebraska, Jespersen said.

While those numbers are similar to pre-COVID statistics, Kathryn Dillow, president of Nebraska Homeschool—The Home Educators Network, said she has seen an increase in microschools since the pandemic began.

"I think it's because families have experienced learning can happen in a different way," she said.

The term "microschool" is a bit of a gray area.

Dillow said the format can vary from two families coming together to help teach their children, to a hybrid learning model, to a full five days of school in a specific location.

Benson's school was created under Acton Academy, an international learning program that boasts more than 275 schools worldwide. It meets five days a week and its academic calendar is similar to that at a public or private school.

Several other microschools around Omaha operate under a hybrid format.
Rebecca Kennedy opened her own last year after tutoring for more than a decade. Kennedy said she wanted to create her own school for a variety of reasons: She didn't want students to be forced to follow a mandated curriculum and she wanted to provide a space where "politics are off the table."
"I tell parents (their) kids won't know who we voted for, and anything controversial or political, I say go home to talk to mom and dad about it," Kennedy said. "Knowing a lot of parents were looking for that, I wanted to help."
Kennedy's school, E3 Modern Learning, meets in the basement of Faith Christian Church in west Omaha. It offers a hybrid format that requires the close participation of parents — each family has to register their own child as an exempt home-school student and use their own curriculum.
Students bring their work to the church on Tuesdays and Thursdays for Kennedy to facilitate lessons and help them complete their own tasks. Then they head home on other days of the week to go through the learning with their parents.
Kennedy started her last school year with two students and ended with nine. This year, she has about six in kindergarten through fourth grade in a "one-room schoolhouse concept."
Kennedy said her whole motto is for the students to be the drivers of their own learning.
"I base it on personalized learning and where they are at," Kennedy said. "I don't move on if a child is struggling and I don't have this baseline where they have to be at. I move at the students' pace and not like a district's pace."
Many microschools differ drastically from public or private school in curriculum. There are no grade levels — like in Kennedy's school, students of all ages learn alongside each other with work catered to their skill level.
Students don't advance to another grade once the school year ends, but instead have their own set of requirements needed to move onto another level of curriculum.
In Benson's school, teachers are called "guides" and children make their own decisions of what they learn every day.
"What sets us apart, and it's not for everybody, is the belief that children can do things. And they can even learn how to lead themselves. And they can learn how to lead each other," Benson said. "The role of the adults is different. In traditional schools, the role of the adult is the central role in the class. It's the role with the most power. And the children don't really have a choice in what they're doing."
Dillow said this type of education offers freedom and flexibility. And because these schools don't have to follow state standards, the curriculum is up to the owner or parents, depending on the microschool format.
The state doesn't provide oversight of curriculum for those exempt from state standards, Jespersen said. They are required to submit a plan of what they are teaching students, but it can be as short as a couple of sentences describing what subjects parents or tutors will be going over that year.
"Once we get that it's basically, OK, good luck," Jespersen said.
Microschools are also not allowed to issue high school diplomas. If they do give a student a certificate of completion, it basically means nothing in the eyes of the world and state, Jespersen said. Students have to take GED tests to show they completed high school.
Hannah Holguin, owner of Masterpiece Academy, said while she intends to use Nebraska state standards, she will incorporate her own format of learning and additional faith-based instruction.
Holguin's school is in its first year this fall. She previously worked in the Omaha Public Schools before moving to the Council Bluffs district in 2021 as her last try to teach in public school.

