IN THE DISTRICT COURT OF
DOUGLAS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel. MICHAEL T. HILGERS, Attorney General,	)	**Case No. CI 26-_____**
Plaintiff,	)	
v.	)	
CITY OF OMAHA, a municipal corporation; DANNY BEGLEY, in his official capacity as President of the Omaha City Council; AIMEE MELTON, in her official capacity as a member of the Omaha City Council; PETE FESTERSEN, in his official capacity as a member of the Omaha City Council; LAVONYA GOODWIN, in her official capacity as a member of the Omaha City Council; RON HUG, in his official capacity as a member of the Omaha City Council; DON ROWE, in his official capacity as a member of the Omaha City Council; BRINKER HARDING, in his official capacity as Vice President of the Omaha City Council; JOHN	)	**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

W. EWING JR., in his official	**)**
capacity as Mayor of the City of	**)**
Omaha; CAILIN DALY DEJILLAS,	**)**
in her official capacity as the	**)**
Director of the City of Omaha	**)**
Human Rights and Relations	**)**
Department,	**)**
	)
Defendants.	**)**

The State of Nebraska, by and through its Attorney General, Michael T. Hilgers, for its causes of action against the Defendants, states and alleges as follows:

INTRODUCTION

1. The City of Omaha is attempting to partially repeal a duly enacted statute passed by the Nebraska Legislature. Because the City has no constitutional power to modify the statutes passed by the Legislature, the Attorney General brings this suit to enforce the bounds of our Constitution.

2. The Nebraska Constitution vests the "legislative authority of the state … in a Legislature consisting of one chamber." Neb. Const. art. III, § 1. That Legislature "has plenary legislative authority limited only by the state and federal Constitutions." *Lenstrom v. Thone*, 209 Neb. 783, 789, 311 N.W.2d 884, 888 (1981).

3. By contrast, municipalities are "creature[s] of the Legislature," *Pro. Firefighters of Omaha, Local 385 v. City of Omaha*, 243 Neb. 166, 174, 498 N.W.2d 325, 331 (1993), and may exercise only those powers the State gives them, *Johnson v. Village of Polk*, 319 Neb. 352, 361, 23 N.W.3d 96, 105–06 (2025); *Obitz v. Airport Auth. of City of Red Cloud*, 181 Neb. 410, 418, 149 N.W.2d 105, 112 (1967). Municipalities must yield to the Legislature's prerogative on statewide public policy. Thus, "municipal ordinances are inferior in status and

subordinate to the laws of the state." *State v. Albarenga*, 313 Neb. 72, 84, 982 N.W.2d 799, 810 (2022).

4. That's true even for home-rule cities. The Nebraska Constitution allows cities with a population of 100,000 or more to adopt a home-rule charter "subject to the Constitution and laws of the state." Neb. Const. art. XI, § 5. While home-rule cities have greater leeway than other municipalities, even they must yield to "state law … as to matters of statewide concern." *Albarenga*, 313 Neb. at 84, 982 N.W.2d at 810; *accord Herman v. Lee*, 210 Neb. 563, 566, 316 N.W.2d 56, 59 (1982) (holding that the Legislature "retains the power to legislate … even in home rule cities … when a matter of statewide policy and concern is involved").

5. The minimum wage that an employer must pay his employees is a matter of statewide concern. *See City of Omaha Human Rels. Dep't ex rel. Guy v. City Wide Rock & Excavating Co.*, 201 Neb. 405, 408, 268 N.W.2d 98, 101 (1978) ("[T]he power relating to labor relations and practices … lies in the state, and such matters are of statewide concern and not of local concern nor municipal government concern."); *Mw. Emps. Council, Inc. v. City of Omaha*, 177 Neb. 877, 886, 131 N.W.2d 609, 614 (1964) ("The matters of fair employment practices and civil rights are matters of statewide and not of local concern.").

6. The Legislature has decided what that minimum wage should be. Recognizing the importance of predictability in budgeting and the value of teenage labor, in 2026 the Legislature passed L.B. 258 (the "Wage Amendment"), which amended the Nebraska Wage and Hour Act, Neb. Rev. Stat. §§ 48-1201–48-1209 (the "Wage Act"), to provide (1) a fixed growth rate for the minimum wage and (2) a reduced minimum wage for youth employees. A true and correct copy of the Wage Amendment is attached hereto as Exhibit A.

7. In setting the minimum wage growth percentage and the youth minimum wage, the Legislature balanced the need of employees

to enjoy a livable wage with the needs of employers to manage ever-inflating costs, providing predictability for both employers and employees. It was the Legislature's prerogative to strike an appropriate balance between the two.

8. But the Omaha City Council apparently disagreed with the Legislature's choice and now attempts to repeal the Wage Amendment within the City of Omaha's borders. On July 14, 2026, the Omaha City Council passed Ordinance No. 44716 (the "Wage Ordinance"), and the Omaha City Mayor, John W. Ewing Jr., signed said ordinance on July 21, 2026. Ordinance No. 44716 creates a new chapter of the Omaha Municipal Code that (1) reverts the minimum wage growth percentage back to a variable percentage and (2) revokes the youth minimum wage established by the Wage Amendment. A true and correct copy of the Wage Ordinance is attached hereto as Exhibit B.

9. The Wage Ordinance amounts to an attempted partial repeal of the Wage Act.

10. Specifically, the Nebraska Legislature's law states explicitly that employers "may" pay a youth minimum wage of $13.50 per hour. The Wage Ordinance, by mandating a higher wage, tells employers within the City that they "may not" pay such a wage.

11. Similarly, state law says that wages "shall" increase by 1.75% percent yearly. By mandating the use of the Department of Labor's Consumer Price Index ("CPI") for All Urban Consumers for the Midwest Region to adjust wages, the Wage Ordinance effectively modifies the "shall" to "shall not."

12. An employer cannot solely comply with State law without running afoul of Omaha's ordinance. Taking advantage of the State's permissive youth minimum wage exposes the employer to civil liability; so, too, if the employer complies with the minimum wage mandated by the State.

13. The Omaha City Council lacked the authority to enact a minimum wage policy that conflicts with one established by the Legislature. The Wage Ordinance is thus irreconcilable with State law.

14. The City of Omaha is attempting to regulate a matter of statewide concern. A patchwork of local minimum wages will affect labor markets and the prices of goods and services across the State. Both the Wage Act and the Wage Amendment attempt to avoid such chaos and instead provide a predictable minimum wage that strikes a careful balance between the needs of workers and businesses.

15. The State of Nebraska, through its Attorney General, therefore seeks a declaration that the Wage Ordinance is preempted, invalid, void, and unenforceable, together with a temporary and permanent injunction preventing the City of Omaha from enforcing its unlawful Wage Ordinance.

PARTIES & STANDING

16. Plaintiff is the State of Nebraska, by and through its Attorney General, Michael T. Hilgers.

17. The Attorney General is Nebraska's "chief law officer," *State ex rel. Meyer v. Peters*, 188 Neb. 817, 820, 199 N.W.2d 738, 740 (1972), and has the authority "to appear for the State and prosecute and defend, in any court … , any cause or matter, civil or criminal, in which the state may be a party or interested." Neb. Rev. Stat. § 84-203.

18. As the "chief law officer of the state," the Attorney General also has the common-law authority to "exercise all such power and authority as public interests may from time to time require." *Meyer*, 188 Neb. at 820, 199 N.W.2d at 740. That includes the power to seek a declaratory judgment under the Uniform Declaratory Judgments Act. *See id.* at 821, 199 N.W.2d at 740–41; *see* Neb. Rev. Stat. §§ 25-21,149 to 25-21,164. It also includes the power to "make any disposition of the state's litigation which he deems for its best interest," where he can seek both legal and equitable relief. *In re*

Equal. of Assessment of Nat. Gas Pipe Lines, 123 Neb. 259, 261, 242 N.W. 609, 610 (1932).

19. The Attorney General has standing to bring a legal action in the State's name when that action seeks to vindicate the public interest. *See Meyer*, 188 Neb. at 819–21, 199 N.W.2d at 739–41; *State v. P. Express Co.*, 80 Neb. 823, 827–36, 115 N.W. 619, 620–24 (1908).

I. Defendants

20. Defendant City of Omaha, Nebraska, is a municipal corporation and city of the metropolitan class. *See* Neb. Rev. Stat. § 14-101; Omaha, Neb., Mun. Code, part I, art. I, § 1.01.

21. Defendant Danny Begley is the President of the Omaha City Council. He is being sued in his official capacity.

22. Defendant Aimee Melton is a member of the Omaha City Council. She is being sued in her official capacity.

23. Defendant Pete Festersen is a member of the Omaha City Council. He is being sued in his official capacity.

24. Defendant LaVonya Goodwin is a member of the Omaha City Council. She is being sued in her official capacity.

25. Defendant Ron Hug is a member of the Omaha City Council. He is being sued in his official capacity.

26. Defendant Don Rowe is a member of the Omaha City Council. He is being sued in his official capacity.

27. Defendant Brinker Harding is the Vice President of the Omaha City Council. He is being sued in his official capacity.

