



Pete Ricketts
Governor

STATE OF NEBRASKA

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The Honorable Doug Peterson
Nebraska Attorney General
2115 State Capitol
Lincoln, NE 68509

Dear Attorney General Peterson:

On September 24, 2019, you issued a formal legal opinion regarding the Governor's authority to appoint the Douglas, Lancaster, and Sarpy County Election Commissioners. In your formal opinion #19-012, you opine that it is unconstitutional for me to complete a duty that is required under the existing provisions of Nebraska Revised Statute §32-207. Specifically, current law requires me to appoint the Election Commissioner in three counties, each of whom serves a term of four years or until a successor has been appointed and qualified.

Currently, I am considering an appointment of the Douglas County Election Commissioner. I am writing to provide you with my formal notice that, solely in reliance upon your written opinion, I am refusing to exercise the statutorily-imposed appointment duty.

Please also consider this my formal notice to you that, solely in reliance upon your written opinion, I am refusing to exercise the statutorily-imposed appointment in order to invoke the procedures set forth in Nebraska Revised Statute §84-215 which states: "[w]hen the Attorney General issues a written opinion that an act of the Legislature is unconstitutional and any state officer charged with the duty of implementing the act, in reliance on such opinion, refuses to implement the act, the Attorney General shall, within ten working days of the issuance of such opinion, file an action in the appropriate court to determine the validity of the act."

Since the constitutionality of a statute has been questioned in your opinion, it is my belief that this issue should be decided by our judicial system before a legislative change is undertaken. My refusal to carry out this appointment is not an agreement with your opinion as written. Rather, my refusal is necessary in order to have this matter determined by the courts in a timely manner.

Sincerely,

Pete Ricketts
Governor