Holguin said she didn't thrive as a teacher in OPS and Council Bluffs because the districts didn't prioritize students' academic needs.
"We had goals that needed to be met and we had timelines, so I remember feeling rushed by the curriculum," Holguin said. "It was always, 'We are behind,' but it was never about the kids. It was always about the curriculum. And so I found myself staring at my kids and realizing they're not ready to move on."
Masterpiece Academy offers full-time and part-time learning based on parent needs. Right now she has three students, but is open to having more and hoping to eventually grow to K-12. She bases the academy out of her home to make children feel more comfortable.
The individualized learning a microschool can offer comes at a cost and some are charging tuition that is far more expensive than many people can afford.
Holguin said she realizes that she won't be reaching the students who really need her, at least initially, because she has to charge tuition.
"I'm not reaching the kids yet that need me. But I'm optimistic for fundraising efforts from other people who will jump on board and support it," Holguin said. "That way people can get scholarships and still get this type of education without having that financial burden."
Holguin's prices range from $650 to 850 a month depending if the student is full time or part time. Kennedy charges $300 per month for her two-day-a-week model, plus a class fee of $180 for software and supplies. Benson's school, which meets five days a week, is $8,800 a year with a $300 annual fee.
Julie Desrosiers, the owner of New Heart Christian School, is one of the few nonprofit microschools in the area that is donation-based. She said parents are expected to pay a monthly fee but they can choose their contribution amount.
Desrosiers is also a former OPS teacher who decided to quit and start her own school for the 2021-22 school year. She said being a public school teacher was boring because the entire year is mapped out for each educator, not allowing personal creativity with the curriculum.
"Students can't advance too quickly, but they can't fall behind. They have to stay with their peers," she said. "By fourth grade, kids have outgrown their curiosity and now they hate school. They have learned to hate school because they can't be creative and learn at their own pace."
New Heart Christian School resides in the same church as Kennedy's school. She offers as much learning as a parent wants.
A parent can drop their child off every day or a couple hours for a day. Desrosiers prides herself on the project-based learning she provides, plus hands-on assignments and field trips on a regular basis.
This year, Desrosiers is giving the reins over to her students' parents, who will be volunteering at the school as she cares for her daughter, Esther, who was diagnosed with brain cancer earlier this year. She said the school year should still begin Sept. 7.
Desrosiers said making the jump to her own school has unearthed a different community committed to giving children freedom in the classroom.
"We have a choice to take it easy. We don't have to be hitting the books hard all day, every day, certain minutes a day because the state tells us we have to," she said. "It's not my school — it's everyone's school."
By Lauren Wagner

LJS: 'Not just a disease of smokers' — Lung cancer ranks as deadliest in Southeast Nebraska

About the stories

This summer, the Journal Star and other Lee Enterprises news outlets sifted through data provided by CDC with the goal of answering the question, "What's killing us?" Or, in some cases, "What's not killing us as much as it used to?"

We examined the leading causes of death in nine Southeast Nebraska counties — Cass, Gage, Jefferson, Johnson, Lancaster, Otoe, Saline, Seward and York — and compared our rates locally to the national average.

More people in Southeast Nebraska die of lung cancer than any other type of cancer, and the reason for its high mortality rate may be simple.

While Nebraska has an average rate of screening for the disease, most cases of lung cancer are caught in later stages, according to Dr. Ryan Martin, a pulmonologist at Bryan Health.

"If people follow the recommendations, they get a colonoscopy beginning at the age 45. They detect huge proportions of colon cancers early and people can get resection before they have metastasized," Martin said. "The problem with lung cancer is most diagnoses occur on stage 3 and 4, which are at that point not resectable, which means incurable, and that's really why the high mortality rate."

The American Cancer Society recommends people between the ages of 50 to 80 who are in "fairly good health" but currently smoke or quit smoking in the past 15 years to be screened for lung cancer.

Screening is also recommended for anyone with a 20 pack-year smoking history — a pack-year is one pack of cigarettes per day, per year. One pack per day for 20 years or two packs per day for 10 years would both be 20 pack-years.

Although lung cancer has the highest mortality rate, it's the third-most-common form of cancer in Nebraska, behind breast cancer and prostate cancer, according to the American Cancer Society.

Both breast cancer and prostate cancer are more commonly screened for, allowing cases to be found in earlier stages and to be treated quickly and efficiently.

The organization estimates that about 1,330 Nebraskans have been diagnosed with lung cancer this year as of early August, and 670 of those people have died.

In comparison, the same data showed 1,680 people have been diagnosed with prostate cancer, while only 170 of those cases have been fatal, and about 1,600 diagnoses for breast cancer have been recorded, with 250 women dying of the disease this year.

Colorectal cancer had the second-highest mortality rate in 2022, with 320 people dying out of 960 diagnoses.

Because many cases of lung cancer are detected later, treatment can be difficult.