28. Defendant John W. Ewing Jr. is the Mayor of the City of Omaha. As such, he is the chief executive of the City. He is being sued in his official capacity.

29. The Wage Ordinance directs the Director for the City of Omaha Human Rights and Relations Department to annually

calculate and publish the minimum wage rate that will take effect the following January 1, utilizing the formula set forth in the Wage Ordinance. Ex. B, § 2 (adding section 39-3(c)).

30. Defendant Cailin Daly Dejillas is the Director of the Human Rights and Relations Department for the City of Omaha. She is being sued in her official capacity.

JURISDICTION & VENUE

31. The District Court of Douglas County has subject-matter jurisdiction pursuant to Neb. Rev. Stat. § 24-302 and the Nebraska Uniform Declaratory Judgments Act. Neb. Rev. Stat. §§ 25-21,149 to 25-21,164.

32. The Court also has subject-matter jurisdiction over this action for injunctive relief pursuant to Neb. Rev. Stat. §§ 25-1062 to 25-1080.

33. Because Douglas County is the county where Plaintiff's causes of action arose, venue is appropriate pursuant to Neb. Rev. Stat. § 25-403.01.

FACTS

I. Legal Background

34. Any municipality within Nebraska derives its authority entirely from the State. Municipalities are wholly subject to the State and may exercise only those powers the State gives them. *Johnson*, 319 Neb. at 361, 23 N.W.3d at 105–06; *Obitz,* 181 Neb. at 418, 149 N.W.2d at 112. As a municipality, the City of Omaha has no authority except that which Nebraska gives it.

35. Nebraska has delegated authority to municipalities over certain matters. For instance, the State Constitution gives cities with a population over 5,000 inhabitants authority to frame a charter creating a municipal government, which the City of Omaha has adopted. Neb. Const. art. XI, § 2.

36. The Nebraska Constitution further allows cities over 100,000 inhabitants to adopt a "home rule charter." Neb. Const. art. XI, § 5.

37. A home-rule charter "render[s] cities independent of state legislation as to all subjects of *strictly* municipal concern." *State ex rel. Martin v. Cunningham*, 158 Neb. 708, 710, 64 N.W.2d 465, 466 (1954) (emphasis added). But home-rule charters remain "subject to the Constitution and laws of the State." Neb. Const. art. XI, § 5.

38. That means a home-rule city cannot adopt an ordinance that is "inconsistent with[] State law" on a matter of "statewide concern." *Albarenga*, 313 Neb. at 83–84, 982 N.W.2d at 809–10.

39. To determine whether a municipal law is inconsistent with State law, the Nebraska Supreme Court has borrowed from federal law and looked for: (1) express preemption, (2) field preemption, or (3) conflict preemption. *Albarenga*, 313 Neb. at 84, 982 N.W.2d at 810.

40. Express preemption occurs when a state statute explicitly states that it preempts any municipal law on the same subject matter.

41. Field preemption occurs when the Legislature has passed "a comprehensive scheme of legislation" such that it can be "inferred" that the Legislature intended it to preempt local laws. *Hauptman, O'Brien, Wolf & Lathrop, P.C. v. Auto-Owners Ins. Co.*, 310 Neb. 147, 154, 964 N.W.2d 264, 270 (2021).

42. Conflict preemption occurs when a "local law actually conflicts with state law." *Id.* at 154, 964 N.W.2d at 270.

43. A law regulates a matter of statewide concern when it "involv[es] a public need or policy" affecting "the people of the state." *Omaha Parking Auth. v. City of Omaha*, 163 Neb. 97, 104, 77 N.W.2d 862, 869 (1956).

II. The Wage Act and the Wage Amendment.

44. In 1967, the Nebraska Legislature adopted the Nebraska Wage and Hour Act ("Wage Act"). 1967 Neb. Laws ch. 285, § 2, p. 773. The Wage Act expressly safeguards existing minimum wage compensation standards which are adequate to maintain the health, efficiency, and general well-being of workers. Neb. Rev. Stat. § 48-1201.

45. The Legislature intended the Wage Act to occupy the field of minimum wage. It is comprehensive and enshrines the Legislature's holistic judgment about how to structure wages across the State. The Wage Act establishes a general minimum wage while recognizing targeted exceptions for certain jobs. Neb. Rev. Stat. §§ 48-1202, -1203. It requires employers to post notices of employee rights on their job sites. *Id.* § 48-1205. It creates enforcement mechanisms and vests the Nebraska Commissioner of Labor with certain powers to investigate potential violations. *Id.* § 48-1206.

46. In short, the Wage Act leaves no room for municipalities to legislate.

47. During the 109th Nebraska Legislature, 2nd Session, the Legislature amended the Wage Act through the Wage Amendment.

48. The Wage Amendment sets the yearly minimum wage increase statewide at 1.75%. Ex. A, § 1. Senator Raybould, who introduced the Wage Amendment, testified that the fixed rate was intended "to provide certainty to businesses across the state who are required to comply with this mandate." Transcript, L.B. 258, Business and Labor Committee, 109th Leg., 1st Sess. 58 (Feb. 24, 2025). She had earlier testified that it was important for businesses "to be able to predict … who they can hire and how many they can hire." Transcript, L.B. 258, Floor Debate, 109th Leg., 1st Sess. 3 (Feb. 5, 2025).

49. The Wage Amendment also provides that "an employer may pay a youth [14–15 years old] [a] minimum wage of thirteen

dollars and fifty cents per hour." Ex. A, § 1. The Wage Amendment also provides that employers "may pay a new employee" who is 16–19 years old a "training wage" of $13.50 for 90 days after the employee is hired. Ex. A, § 2. Senator Clouse explained that the youth minimum wage was intended to give small businesses "room for options" to "help them create … jobs rather than killing the jobs." *Id.* at 24.

50. The Legislature passed the Wage Amendment with 33 votes, clearing the Constitution's two-thirds supermajority hurdle to amend a statute passed via ballot initiative. *See* Neb. Const. art. III, § 2.

51. Governor Pillen signed the Wage Amendment into law on February 9, 2026, and it took effect on July 17, 2026.

52. Prior to the Wage Amendment's enactment, the Legislature had otherwise amended the Wage Act numerous times to modify the statewide minimum wage. *See* Neb. Rev. Stat. § 48-1203 (Reissue 1973); Neb. Rev. Stat. § 48-1203 (Reissue 1987); Neb. Rev. Stat. § 48-1203 (Reissue 1989); Neb. Rev. Stat. § 48-1203 (Reissue 1991); Neb. Rev. Stat. § 48-1203 (Reissue 1997); Neb. Rev. Stat. § 48-1203 (Reissue 2007). Minimum wage has traditionally been within the Legislature's province to regulate.

III. The Wage Ordinance

53. On July 14, 2026, the Omaha City Council passed the Wage Ordinance, with Omaha City Mayor, John W. Ewing Jr., signing it on July 21, 2026.

54. The Wage Ordinance amends Omaha's home-rule charter to create a minimum wage specific to the City.

55. The Wage Ordinance directs that, with certain enumerated exceptions, "every employer shall pay each employee the applicable minimum wage of $15.00 … within the geographic boundaries of the City of Omaha." Ex. B, § 2 (adding 39-3(b)). Employee is defined as "any individual under the employ of any

employer," without exception for age. Ex. B, § 2 (adding 39-2(e)).

56. The Wage Ordinance also directs that "[t]he minimum wage … shall be increased on January 1, 2027, and on January 1 of successive years by the increase in the cost of living." It further directs the City's Human Rights & Relations Department's Director to "calculate and publish the minimum wage rate that will take effect the following January 1." Ex. B, § 2 (adding 39-3(c)).

57. Both provisions of the Wage Ordinance conflict with State law.

58. *First*, the Wage Ordinance sets an annual minimum wage growth rate that is based on the percentage increase in the CPI-U Midwest. *Id.* That adjustment mechanism differs from the statewide adjustment mechanism adopted by the Nebraska Legislature. While the Wage Act's growth percentage is fixed at 1.75%, the CPI for 2026 is increasing at around 3%. *Consumer Price Index, Midwest Region — March 2026*, U.S. Bureau of Lab. Stat. (April 10, 2026), https://perma.cc/D83S-4VYE. At that rate, under the Wage Ordinance, Omaha's minimum wage for 2027 will be $15.45 per hour, while the State minimum wage will be $15.26. The difference will only grow, as the CPI typically exceeds 1.75%.

59. While the CPI typically exceeds 1.75%, it is subject to fluctuations and could, in some years, fall below 1.75%. If that occurs, Omaha's minimum wage would be set at an amount *lower* than the minimum wage required under the Wage Act. This potential fluctuation creates a risk that the minimum wage established under the Wage Ordinance may not keep pace with the minimum wage requirements imposed by the Wage Act.