"The first option when we're going to talk about treatment of lung cancer is always going to be surgical, and whether or not you can potentially resect it," Martin said. "Then, the stage of the tumor is going to determine what the alternative options are there. It just really depends on what we actually see."

Treatment can be a variation of chemotherapy, immunotherapy, radiation therapy or all of the above.

While the No. 1 cause of lung cancer is smoking, an odorless, colorless gas also causes a significant number of cases.

Radon is a gas that seeps into homes through the ground and is known to cause lung cancer in smokers and non-smokers alike.

Nebraska has extremely high levels of radon compared with the rest of the country — especially in eastern Nebraska — and has the fourth-highest levels behind South Dakota, North Dakota and Iowa. The reason for that is a rock layer underground in the Midwest that is closer to the surface than in other areas of the country, according to the Nebraska Department of Health and Human Services.
The dangerous gas can be controlled through testing and mitigation, but fewer people have been testing their homes for radon in recent years, said Travis Weber, owner of Weber Home Inspections in Lincoln.
"A lot of people still to this day don't even know what radon is," Weber said. "And a lot of people think it's a hoax."
Additionally, he said the housing market has played a role in testing, with many buyers bypassing radon tests to speed up the process and to avoid spending extra money on a mitigation system should their house have a radon problem.
The Environmental Protection Agency recommends homeowners install a mitigation system if their house tests at 4 picocuries per liter or more. The system includes a PVC pipe running from the lowest level of the house up past the roof with a fan filtering the air and radon out.
Weber has inspected multiple homes in Beatrice that tested in the 80s and recently tested a home in central Lincoln that had 22 picocuries per liter of radon. However, there's no rhyme or reason to which homes have high levels and which don't, and the age of the house doesn't play a role, either.
Weber, who has been in the business for seven years, said there are homes in certain neighborhoods in his coverage area that typically pass a radon test, like Fallbrook and Highlands, but there’s still no guarantee.
"You truly never know your radon levels until you get a test," he said. "You can have three houses in a row. The two on the ends could fail and the one in the middle can pass. That's just the way it works sometimes."
However, there's no way to tell exactly how a person developed lung cancer, whether that be from smoking, radon or another cause, according to Dr. Steven Dunder, an oncologist at Cancer Partners of Nebraska.
"There's no way to tell for sure, but it certainly seems anecdotally like we're seeing more and more patients that have never smoked and haven't been around secondhand smoke that are coming down with lung cancer," he said.
While researchers still have a long way to go, Dunder said the future is bright. However, more awareness for lung cancer could potentially lead to higher screening rates, more knowledge on risk factors and less stigma surrounding the disease, he said.
“Breast cancer advocacy groups have done an awesome job with lots of pink ribbons, breast cancer month and have increased women getting mammograms,” he said. “It's time for lung cancer and pancreatic cancer to not be the hidden stepchildren anymore. Nobody should be shunned because they got lung cancer. It's not just a disease of smokers and nobody deserves it.”
By Jenna Ebbers

OWH Editorial: Active-shooter drill at Omaha nonprofit was cruel to workers

It’s a sad reality these days that no workplace, school or other location is entirely safe from a mass shooting.
So it was certainly reasonable that officials with Catholic Charities in Omaha considered having some sort of simulated exercise to prepare workers for the unthinkable.

But the gap between a reasonable idea and the insane way it played out in May couldn't have been wider.

As World-Herald staff writers Kevin Cole and Todd Cooper revealed last week, the "drill" involved Catholic Charities hiring a pretend gunman who stormed the building while wearing a dark hoodie and a mask, firing blank rounds from a semiautomatic handgun. The pretend shooter had arranged to pose pretend victims on the ground outside, apparently streaked in blood, to amp up the fear factor.

All this without telling employees at the nonprofit organization that it was a drill. Some fled in terror or tried frantically to hide from the active shooter, thinking they had only seconds to live. Authorities who responded didn't know it wasn't real either.

It doesn't take much imagination to picture how that drill could have ended in tragedy, with innocent people shot or at least hurt in the confusion. Fortunately, that didn't happen. Still, some Catholic Charities employees were so shaken up that they haven't been back to work since the incident.