60. *Second*, the Wage Ordinance outright eliminates the youth minimum wage created by the Wage Amendment. Whereas the Wage Amendment provides that "an employer may pay a youth [14–15 years old] a minimum wage of thirteen dollars and fifty cents per hour," Ex. A, § 1, the Wage Ordinance directs every employer to "pay

each employee the applicable minimum wage of $15.00," with no reference to age. Ex. B, § 2 (adding 39-3(b)) (emphasis added). The provisions cannot be reconciled.

61. The Wage Ordinance also seeks to impose civil penalties for employers who do not comply. Violators may receive a "five-hundred-dollar ($500.00) penalty payable to the City for each violation" or be assessed "unpaid wages and other remedies payable to the aggrieved employee(s) for each violation against the employer." Ex. B, § 2 (adding 39-8(a)). Each day that any violation continues shall constitute a separate and distinct offense. This means that local employers who do not comply may face civil penalties in the form of fines for each day they are not in compliance with the Wage Ordinance.

62. The City of Omaha is not the first municipality to take this unlawful action. On May 11, 2026, the Lincoln City Council passed an ordinance ("Lincoln Wage Ordinance") that has the same effect as Omaha's Wage Ordinance, creating conflict with the Wage Amendment.

63. In anticipation of the passage of the Lincoln Wage Ordinance, Senators Raybould and Ballard requested an Attorney General Opinion, asking whether state law preempted the Lincoln Wage Ordinance.

64. In response, the Attorney General issued Opinion No. 26-003, concluding that, if adopted, the Lincoln Wage Ordinance would be invalid because it conflicts with Nebraska minimum-wage law and regulates a matter of statewide concern. A true and correct copy of Op. Att'y General No. 26-003 is attached hereto as Exhibit C.

65. Despite the Attorney General Opinion, the Lincoln City Council passed the Lincoln Wage Ordinance anyway. Lincoln City Mayor Gaylor Baird approved the Wage Ordinance on May 15, 2026, prompting the Attorney General to file a lawsuit challenging its constitutionality. *See* Compl.*, State of Nebraska ex rel. Hilgers v. City of Lincoln*, CI 26-2278 (Neb. Dist. Ct. Lancaster Cnty.) (filed June 18,

2026). The Lancaster County District Court found the State of Nebraska was likely to prevail on the merits of its challenge and enjoined the City of Lincoln from enforcing the Lincoln Wage Ordinance pending further order of the court. Order, *State of Nebraska ex rel. Hilgers v. City of Lincoln*, CI 26-2278 (July 17, 2026, Neb. Dist. Ct. Lancaster Cnty.).

66. The City of Omaha has unfortunately followed the City of Lincoln's lead. Ignoring the significant legal issues presented, Mayor Ewing signed the Wage Ordinance just four days after the temporary injunction against the Lincoln Wage Ordinance was entered. Like the Lincoln Wage Ordinance, Omaha's Wage Ordinance regulates wages in a manner that conflicts with state law and therefore suffers from the same constitutional defects.

67. The Wage Ordinance goes into effect on October 1, 2026. Ex. B, § 3.

IV. The State's Injury

68. Plaintiff is entitled to injunctive relief that enjoins Defendants from enforcing the Wage Ordinance.

69. Plaintiff is likely to succeed on the merits of its claims.

70. Plaintiff will suffer irreparable harm that cannot be rectified by remedies available at law.

71. Plaintiff's irreparable harms include the intrusion on its sovereignty and sole prerogative to "to create and enforce a legal code." *Texas v. United States*, 787 F.3d 733, 749 (5th Cir. 2015) (quoting *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 601 (1982)). The Wage Ordinance flatly contravenes State law and undermines the public policies established by the Legislature through statute. The State is harmed as a result.

72. Plaintiff's irreparable harm also includes the State's interest in ensuring that a home-charter city cannot unilaterally

impose wage requirements and civil penalties in conflict with State law. Whenever a State cannot "effectuat[e] statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) (quoting *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers)).

73. That irreparable harm will be immediate when the Wage Ordinance goes into effect because it will render state law—particularly, the Wage Act and the Wage Amendment—ineffective within the City of Omaha.

74. Omaha employers who pay employees the minimum wage will no longer be able to rely on a predictable inflation percentage in budgeting costs, undermining the Wage Amendment's very purposes. Omaha employers will also no longer be able to pay youth employees the minimum wage established by the Legislature via the Wage Amendment.

75. As prices for labor increase in Omaha, the price of goods and services made with Omaha labor and sold throughout the State will inevitably increase. Businesses in surrounding labor markets will be forced to adjust their own labor costs to compete with inflated Omaha wages, further highlighting the statewide nature of minimum wage laws.

76. The balance of equities and public interest weigh in favor of granting an injunction by, including but not limited to, preserving statewide uniformity in Nebraska wage law, preventing unlawful municipal enforcement, and protecting the supremacy of state law on matters of statewide concern.

77. The public interest weighs in favor of stopping government officials from acting unlawfully even when they are pursuing public employment goals.

CLAIMS

Count I – Field Preemption
Neb. Const. art. XI, § 5

78. Plaintiff realleges and incorporates all prior allegations in the preceding paragraphs into this cause of action as if set forth fully herein.

79. The Wage Ordinance is "inconsistent with[] State law" on a matter of "statewide concern." *Albarenga*, 313 Neb. at 83, 982 N.W.2d at 810.

80. Through the Wage Act, the Legislature created such "a comprehensive scheme of legislation" that it can be "inferred" that the Legislature intended the Wage Act to preempt local laws. *Hauptman, O'Brien, Wolf & Lathrop*, 310 Neb. at 154, 964 N.W.2d at 270.

81. Yet by enacting the Wage Ordinance, the Omaha City Council nonetheless attempted to legislate in an area the Legislature did not leave open.

82. In particular, Neb. Rev. Stat § 48-1203 and the Wage Amendment set forth a statewide minimum wage, a minimum wage for youth, and a formula for calculating annual increases to the minimum wage amount.

83. Yet the Wage Ordinance eliminates the statewide minimum wage for youth and requires a different formula for calculating annual increases to the minimum wage amount.

84. Nothing in the Wage Act, Wage Amendment, or any other State law authorizes municipalities—even home-rule cities—to legislate on "labor relations and practices," including minimum-wage policy. *City Wide Rock & Excavating Co.*, 201 Neb. at 408, 268 N.W.2d at 101. Only the Legislature has this authority.

85. The Wage Ordinance therefore violates state law on a matter of statewide concern and must be set aside as inconsistent with

the Nebraska Constitution. *See* Neb. Const. art. XI, § 5.

Count II – Conflict Preemption
Neb. Const. art. XI, § 5

86. Plaintiff realleges and incorporates all prior allegations in the preceding paragraphs into this cause of action as if set forth fully herein.

87. The Wage Ordinance is "inconsistent with[] State law" on a matter of "statewide concern." *Albarenga*, 313 Neb. at 83–84, 982 N.W.2d at 810.

88. The Wage Act and the Wage Amendment permit employers to pay youth a minimum wage (including a training wage for 16–19 year olds) of $13.50. Ex. A, §§ 1–2.

89. Yet the Wage Ordinance requires employers within the City of Omaha to pay all employees, regardless of age, a minimum wage of $15. Ex. B, § 2 (adding 39-3(b)).

90. On youth minimum wage, State law and the Wage Ordinance are expressly in conflict and cannot be reconciled.

91. The Wage Ordinance also allows employers within the City of Omaha to use a different formula for calculating minimum wage growth than employers elsewhere in the State. Ex. B, § 2 (adding 39-3(c)).

92. This conflict between the Wage Ordinance and State law is also irreconcilable.

93. Yet again, nothing in the Wage Act, Wage Amendment, or any other State law authorizes municipalities—even home-rule cities—to legislate on "labor relations and practices," including minimum-wage policy. *City Wide Rock & Excavating Co.*, 201 Neb. at 408, 268 N.W.2d at 101. Only the Legislature has this authority.

94. The Wage Ordinance therefore violates state law on a matter of statewide concern and must be set aside as inconsistent with

the Nebraska Constitution. *See* Neb. Const. art. XI, § 5.

Count III – Ultra Vires
Neb. Const. art. I, § 3

95. Plaintiff realleges and incorporates all prior allegations in the preceding paragraphs into this cause of action as if set forth fully herein.

96. The Nebraska Constitution prevents any person from being "deprived of life, liberty, or property, without due process of law." Neb. Const. art. I, § 3.

97. Like its federal counterpart, Nebraska's Due Process Clause, as originally understood, prevents the enforcement of any law inconsistent with the State constitution. *Keller v. City of Fremont*, 280 Neb. 788, 791, 790 N.W.2d 711, 713 (2010) ("We have interpreted the Nebraska Constitution's due process and equal protection clauses to afford protections coextensive to those of the federal Constitution."); *see also* Randy E. Barnett & Evan D. Bernick, *No Arbitrary Power: An Originalist Theory of the Due Process of Law*, 60 Wm. & Mary L. Rev. 1599, 1619–23 (2019) (arguing than an act is only a law under the Due Process Clause if the legislating body had the power to do the act in the first place).