"Bad, bad idea," Douglas County Attorney Don Kleine said last week, in a massive understatement. "Thankfully, nobody else got hurt more serious than the mental damage these individuals suffered."

The pretend gunman, John Channels, 27, of Omaha, now is in jail and faces five charges of terroristic threats and one charge of weapon use. He deserves his day in court to determine if he broke the law.

And time will help sort out the differing stories about whose idea it was to keep employees in the dark. Channels, through his lawyer, says the nonprofit wanted it that way. Catholic Charities says he was the one who wanted to make the drill as "lifelike" as possible by not telling employees in advance.

At any rate, it's clear that the entire scheme was poorly conceived. Learning what to do in an active-shooter situation would be helpful information. Later practicing those responses — as countless schoolchildren and employees have done with regular fire (and active shooter) drills — could save someone's life.

But concocting a staged scene that made workers think that they were about to die taught them nothing, except that their employer had no qualms about traumatizing them. The plan was callous and needlessly cruel.

It should go without saying, but this is a drill that shouldn't be repeated.

OWH Column: Malcolm X is the best example of a Nebraska Hall of Fame inductee

Malcolm X, the Omaha-born civil rights activist whose fiery oratory helped deliver a message of self-sufficiency and independence for Black people, survived the first round of cuts to remain in the running for the Nebraska Hall of Fame.

On Aug. 12, the Nebraska Hall of Fame Commission reduced the latest list of nominees from eight to three. On Sept. 12, they do the final vote. Right now, Malcolm X is in second behind Louise Pound, an innovative scholar and athlete. The other candidate is Howard Hanson, a Pulitzer Prize-winning composer and musician. Both are White.

As Nebraskans, we all think we know at least a piece of Malcolm X's story, right? Well, let's look at what we know about one of the most pivotal figures in civil rights history and why he deserves the honor of being the first Black person inducted into the Nebraska Hall of Fame.

Malcolm X was born 97 years ago in 1925. He spent his first 18 months of life here in Omaha. He and

his family might have stayed longer had they not been targeted and terrorized in their family home by the Ku Klux Klan. At the time, the KKK was a statewide organization with more than 40,000 members active throughout Nebraska, including Omaha and many other communities. Additionally, Omaha had experienced some of the worst racially motivated riots in 1919 that resulted in the vigilante beating, hanging and burning of Will Brown. During those riots, the mayor, who was White, was beaten and almost died while trying to stop the violence.

Since being kidnapped and brought to this country in chains more than 400 years ago, Black people have understood that there are places — states, cities, towns and neighborhoods — that they can't go to or remain in because a racist mentality could cost them their lives.

In his autobiography, Malcolm X described the racial terrorism his family experienced even before he was born.

Chapter one of "The Autobiography of Malcolm X" begins with this sentence: "When my mother was pregnant with me, she told me later, a party of hooded Ku Klux Klan riders galloped up to our home in Omaha, Nebraska, one night."

Imagine you and your family having to flee from a place in order to continue living. Regardless of your age, that place and that experience would have an impactful influence on your life — for the rest of your life.

Under state law, to be included in the Hall of Fame, people must have been born in Nebraska or gained prominence while living in Nebraska or have lived in the state and their residence in the state be an important influence on their lives that contributed to their greatness. A candidate need only meet one of these criteria to be included.

Malcolm X meets at least two of those requirements. He was born in Nebraska and the very reason he didn't stay here for long became an important factor in his life.

In his short lifetime, Malcolm X evolved as a man and as a civil rights leader. He went from criminal to thinker, from convict to advocate of human rights.

When Malcolm X was assassinated by a gunman 57 years ago, many viewed him as a troublemaker, a Marxist and a purveyor of violence. Yet in 1998, Time magazine declared his autobiography one of the top 10 groundbreaking books of the 20th century.

The autobiography gives his fascinating perspective on the inherent racism in a society that denies its non-White citizens the opportunity to live the American dream. It gives extraordinary insight into the most urgent issues of our own time.

Does everyone agree with his views? Of course not.