98. In short, "the due process of law" is a "guarantee against *all* arbitrary government action." Barnett & Bernick, *supra*, at 1643. Because enactments that are "not made in pursuance of the Constitution … are mere acts that do not become part of the 'law of the land,'" the enforcement of such enactments violates due process. *Id.* at 1619 (citing and quoting *M'Culloch v. Maryland*, 17 U.S. 316, 406 (1819)).

99. The Nebraska Constitution permits "home rule charter[s]" only so long as those charters are "subject to the Constitution and laws of the state." Neb. Const. art. XI, § 5.

100. A municipal ordinance in conflict with State law on a

matter of statewide concern is not "subject to the … laws of the state."

101. By enacting a municipal ordinance on a matter of statewide concern that is in conflict with State law, the Omaha City Council acted without authority.

102. The Omaha City Council's *ultra vires* actions and the resulting Wage Ordinance are violative of the Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

A. For a judgment declaring that the Wage Ordinance is void and unlawful;

B. For a judgment declaring that the Defendants lack jurisdiction and authority to enact and/or enforce the Wage Ordinance;

C. For temporary and permanent injunctive relief enjoining Defendants from enforcing any operative Wage Ordinance;

D. For temporary and permanent injunctive relief enjoining Defendants from enacting any subsequent wage ordinances in violation of state law; and for such other, further, and different relief as shall be just and equitable.

Respectfully submitted August 18, 2026.

STATE OF NEBRASKA ex rel. MICHAEL T. HILGERS, Attorney General

BY: MICHAEL T. HILGERS, #24483
Nebraska Attorney General

BY: */s/ Cody S. Barnett*
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Counsel for Plaintiff

EXHIBIT A

LB258
2026

LEGISLATIVE BILL 258

Approved by the Governor February 9, 2026

Introduced by Raybould, 28; Murman, 38.

A BILL FOR AN ACT relating to the Wage and Hour Act; to amend section 48-1203.01, Reissue Revised Statutes of Nebraska, and section 48-1203, Revised Statutes Cumulative Supplement, 2024; to change provisions relating to the minimum wage and the training wage; to enact a youth minimum wage; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-1203, Revised Statutes Cumulative Supplement, 2024, is amended to read:

48-1203 (1) Except as otherwise provided in this section and section 48-1203.01, every employer shall pay to each of his or her employees a minimum wage of:

(a) Nine dollars per hour through December 31, 2022;

(b) Ten dollars and fifty cents per hour on and after January 1, 2023, through December 31, 2023;

(c) Twelve dollars per hour on and after January 1, 2024, through December 31, 2024;

(d) Thirteen dollars and fifty cents per hour on and after January 1, 2025, through December 31, 2025; and

(e) Fifteen dollars per hour on and after January 1, 2026, through December 31, 2026.

(2) The minimum wage established in subdivision (1)(e) of this section shall be increased on January 1, 2027, and on January 1 of successive years, by one and three-quarters percent ~~the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the consumer price index for all urban consumers (CPI-U) for the Midwest Region, or its successor index, as published by the U.S. Department of Labor, or its successor agency, with the amount of the minimum wage increase rounded up to the nearest multiple of five cents~~. No later than October 15 of each year, commencing October 15, 2026, the Nebraska Department of Labor shall calculate and publish the minimum wage rate that will take effect the following January 1.

(3) For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the applicable minimum wage rate provided in subsection (1) or (2) of this section. In determining whether or not the individual is compensated by way of gratuities, the burden of proof shall be upon the employer.

(4) Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five percent of the minimum wage rate which would otherwise be applicable under this section.

(5)(a) An employer may pay a youth minimum wage of thirteen dollars and fifty cents per hour to an employee who:

(i) Is at least fourteen years of age but younger than sixteen years of age; and

(ii) Is not an emancipated minor.

(b) Beginning on January 1, 2030, and on January 1 of every fifth year thereafter, the youth minimum wage shall increase by one and one-half percent, rounded to the nearest cent.

Sec. 2. Section 48-1203.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-1203.01 (1) An employer may pay a new employee who is at least sixteen years of age but younger than twenty years of age and who is not a seasonal or migrant worker or an emancipated minor a training wage rate as described in subsection (2) of this section ~~of at least seventy-five percent of the federal minimum wage~~ for ninety days from the date the new employee was hired. An employer may pay such new employee the training wage rate for an additional ninety-day period while the new employee is participating in on-the-job training which (a) ~~(1)~~ requires technical, personal, or other skills which are necessary for his or her employment and (b) ~~(2)~~ is approved by the Commissioner of Labor. No more than one-fourth of the total hours paid by the employer shall be at the training wage rate.

(2) For the purposes of this section, the training wage rate shall be:

(a) Thirteen dollars and fifty cents per hour through December 31, 2026; and

(b) Beginning on January 1, 2027, and on January 1 of each year thereafter, the training wage rate shall increase by one and one-half percent, rounded to the nearest cent.

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(3) An employer shall not pay the training wage rate if the hours of any other employee are reduced or if any other employee is laid off and the hours or position to be filled by the new employee is substantially similar to the hours or position of such other employee. An employer shall not dismiss or reduce the hours of any employee with the intention of replacing such employee or his or her hours with a new employee receiving the training wage rate.

Sec. 3. Original section 48-1203.01, Reissue Revised Statutes of Nebraska, and section 48-1203, Revised Statutes Cumulative Supplement, 2024, are repealed.

EXHIBIT B

City of Omaha
John W. Ewing, Jr., Mayor

Law Department
Omaha/Douglas Civic Center
1819 Farnam Street, Suite 804
Omaha, Nebraska 68183-0804
(402) 444-5115

Matthew M. Kuhse
City Attorney

Honorable President

JUN 4 '26 PM 1:03

and Members of the City Council,

Attached is an ordinance requested by Council President Danny Begley. This ordinance would establish a minimum wage for the City of Omaha. Also, this ordinance requires the Human Rights and Relations Department to implement and enforce this minimum wage.

In November 2022, a ballot initiative was approved by the voters to increase the minimum wage to fifteen dollars ($15.00) beginning in 2026 with a cost-of-living adjustment for subsequent years after 2026 using the Consumer Price Index for All Urban Consumers (CPI-U) for the Midwest Region. Currently, the Nebraska legislature has not enacted a statute that reflects the voter-approved initiative, as it applies to the use of the CPI-U.

The City of Omaha is a Home Rule Charter City and, as such, is empowered to enact laws to deal with issues unique to it. While the legislature has enacted a statewide minimum wage law, a Home Rule Charter City can exercise its local control and require a higher minimum wage. As a city of the metropolitan class and a Home Rule Charter City, Omaha can take action to address issues that affect people living here.

The cost of living is higher in Omaha than in other parts of the State of Nebraska. The cost of housing, consumer goods, services, and other costs of living are different in Omaha than in other parts of Nebraska and this ordinance is intended to address those needs and tailored for the people of Omaha. Given the higher costs in Omaha, compared to the balance of Nebraska, the legislature-enacted minimum wage increases may not be sufficient to deal with costs unique to Omaha. By utilizing its local control and ability to address issues distinctive to Omaha, this ordinance addresses that issue.

This ordinance would require an employer who has employees performing work within the geographic boundaries of Omaha to pay a minimum wage which will increase each year based on the CPI-U for the Midwest Region.

The Human Rights and Relations Department will implement this minimum wage law and work with employers to ensure that employees are notified of the yearly changes and ensure that the requirements of this ordinance are met. The Human Rights and Relations Department shall be tasked with the ability to investigate complaints and act if employers are found not to follow this ordinance.

Your favorable consideration is requested.

Respectfully submitted,

Matthew M. Kuhse
City Attorney

ORDINANCE NO. 44716

AN ORDINANCE to create a new Chapter of the Omaha Municipal Code, to govern the establishment, implementation, and enforcement of a minimum wage for employees and employers; to prohibit retaliation and provide for remedies for retaliation and employer wide investigations in the City of Omaha; and to provide an effective date thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That a new Chapter be added to the Omaha Municipal Code as follows:

Chapter 39. Minimum Wage

Section 2. The Omaha Municipal Code Section 39-1, Purpose and Intent; Section 39-2, Definitions; Section 39-3, Minimum Wage and Adjustments; Section 39-4, Notice, Posting and Payroll Records; Section 39-5, Retaliation Prohibited; Section 39-6, Implementation; Section 39-7, Enforcement; Section 39-8, Penalty for Violations; Section 39-9, Collective Bargaining; and Section 39-10, Severability, are hereby created to read as follows:

Section 39-1. Purpose and Intent.