But that could be said of J. Sterling Morton, for example. He's already in the Nebraska and Agriculture Halls of Fame. Like Malcolm X, he was an author. He was the "author of Arbor Day" as the inscription reads beneath the monumental bronze statue that honors him in Nebraska City. He was the author of one of the earliest newspapers in the Territory of Nebraska and the author of many of the territory's first laws. He was also the author of the "Illustrated History of Nebraska."

These compilations by Morton were disgusting revisionist history that wiped the abolitionist Republicans from the story of the state and displayed his hatred for people who weren't White.

He wanted Nebraska to be a slave state, and in his book, he proudly documented one of the resolutions he authored for the territory's 1864 Democratic platform:

"Resolved, That negroes are neither by nature nor by education, entitled to political nor social equality with the white race, that we are opposed to permitting them to hold office in the territory themselves or to vote for others for office; that we are bitterly hostile to the project of amending the Organic Act (the proposed statehood law) so as to permit them to vote."

Morton began this final work in the late 1890s, and it was published shortly after his death in 1902. I'm sure his racist beliefs and writings, which do not resonate worldwide or even in Nebraska, are not the reason he is in the Hall of Fame. They were too controversial. The focus is more on him being the U.S. secretary of agriculture and founder of Arbor Day.

This is the fourth attempt to put one of Omaha's most famous native sons into the Hall of Fame. Not only did Malcolm the man evolve, his Omaha birthsite has evolved as well. Once an overgrown lot, the site is now on the National Register of Historic Places.

The site sits on 17 acres in the heart of North Omaha. It features peaceful gardens, a greenhouse and visitors center and serves as a memorial for the birthplace of Malcolm X. Last year, it was one of the 70 stops recognized in the state's tourism passport program.

But the importance of Malcolm X for Nebraska goes far beyond tourism. He deserves to be in the state's Hall of Fame because of his vision and legacy.

As he once said: "In fact, once he is motivated no one can change more completely than the man who has been at the bottom. I call myself the best example of that."

Read his words and speeches. His life stands as the definitive statement of a movement and a man whose work was never completed but whose message is timeless.

Nebraska is integrally tied to Malcolm X's history. To leave him out of the Hall of Fame says more about us as a state than it does about one of the most influential civil rights leaders in the world.

Sheritha Jones is the chief librarian for the Omaha World-Herald.

LJS Editorial, 8/28: A really big deal for fans, Nebraska

Big money -- really big money -- will be coming to Nebraska Athletics in a few years. As in somewhere in the neighborhood of $100 million a year, starting in 2025.

That's the estimated distribution per school distribution from the Big Ten conference's new media rights deal announced recently.

The record-setting agreement with Fox, CBS and NBC, which goes into effect next year and will take a couple years to reach the full payout to the soon-to-be 16 member schools, will, over its seven years pay out $7 billion to $8 billion to the conference.

In fairness, a percentage of that newly realized revenue – as much as $40 million more than the schools are now receiving, should be shared with the "student athletes," a proposal Big Ten Commissioner Kevin Warren said is being discussed.

There are, of course, concerns that the schools directly paying athletes would make them employees. But the distribution, which should extend in some form across all sports, men's and women's, could be done either through the conference or by "supersizing" scholarships.

With the Aug. 18 announcement of the media rights deal and the moves of USC an UCLA to the Big Ten and Texas and Oklahoma to the Southeastern Conference set to take place over the next couple years, Nebraska and its fans should be thankful that, 12 years ago, then Chancellor Harvey Perlman guided the Big Red out of the Big 12.

Suffice it to say that, even though the Huskers have struggled to be consistently competitive in the Big Ten in football and men's basketball, remaining or moving back to the Big 12, as some have suggested, would have left Nebraska out in the Arctic cold with former Big 8 brethren Kansas, Kansas State, Iowa State, Oklahoma State and Colorado.