The City of Omaha declares the purpose of this ordinance is to establish a minimum wage for all workers at levels consistent with their health, efficiency and general well-being, and to safeguard existing minimum wage compensation standards which are adequate to maintain the health, efficiency and general well-being of workers against the unfair competition of wage standards that do not provide adequate standards of living.

The City exercises its powers as a Home Rule Charter City to address a tailored approach to local conditions and impacts on City residents, employees, employers and municipal services. The cost of housing, transportation, childcare, health care, consumer goods, services and other costs of living can be different in Omaha than in other areas of the State of Nebraska.

This ordinance regulates the minimum within the geographic boundaries of the City of Omaha and is tailored to local impacts.

Section 39-2. Definitions.

For purposes of this Chapter:

(a) "City" shall mean the City of Omaha.

(b) "CPI-U Midwest" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), Midwest Region, or any successor index, published by the United States Department of Labor, Bureau of Labor Statistics, or any successor agency.

(c) "Director" shall mean the Director of the Human Rights & Relations Department or their designee.

(d) "Employ" shall include to permit to work under an express or implied contract.

(1) This definition shall extend to an employee who performs work or duties for an employer in the geographic boundaries of the City of Omaha, but the employer is located outside of those boundaries.

(e) "Employee" shall include any individual under the employ of any employer, but does not include:

(1) Any individual employed in agriculture;

(2) Any individual employed as a babysitter in or about a private home;

(3) Any individual employed in a bona fide executive, administrative, or professional capacity or as a superintendent or supervisor;

(4) Any individual employed by the United States or by the state or any political subdivision thereof, including any individual incarcerated in any correctional facility;

(5) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization when the employer-employee relationship does not in fact exist or when the services rendered to such organization are on a voluntary basis;

(6) Apprentices and learners otherwise provided by law;

(7) Veterans in training under supervision of the United States Department of Veterans Affairs;

(8) A child in the employment of his or her parent or a parent in the employment of his or her child; or

(9) Any person who, directly or indirectly, is receiving any form of federal, state, county, or local aid or welfare and who is physically or mentally disabled and employed in a program of rehabilitation, who shall receive a wage at a level consistent with his or her health, efficiency and general well-being.

(f) "Employer" shall include any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing employees within the geographic boundaries of Omaha except for seasonal employment of not more than twenty weeks in any calendar year, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state or any political subdivision thereof.

(1) This definition shall extend to employers who operate or conduct business in the geographic boundaries of the City of Omaha.

(g) "Wages" shall mean all remuneration for services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash.

Section 39-3. Minimum Rate and Adjustments.

(a) Employees are covered by this Chapter for each hour worked within the geographic boundaries of the City of Omaha.

(b) Except as otherwise provided in this Chapter, every employer shall pay each employee the applicable minimum wage of $15.00 established by this Chapter for each hour worked within the geographic boundaries of the City of Omaha.

(c) The minimum wage established in subsection (b) of this section shall be increased on January 1, 2027 and on January 1 of each successive year by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the consumer price index for all urban consumers (CPI-U) for the Midwest Region, or its successor index, as published by the U.S. Department of Labor or its successor agency with the amount of the minimum wage increase rounded up to the nearest multiple of five cents. No later than October 15 of each year, commencing October 15, 2026, the Director, or their designee, shall calculate and publish the minimum wage rate that will take effect the following January 1.

(d) For persons compensated by way of gratuities, such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents ($2.13) per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the applicable minimum wage rate provided in subsection (b) and (c) of this section and at the applicable minimum wage rate provided in subsection (b) of this section for subsequent years. In determining whether or not the individual is compensated by way of gratuity, the burden of proof shall be upon the employer.

(e) Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five percent (75%) of the minimum wage rate which would otherwise be applicable under this section.

Section 39-4. Notice, Posting and Payroll Records.

(a) By the first day of December each year, the Director, or their designee, shall publish and make available to employers a notice declaring the adjusted minimum wage rate for the upcoming year, which shall take effect on the first day of January of each year.

(b) By the first day of December each year, the Director, or their designee, shall publish and make available to employers a notice in an electronic form suitable for posting by

employers in the workplace, informing employees of the minimum wage rate for the following year and of their rights under this Chapter.

(c) Every employer shall post the notice described in Section 39-4(b) in a conspicuous place at any workplace or job site where any employee works the notice published each year by the City informing employees of the current minimum wage rate and of their rights under this Chapter.

(d) Each employer shall retain records documenting minimum wages paid to each employee. Such records shall be retained for a period of three years from the date such hours were worked.

(e) If an employer fails to retain adequate records, as required under subsection (d), there shall be a presumption, rebuttable by clear and convincing evidence, that the employer violated Section 39-3 of this Chapter for the periods and for each employee for whom records were not retained.

Section 39-5. Retaliation prohibited.

(a) No employer or any other person shall interfere with, restrain, deny, or attempt to deny the exercise of any right protected under this Chapter, or take adverse action against any person in retaliation for exercising rights protected under this Chapter, including the right to file a complaint or inform any person about noncompliance with this Chapter, the right to inform any person of his or her potential rights under this Chapter or assisting in asserting these rights.

(b) An employer found to be in violation of Section 39-5(a) shall be subject to any appropriate relief at law or equity including but not limited to reinstatement of the former employee, front pay in lieu of reinstatement with full payment of unpaid wages in favor of the former employee, and penalties outlined in Section 39-8 of this Ordinance.

Section 39-6. Implementation.

(a) The Director shall implement and oversee the requirements in this Chapter.

(b) The Director shall promulgate appropriate guidelines or rules to implement the provisions of this Chapter. Such rules shall be reviewed by the City Law Department to ensure that they are in compliance with this Chapter.

(c) The Director shall be responsible for investigating any potential violations of this Chapter by an employer or other person acting on behalf of the employer. The Director may initiate an investigation in response to a report or complaint or when the Director has reason to believe a violation of this Chapter has occurred within three years of the alleged violation.

(d) During an investigation and before any finding or penalty may be imposed, the Director shall:

(1) Provide written notice of the alleged violation; and

(2) Afford the employer an opportunity to respond to the alleged violation; and

(3) If there is to be a finding against the employer, the Director shall make a written finding, which shall be considered a final order.

i. The employer shall have thirty (30) days from the date of the final order to seek an appeal to the Administrative Board of Appeals.

(e) The Director shall have the authority to inspect workplaces and records and interview people with proper notice.

(f) Each employer shall allow the Director access to records with appropriate notice and at a mutually convenient time.

(g) An employee may report to the City, in writing, any suspected violation of this Chapter. Such reporting shall be confidential, to the extent permitted by applicable laws. If disclosure is required or necessary, the City shall notify the employee, in writing, to the address provided by the employee. This may include electronic communication, such as electronic mail or messaging through a portal or website.

(h) Following an annexation, employers located in the annexed area shall have six (6) months to come into compliance with this ordinance.

Section 39-7. Enforcement.

(a) The Human Rights and Relations Director may initiate an investigation into any alleged violation of this Chapter.

(1) The Director shall receive the complaint and assess the complaint to ensure initial investigation requirements.

(2) The Director may contact the employer for a response and to request necessary additional information.

(3) The Director may re-examine the complaint, considering all the information provided by the employee and employer.

(4) If the employer has underpaid the employee, the Director shall inform both parties and require the payment of underpaid wages to the employee.

(b) While investigating an alleged violation the Director may:

(1) Receive, initiate, investigate, determine the merits of, attempt to settle and dismiss complaints alleging a violation(s) of this Chapter.

(2) Establish procedures to govern, expedite and effectuate the provisions of this Chapter.

(3) Require attendance at depositions by subpoena issued by the Mayor or the City Attorney.

(4) Require the production of documents by subpoena issued by the Mayor or the City Attorney.

(5) A subpoena must provide proper notice to the employer.

(6) The City may initiate legal proceedings through the City Attorney to obtain compliance with any such subpoena.

(c) The Director shall resolve each investigation by:

(1) Issuing a settlement agreement if the parties mutually agree on settlement terms. All settlements must result in full payment of unpaid wages to employees; or

(2) Dismissing the allegation if the facts do not substantiate a violation, including a lack of jurisdiction; or

(3) Issuing a finding of violation assessing unpaid wages and other remedies payable by the employer as outlined in this Chapter.

(4) If an employer fails to adhere to the requirements of a settlement agreement or finding of violation under this Chapter, the Director may seek legal remedies through the City Attorney to enforce provisions of this Chapter when the employer is non-compliant.

(d) The employer may appeal a final order and assessment of unpaid wages and other remedies to the Administrative Board of Appeals.

Section 39-8. Penalty for Violations.

(a) The Director may assess a five-hundred-dollar ($500.00) penalty payable to the City for each violation or assess unpaid wages and other remedies payable to the aggrieved employee(s) for each violation against the employer. Each day that any violation of this Chapter continues, after receiving notice from the Director, shall constitute a separate offense.

(1) The Director may waive the total amount of penalties or reduce the penalty if the Director determines the employer paid the full remedy due to the employee within ten (10) days of receiving the notice of violation of this Chapter.

(b) Following a settlement agreement or finding of violation of this Chapter, the Director may monitor the employer's compliance with this Chapter or any settlement of the complaint.

Section 39-9. Collective Bargaining.

Nothing in this ordinance shall be deemed to interfere with, impede or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum under the provisions of the Omaha Minimum Wage Ordinance and other law.

Section 39-10. Severability.

The sections, subsections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid, unenforceable, or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability, or unconstitutionality shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, or phrases of this Ordinance.

Section 3. That this Ordinance, being legislative in nature, shall be in full force and take effect on October 1, 2026 after its passage.

INTRODUCED BY COUNCILMEMBER

Daniel T Begley

APPROVED BY:

John W Ewing Jr 7/21/26

MAYOR OF THE CITY OF OMAHA DATE

PASSED JUL 14 2026 4-3

ATTEST:

7/21/26

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

Matthew M. Kuhse 6/4/26

CITY ATTORNEY DATE

EXHIBIT C

DEPT. OF JUSTICE
STATE OF NEBRASKA
OFFICIAL

MAY 07 2026

Mike Hilgers

MICHAEL T. HILGERS

NEBRASKA DEPARTMENT OF JUSTICE

Opinion No. 26-003— May 7, 2026

OPINION FOR SENATOR BALLARD AND
SENATOR RAYBOULD

Lawfulness of Local Minimum Wage Proposal

Summary: A city charter is subordinate to the Constitution and laws of statewide concern. Any ordinance passed by a city is thus void if it (1) is inconsistent with state law, and (2) regulates or otherwise interferes with a matter of statewide concern. The City of Lincoln's proposed local minimum wage would conflict with state minimum wage law, which is a matter of statewide concern. The City thus lacks authority to impose a local minimum wage.

You have asked for an Attorney General opinion regarding the lawfulness of a proposal the Lincoln City Council is considering that would amend the Lincoln City Charter to adopt a municipal minimum wage (the "Local Wage Proposal").[1] Specifically, you ask—for the purpose of crafting legislation Senator Ballard intends to introduce next legislative session—whether the Local Wage Proposal conflicts with state law and what measures would be necessary to ensure statewide uniformity in the minimum wage. We conclude the Local Wage Proposal would impermissibly conflict with a law addressing a matter of statewide concern. Accordingly, because the Local Wage Proposal, if enacted, is likely invalid, no new legislative action is necessary to ensure statewide uniformity.

Under authority of the Nebraska Constitution, the City of Lincoln has adopted a home rule charter, which

[1] *See* Attachment A.

gives it authority to regulate local matters even if the Legislature has not expressly delegated authority to regulate them. But home rule charters are still subject to state law, meaning a home-rule ordinance is invalid if it (1) is inconsistent with state law (2) with respect to a matter of statewide concern. The Local Wage Proposal is inconsistent with state law because the Legislature has already comprehensively regulated minimum wage under the Nebraska Wage and Hour Act (the "Wage Act" or the "Act"). The Legislature intended for the Act to create a single statewide minimum wage. The Local Wage Proposal thus regulates a matter of statewide concern. If passed, the Proposal would affect labor markets, prices, and hiring practices beyond Lincoln's borders. We thus find the Local Wage Proposal likely to be invalid under state law.

Section I of our opinion provides the relevant constitutional background. Section II contrasts Lincoln's Local Wage Proposal with the State's Wage Act. Section III outlines the legal standard for determining whether the Local Wage Proposal would be valid under state law. Section IV applies the relevant legal standard to the Local Wage Proposal, and Section V summarizes our opinion.

I.

We start with a constitutional background of state and municipal authority. When the United States authorized Nebraska to "form for themselves a constitution and state government,"[2] and eventually admitted Nebraska into the Union,[3] the United States recognized the sovereignty of *the State of Nebraska*. The United States did not give the City of Lincoln or other municipalities a

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[2] Enabling Act of Congress, 38 Cong. Ch. 59, 13 Stat. 47 (April 19, 1864).

[3] Nebraska Statehood Act, ch. 36, 14 Stat. 391 (1867).

slice of that sovereignty. Municipalities are "creature[s] of the Legislature," *Pro. Firefighters of Omaha v. City of Omaha*, 243 Neb. 166, 174 (1993), and are thus entirely subject to the State—they may exercise only those powers the State gives them. *Johnson v. Vill. of Polk*, 319 Neb. 352, 361 (2025); *Obitz v. Airport Auth. of City of Red Cloud*, 181 Neb. 410, 418 (1967).

Nebraska has delegated authority to municipalities over certain matters. The State Constitution gives cities with a population of more than 5,000 inhabitants authority to frame a charter creating a municipal government. Neb. Const. art. XI, § 2. But municipal governments are generally limited in authority. Municipal governments can exercise only those powers expressly granted to them by the Legislature, or those powers necessary or implied within an express power, or powers indispensable to the purposes of the municipality. *Johnson*, 319 Neb. at 361 (citing *Dawson County v. Clark*, 58 Neb. 756, 762 (1899)).

In 1920, the People of Nebraska passed a constitutional amendment that gave larger cities more authority over local affairs. The amendment permitted cities of over 100,000 people to adopt a "home rule charter" by a majority vote of the qualified electors of such city. Neb. Const. art. XI, § 5. A "home rule charter" "render[s] cities independent of state legislation as to all subjects of strictly municipal concern." *State ex rel. Martin v. Cunningham*, 158 Neb. 708, 710 (1954). In other words, home rule charters can regulate local matters even without express authority from the Legislature. But home rule charters are not without limits. Home rule charters are ultimately "subject to the Constitution and laws of the State." Neb. Const. art. XI, § 5.

The City of Lincoln has adopted a home rule charter.[4]

II.

The Local Wage Proposal would amend Lincoln's home rule charter to create a municipal minimum wage. The Local Wage Proposal sets an initial minimum wage at the same rate as the State's—$15 per hour through December 31, 2026. Local Wage Proposal § 3. But the Proposal differs from the Wage Act in two significant ways—the inflation adjustment percentage and the youth minimum wage.

The Local Wage Proposal would annually increase Lincoln's minimum wage in proportion to cost-of-living as determined by the U.S. Department of Labor's August-to-August consumer price index ("CPI").[5] Local Wage Proposal § 3. For reference, CPI increased by 2.8% in the twelve months ending in August 2025,[6] 2.6% for August 2024,[7] and 3.4% for August 2023.[8] For 2026, CPI is

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[4] The full charter is available online at https://tinyurl.com/msr9xce3.

[5] Specifically for urban consumers (CPI-U) for the Midwest Region. Local Wage Proposal § 3. The local minimum wage would also be rounded up to the nearest $.05 benchmark. *Id.*

[6] *Consumer Price Index, Midwest Region — August 2025*, U.S. Bureau of Lab. Stats. (Sept. 11, 2025), https://perma.cc/M723-MS2B.

[7] *Consumer Price Index, Midwest Region — August 2024*, U.S. Bureau of Lab. Stats. (Sept. 11, 2024), https://perma.cc/VE8D-Q53F.

[8] *Consumer Price Index, Midwest Region — August 2023*, U.S. Bureau of Lab. Stats. (Sept. 13, 2023), https://perma.cc/CED8-HRJR.

increasing at around 3%.[9] At that rate, under the Local Wage Proposal, Lincoln's minimum wage for 2027 would be $15.45 per hour.

The statewide Wage Act previously used the same inflation percentage. *See* Neb. Rev. Stat. § 48-1203(2) (Cum. Supp. 2024). But under L.B. 258, passed in the most recent legislative session, the Act's inflation percentage will be a fixed annual rate of 1.75%. L.B. 258. § 1, 109th Leg., 2d Sess. (2026) (enacted). Under this formula, the 2027 statewide minimum wage will be $15.26, nearly $0.20 less per hour than what it is estimated to be under the Local Wage Proposal.

The Local Wage Proposal also sets out a different standard than the Wage Act for paying minors. The Act, as amended by L.B. 258, provides that "an employer may pay a youth [(14–16 years old)] a minimum wage of thirteen dollars and fifty cents per hour." L.B. 258 § 1. The Local Wage Proposal provides no similar exception—youth are paid at the standard minimum wage.[10]

We next turn to the standard for determining whether the Local Wage Proposal's differences with state law would render it invalid.

III.

As discussed, the Constitution gives home rule cities like Lincoln authority to govern their own affairs, including on matters not expressly delegated to them by the Legislature. But home rule charters remain "subject to

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[9] *Consumer Price Index, Midwest Region — March 2026*, U.S. Bureau of Lab. Stats. (April 10, 2026), https://perma.cc/D83S-4VYE.