The financial windfall and the creation of two "superconferences" that will change the nature of college athletics, especially football, have generated most of the late summer discussion among

media, administrators and fans.
But the biggest impact of the media rights deal that Husker fans will experience on Saturdays starting next fall is the severing of the conference's, and thereby Nebraska's, relationship with ABC and ESPN.
The Big Ten has been on ESPN for 40, which is nothing compared to Nebraska, which has been an ABC staple since the network broadcast first- year coach Bob Devaney and the Huskers' 36-34 win over Miami in the Gotham Bowl in Yankee Stadium in 1962.
Decades of classic games have followed on the network and on ESPN, including, of course, the 1971 Game of the Century against Oklahoma. In fact, Nebraska developed such a close relationship with ABC and its play-by-play legend that the bathroom in the television portion of the Memorial Stadium press boxes is named "The Keith Jackson Toilet Facility."
While breaking ESPN's stranglehold on college football will, in the long run, benefit the sport, Nebraskans and the Huskers' nationwide legion of fans will have to learn to tune into NBC and CBS, where the Huskers have rarely appeared and get NBC's streaming service, Peacock, as well as watching even more Fox and BTN to see the Big Red in action.
That will definitely be different. But it's a change that will literally payoff for Nebraska, and its fans, thanks to the unprecedented media rights deal.

Cedar Rapids Gazette: Iowa gun rights amendment: What a 'yes' or 'no' vote could change

DES MOINES, Iowa — Iowa voters in November will be asked to add language to the Iowa Constitution that states it is a "fundamental individual right" to keep and bear arms, and that any restraint on that right is invalid unless it meets the demands of "strict scrutiny."
A new coalition of gun safety advocates said the pro-gun amendment would prohibit safety measures that Iowans support, such as firearm safety training, universal background checks and a requirement for a license to carry a gun in public.
Republicans have argued for the measure for years, saying Iowa is one of only six states without protections in its constitution for the right to keep and bear arms.
Democrats and gun-safety advocates say Republicans are misleading Iowans when they say the amendment is equivalent to the Second Amendment to the U.S. Constitution. The "strict scrutiny" language, they say, could lead to courts overturning gun restrictions already on the books.
"Inserting gun rights with strict scrutiny into the (Iowa) Constitution would tip the balance of power, elevating access to guns above public health and safety," said Connie Ryan, executive director of Des Moines-based Interfaith Alliance of Iowa and a member of the Iowans for Responsible Gun Laws coalition. "This is unacceptable and, quite frankly, it is dangerous."
The Iowa Firearms Coalition, a gun-rights advocacy group, said in a statement that, "U.S. courts have long recognized that the right to keep and bear arms is a fundamental right that preexisted the Constitution and which is protected — not granted — by the Second Amendment. Although it is the ultimate guarantor of our other rights, Iowa is one of only six states that do not protect that vital right in their constitutions."
Iowa constitutional law professors say the amendment dictates the level of judicial review Iowa courts must apply when considering whether gun restrictions in the state are permissible.
"Regardless of what your positions are on guns, normally, the courts are the ones usually that decide the level of (judicial) scrutiny," said Mark Kende, director of Drake University's Constitutional Law

Center. “Even the U.S. Constitution doesn’t have levels of scrutiny in it.”
Kende said the ballot creates other problems.
“Do we want the Legislature telling the courts how to do things?” Kende asked. He said he was not advocating a position on the amendment or how Iowans should vote.
"It’s the Legislature becoming more interventionist with what the court does in more specific ways that some people would argue creates separation of powers problems."
Rep. Steven Holt, R-Denison, who sponsored the gun amendment in the Iowa House, said it serves “as an important firewall” to protect Iowans’ “fundamental right to keep and bear arms” and to protect themselves.
Holt also called the argument "utterly ridiculous" that the amendment would lead to courts overturning gun restrictions already on the books — including background checks and prohibitions on felons owning firearms.
“It’s a compelling government interest narrowly tailored,” Holt said. “We don’t want felons to have firearms. We don’t want violent people to have firearms.
“Reasonable firearm laws on the books are not going to be impacted and federal requirements for background checks aren’t going to be impacted.”
Some Iowa legal experts say the issue is not so clear.

Strict scrutiny

“Strict scrutiny” is the highest legal hurdle for legislation to clear. It would require any restrictions on gun rights to be narrowly tailored to achieve a compelling government interest, such as public safety, Drake University’s Kende said.
“Most attempts to regulate guns are going to be struck down by the courts because strict scrutiny means exactly what it says,” he said. “The court very much want to see precision in the law, and if they see any imprecision or think the law goes too far or doesn’t accomplish what it’s supposed to, they’ll strike it down.”
The Iowa Firearms Coalition states on its website that “strict scrutiny” is “a near-impossible test for an infringement on a fundamental right.”