[10] Except that children working for their own parents are not subject to the Local Wage Proposal. Local Wage Proposal § 2.

the Constitution and laws of the State." Neb. Const. art. XI, § 5. So a home-rule ordinance that "is repugnant to, or inconsistent with" state law is invalid. *State v. Albarenga*, 313 Neb. 72, 83 (2022).

The Nebraska Supreme Court has adopted a two-part inquiry to determine whether a home-rule ordinance meets this standard and is therefore preempted. The first part asks whether the ordinance is actually "inconsistent with[] State law." *Id.* The central question is whether the home rule charter has created "a conflict of authority" with state law. *Axberg v. City of Lincoln*, 141 Neb. 55, 58 (1942). If it has, the Court then determines whether the conflict is over a matter of "state-wide concern" or only "local municipal concern." *Cunningham*, 158 Neb. at 710. A state statute prevails over a conflicting home rule charter on matters of "state-wide concern." *Id.* But a home rule charter prevails over a conflicting state statute with respect to matters of "municipal concern." *Id.*

Thus, the Local Wage Proposal would be invalid if it (1) is inconsistent with state law *and* (2) regulates a matter of statewide concern. *See Albarenga*, 313 Neb. at 84.

IV.

Applying this standard, we conclude that the Local Wage Proposal would likely violate state law. We find that the Local Wage Proposal (1) is inconsistent with the State's minimum wage statutes and (2) regulates a matter of statewide concern.

A.

The first inquiry is whether Lincoln's minimum wage would be inconsistent with state law—particularly,

the Wage Act. *See* Neb. Rev. Stat. §§ 48-1201 to -1209. We find would be.

The Nebraska Supreme Court has recognized three ways (borrowed from federal preemption jurisprudence) that a municipal law can be inconsistent with state law: (1) express preemption, (2) field preemption, and (3) conflict preemption. *Albarenga*, 313 Neb. at 84 (2022). Express preemption occurs where a state statute explicitly states that it preempts any municipal law on the same subject matter. We have found no such provision under state law with respect to minimum wage.[11] Thus, we turn our attention to the latter two categories—field preemption and conflict preemption.

1.

We find the Local Wage Proposal is field preempted by state law. Field preemption occurs when the Legislature has passed "a comprehensive scheme of legislation" such that it can be "inferred" that the legislature intended it to preempt local laws. *Hauptman, O'Brien, Wolf & Lathrop, P.C. v. Auto-Owners Ins. Co.*, 310 Neb. 147, 154 (2021). The Legislature has provided such a comprehensive wage scheme in the Wage Act.

The Wage Act enshrines the Legislature's holistic judgment about how to structure wages across the State. It sets a general minimum wage "at levels consistent with

[11] As noted, your opinion request indicates that you are crafting and Senator Ballard plans to introduce legislation in the next legislative session designed to preserve a uniform statewide minimum wage. While we think a municipal minimum wage is already preempted by current state law, adding express preemption language to the Wage Act (e.g., "This Act shall preempt any municipal law regulating wages") would remove any lingering doubt.

[workers'] health, efficiency and general well-being." Neb. Rev. Stat. § 48-1201 (Reissue 2021). The Act also provides targeted exemptions—including for agricultural employees, babysitters, and apprentices—and sets a lower rate for minors, tipped employees, and student-learners. Neb. Rev. Stat. §§ 48-1202, 1203. It also requires employers to post notices of employees' wage rights and creates enforcement mechanisms. *Id.* §§ 48-1205, -1206.

The Nebraska Supreme Court has held a home-rule ordinance invalid in the face of a similarly comprehensive state statute. In *City of Omaha Hum. Rels. Dep't ex rel. Guy v. City Wide Rock & Excavating Co.*, 201 Neb. 405, 408 (1978), the Court held that the Nebraska Fair Employment Act preempted Omaha's fair employment practices ordinance because the state law was "a comprehensive law" on the same subject matter. The Fair Employment Act is similar in scope to the Wage Act. Both set out a general purpose, *compare* Neb. Rev. Stat. § 48-1101.01 *with id.* § 48-1201, have discreet definitions, *compare id.* § 48-1102, *with id.* § 48-1202, regulate employment conditions, *compare id.* § 48-1104, *with id.* § 48-1203(1), provide exceptions, *compare id.* §§ 48-1102, 1103, *with id.* § 48-1203(3), (4), and L.B. 258 § 1, *supra*, and create enforcement mechanisms, *compare id.* § 48-1116–19, *with id.* § 48-1206. The Court in *City Wide Rock* concluded that the Legislature's scheme left no room for municipalities to adopt their own labor regulations. 201 Neb at 408; *accord Midwest Emps. Council, Inc. v. City of Omaha*, 177 Neb. 877, 887 (1964); *see also* Op. Att'y Gen. No. 12-009, 2012 WL 1649760 (May 3, 2012) (opining that municipalities cannot expand protected classifications for purposes of the Fair Employment Practices Act). So too here—the Wage Act is comprehensive and was not intended to leave room for municipal wage laws.

Legislative history supports that the Legislature did not intend for municipalities to enter the minimum

wage field. *See Midwest Emps.*, 177 Neb. at 887 (reviewing Legislative history to analyze whether the Legislature intended state law to occupy the field of fair employment practices). Prior to the passage of L.B. 258 in this year's legislative session, Nebraska's minimum wage increased annually according to the CPI. Neb. Rev. Stat. § 48-1203(2) (Cum. Supp. 2024). L.B. 258 amended that provision to create a fixed 1.75% rate. L.B. 258 § 1. When Senator Raybould introduced L.B. 258, she explained that the intention of the fixed rate was "to provide certainty to businesses across the state who are required to comply with this mandate." Transcript, L.B. 258, Business and Labor Committee, 109th Leg., 1st Sess. 58 (Feb. 24, 2025). The bill was meant to avoid "larger than expected increases to the minimum wage rates" that create "extreme impacts on employers," as happened in other states "with wages tied to CPI increases." *Id.* at 59.

Just before the bill crossed the finish line, Senator Raybould again explained on the floor that she intended the bill to replace the fluctuating CPI inflation percentage with "something that is fixed and predictable." Floor Debate, L.B. 258, 109th Leg., 2d Sess. 3 (Feb. 5, 2026). She explained that it was important for businesses "to be able to predict ... who they can hire and how many they can hire." *Id.* Senator Hansen explained the bill's modest inflation percentage would protect low-skill jobs: "[A] high minimum wage law is, in reality, a law that requires employers to discriminate against workers with low skills." *Id.* at 26. And Senator Clouse explained that the youth minimum wage gave small businesses "room for options" to "help them create ... jobs instead of than killing the jobs." *Id.* at 24.

Similar comments from the Legislative history abound. But the import is clear: The Legislature created the fixed growth percentage and youth minimum wage to give employers predictability and to protect jobs for minors

and low-skill workers. The Local Wage Proposal would frustrate these purposes by reverting Lincoln to a variable inflation rate and by eliminating the youth minimum wage.

It may be suggested that Neb. Rev. Stat. § 48-1208 (Reissue 2021) shows that the Legislature did not intend to occupy the field of minimum wage. That statute provides that "[any] standards relating to minimum wage ... in effect on October 23, 1967, by or under any other law of this state, which are more favorable to employees than those applicable to such employees under the [Wage Act], ... shall continue in full force and effect." But that statute protected only laws in effect in 1967 when the Wage Act was passed. The Legislature was aware of those laws and did not intend to upend them. The Legislature could have applied the same protection to *any* law—including those later in time—that set a higher minimum wage than the Act. It did not. Further, the protection applies only to wages set by "other laws of this *state*." While municipal ordinances are no doubt laws "within" the State, they are not necessarily laws "of" the State. And when the Legislature intends to include "municipal ordinances" within a statute's ambit, it expressly includes them. *See, e.g.*, Neb. Rev. Stat. § 48-1124 (Reissue 2021); *id.* § 74-594 (Reissue 2018). The Legislature simply did not authorize municipalities to replace the minimum wage set by the Act.

In sum, we find that the Legislature intended the comprehensive Wage Act to occupy the field of minimum wage law in Nebraska.

3.

We also find that at least part of the Local Wage Proposal—and perhaps all of it—is conflict preempted by state law. Conflict preemption occurs when "a local law actually conflicts with state law." *Hauptman*, 310 Neb. at

154. "[T]he fact that a local law is more stringent than state law does not by itself lead to conflict preemption." *Butler Cnty. Dairy, L.L.C. v. Butler Cnty.*, 285 Neb. 408, 436 (2013). Thus, "where both an ordinance and a statute are prohibitory and the only difference between them is that the ordinance goes further in its prohibition," there is no conflict. *Id.* On the other hand, when state law is not merely prohibitory, but instead blesses a particular practice, a municipality cannot "forbid what the legislature has expressly licensed, authorized, or required." *Butler Cnty. Dairy*, 285 Neb. at 436–37 (quoting *Phelps, Inc. v. City of Hastings*, 152 Neb. 651, 657 (1950)); *accord Johnson*, 319 Neb. at 366–67.