What the amendment does

Kende and University of Iowa law professor Todd Pettys, who has written on gun-rights issues, said the proposed amendment would establish a much narrower legal framework for passing new gun restrictions in Iowa — one more stringent than that at the federal level.
Until just recently, federal courts first asked whether a challenged law placed a burden on gun rights protected by the Second Amendment. If so, the courts examined a challenged law with different levels of scrutiny, depending on how burdensome the requirement was and how important the protected right, Pettys said.
Most often, they applied a test called “intermediate scrutiny,” Pettys said. It asks whether the government asserted an important interest in the regulation — in this case, public safety — and whether the regulation actually advanced that interest.
Courts often decided that question by judging the empirical evidence a state put forward, such as evidence that a law designed to reduce shooting deaths actually did so.
The legal landscape, though, shifted after a June U.S. Supreme Court decision. In New York State Rifle and Pistol Association v. Bruen, the court overturned a New York gun safety law requiring a license to carry a gun outside the home and to "demonstrate a special need for self-protection“ in public places.
It is the first major Second Amendment decision from the Supreme Court since its 2008 decision in

District of Columbia v. Heller, which protected the right to have a handgun for self-defense in the home.
It marked the first time the Supreme Court affirmed an individual right — as opposed to a collective right — to gun ownership that was separate from the "militia clause" in the Second Amendment, Pettys said.
Writing for the majority in that 5-4 Heller decision, Justice Antonin Scalia, now deceased, said the Second Amendment "protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home."
Scalia's opinion opened the door to eliminating some public carry regulations and bans, but it did not immediately strike down many long-standing prohibitions on firearms. Most challenges to gun regulations since the Heller decision failed, Pettys said — hence a push by the National Rifle Association urging states to pass “strict scrutiny” amendments.
Defending the handgun licensing law, New York argued that the right to carry a weapon for self-defense outside the home was not absolute.
The Supreme Court, though, held the New York law stretched the bounds of Heller because it gave too much discretion to state officials. The majority opinion said the law violated the 14th Amendment by "preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public."
The court’s six conservative justices said New York’s proper cause requirement was inconsistent with the nation’s historical tradition of firearm regulation, and that historical precedent was needed to justify a modern law.
The decision, though, does not undo objective licensing requirements that exist in many states, such as fingerprinting, background checks and firearms training. It also does not repeal existing state and federal prohibitions regarding who is qualified to possess a firearm, according to national legal experts.
Justices also said gun regulations banning weapons in sensitive places such as schools and government buildings were permissible.
Iowa’s proposed amendment, however, would be even more protective of gun rights, Pettys and Kende said.
“Even Justice Scalia — who certainly was a supporter of gun rights — said there were permissible restrictions, but it’s not 100 percent clear that some of them would survive under explicit strict scrutiny in Iowa.”

'Common sense' gun laws

The Iowa Firearms Coalition contends “strict scrutiny” is the appropriate test for fundamental rights, such as those granted under the First and Second Amendments.
“There is (a) significant political element that wishes to either reinterpret the contemporary understanding of the meaning of the Second Amendment through overturning Supreme Court precedent — by packing the court if necessary — or by amending or repealing the amendment itself,” the coalition said in a statement.
“If such were to occur, the presence of the Freedom Amendment” — what the Iowa Firearms Coalition is calling the ballot amendment — “in Iowa's Constitution would preserve strong protection of those rights at the state level.”
But Kende said that for Iowans who support gun rights — but do not feel those rights are absolute and support what they see as sensible gun laws — “they’re in trouble because they will not get reasonable limitations upheld as frequently under this (amendment), if at all."

He said a “person’s belief in reasonable gun restrictions will be nullified if they vote for this particular (amendment) under strict scrutiny.”
“But their belief in gun (rights) — to the extent they have one — and being able to have guns without restrictions, relatively, that would be upheld,” Kende said. “If they do have a strong belief in ‘common-sense gun laws,’ then those laws would all be in jeopardy.”

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