In at least one respect, the Local Wage Proposal forbids what state law blesses. The Local Wage Proposal does not provide a youth minimum wage. Employers must pay teenagers the same rate they pay adults. The Wage Act, on the other hand, now expressly authorizes employers to pay 14–16 year-olds a lower minimum wage: "[A]n employer *may* pay a youth minimum wage of [$13.50]." L.B. 258 § 1 (emphasis added). But paying a 15-year-old $13.50 per hour would violate the Local Wage Proposal. The Local Wage Proposal thus forbids what the Wage Act expressly authorizes.

We also think that it is an open question whether the Local Wage Proposal's general minimum wage is conflict preempted by the Wage Act. The plain text of the Wage Act is affirmative, not prohibitive. It provides that employers "shall pay ... a minimum wage." Neb. Rev. Stat. § 48-1203(2). Of course, the implied flip side is that an employer "shall not" pay less than the minimum wage. But the statute's affirmative phrasing is arguably an express authorization for employers to pay *at* the minimum wage. *See Ky. Restaurant Ass'n v. Louisville/Jefferson Cnty. Metro Gov.*, 501 S.W.3d 425, 428 (Ky. 2016) (holding a similarly worded Kentucky statute granted express

authority to pay the state minimum wage and local ordinance setting a higher minimum wage was invalid because it "prohibits what the [state] statute expressly permits"); *Wholesale Laundry Bd. of Trade, Inc. v. City of New York*, 17 A.D.2d 327, 329 (N.Y. Sup. Ct. App. Div. 1963) (invalidating local minimum wage because it "forbids a hiring at a wage which the state law permits and so prohibits what the state law allows" and noting that "[s]emantic exercises in this connection cannot change the concept"). In other words, by saying "you must pay *at least* X," the statute is (at least arguably) expressing that "you are *authorized to pay* X." *See id.*

The expressed purpose of the Wage Act supports this interpretation. The purpose of the Act is not only "to establish a minimum wage for all workers," but also "to *safeguard existing minimum wage compensation standards* which are adequate to maintain the health, efficiency and general well-being of workers." Neb. Rev. Stat. § 48-1201 (emphasis added). By establishing a minimum wage, the Legislature determined the rate that was "adequate to maintain the health, efficiency and general well-being of workers." Thus, the Local Wage Proposal may directly conflict with state law when it forbids employers from paying a rate the Legislature determined to be "adequate to maintain the health, efficiency and general well-being of workers."

4.

In sum, we find that the Local Wage Proposal is field preempted by the Wage Act because the Legislature intended the Act to occupy the field of minimum wage. That finding alone is sufficient to find the Local Wage Proposal is inconsistent with state law. But we also find the Local Wage Proposal's youth minimum wage (or lack thereof) is conflict preempted by the Act. The Proposal's

general minimum wage may also be conflict preempted by the Act. The Proposal is thus inconsistent with state law.

B.

The next inquiry is whether the minimum wage is a "matter of statewide concern." Even if the Local Wage Proposal is inconsistent with state law, it is still valid if it governs a matter of only municipal concern and not statewide concern. *See* p. 6, *supra*. A law regulates a matter of statewide concern when it "involv[es] a public need or policy" affecting "the people of the state." *Omaha Parking Auth. v. City of Omaha*, 163 Neb. 97, 104 (1956). We are confident that the appropriate minimum wage is a matter of statewide concern.

The Nebraska Supreme Court has already twice held that "labor relations and practices" or "fair employment practices" "are matters of statewide concern and not of purely local concern." *City Wide Rock*, 201 Neb. at 408; *Mw. Emps. Council*, 177 Neb. at 886. Thus, Omaha ordinances that attempted to regulate fair employment practices were invalid. *See City Wide Rock*, 201 Neb. at 408; *Midwest Emps. Council*, 177 Neb. at 886; *see also* Op. Att'y Gen. No. 12-009 (opining that municipalities cannot expand protected classifications for purposes of the Fair Employment Practices Act). The minimum wage falls within the same field as "labor relations and practices" and "fair employment practices." Like other laws regulating fair employment practices, a minimum wage "is designed to address a statewide concern for the health and welfare of workers." *Marquez v. City of Long Beach*, 32 Cal.App.5th 552, 567 (2019); *see also id.* at 570–73.[12]

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[12] Case law in other jurisdictions is split on the question of whether municipal minimum wages are valid in the face of a state minimum wage law. *Compare, e.g., Marquez*, 32 Cal.App.5th at 570–78 (attempt to pay municipal employees less

The Court has also held that laws regulating traffic signals, street congestion, eminent domain procedures, gambling, and education are all matters of statewide concern. *Albarenga*, 313 Neb. at 84; *Van Patten v. City of Omaha*, 167 Neb. 741, 747–48 (1959); *Omaha Parking Auth.*, 163 Neb. at 98; *State ex rel. Hunter v. The Araho*, 137 Neb. 389, 400 (1940); *Carlberg v. Metcalf*, 120 Neb. 481, 488 (1930). Each of those subjects is arguably more locally concerned than the minimum wage.

At bottom, there can be little doubt that a minimum wage is not a purely municipal concern. The effects of the Local Wage Proposal would no doubt spill beyond Lincoln's borders. Competitors in nearby labor markets will have to compete for labor with elevated Lincoln wages. The prices of goods and services originating in Lincoln but consumed elsewhere in the State will rise as labor costs rise. And businesses that operate in both Lincoln and other cities will be forced to reconsider their compensation policies across markets. The tendrils of Lincoln's minimum wage

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than state minimum wage, relying on city charter's express authorization to set wage rate for its workers, was unlawful because minimum wage law was a matter of statewide concern), *and Ky. Restaurant*, 501 S.W.3d at 430 (higher local minimum wage preempted); *with Coop. Home Care, Inc. v. City of St. Louis*, 514 S.W.3d 571, 583–87 (Mo. 2017) (wage ordinance not preempted by state minimum wage law), *and Visiting Homemaker Serv. v. Bd. of Chosen Freeholders*, 883 A.2d 1074, 1080 (N.J. Super. Ct. App. Div. 2005) (statutory amendment specifically authorizing higher local minimum wage overcame preemption argument). Critically, the outcome in these cases was heavily dependent on the language of that state's constitution and the relevant minimum wage statutes, as well as the state's history with respect to municipal authority. Thus, we find Nebraska caselaw far more salient to answering the question posed.

would radiate across the State. The minimum wage is thus a matter of statewide concern.

V.

Given that the Local Wage Proposal is inconsistent with state law under both field preemption and conflict preemption, and because that the Proposal regulates a matter of statewide concern, we conclude that the Local Wage Proposal, if enacted, would be preempted by the Wage Act and thus be invalid and unenforceable.

MICHAEL T. HILGERS
Attorney General of Nebraska

Attachment A
(Local Wage Proposal)

ORDINANCE NO. _____

AN ORDINANCE amending Title 9 of the Lincoln Municipal Code relating to Public Peace and Welfare by creating a new Chapter 9.80 entitled "Lincoln Minimum Wage Ordinance" to adopt a minimum wage ordinance.

BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

Section 1. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.010 to read as follows:

9.80.010 Purpose and Title.

a. This Chapter shall be known as the "Lincoln Minimum Wage Ordinance."

b. The City of Lincoln declares the purpose of this ordinance is to establish a minimum wage for all workers at levels consistent with their health, efficiency and general well-being, and to safeguard existing minimum wage compensation standards which are adequate to maintain the health, efficiency and general well-being of workers against the unfair competition of wage standards that do not provide adequate standards of living.

Section 2. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.020 to read as follows:

9.80.020 Definitions.

For purposes of the Lincoln Minimum Wage Ordinance, unless the context otherwise requires:

Employ shall include to permit to work.

Employer shall include any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing four or

more employees at any one time except for seasonal employment of not more than twenty weeks in any calendar year, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state, or any political subdivision thereof.

Employee shall include any individual employed by any employer but does not include:

1. Any individual employed in agriculture;

2. Any individual employed as a baby-sitter in or about a private home;

3. Any individual employed in a bona fide executive, administrative, or professional capacity or as a superintendent or supervisor;

4. Any individual employed by the United States or by the state or any political subdivision thereof, including any individual incarcerated in any correctional facility;

5. Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization when the employer-employee relationship does not in fact exist or when the services rendered to such organization are on a voluntary basis;

6. Apprentices and learners otherwise provided by law;

7. Veterans in training under supervision of the United States Department of Veterans Affairs;

8. A child in the employment of his or her parent or a parent in the employment of his or her child; or

9. Any person who, directly or indirectly, is receiving any form of federal, state, county, or local aid or welfare and who is physically or mentally disabled and employed in a program of rehabilitation, who shall receive a wage at a level consistent with his or her health, efficiency, and general well-being.

Wages shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash.

Section 3. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.030 to read as follows:

9.80.030 Wage; Minimum Rate; Adjustments.

a. Except as otherwise provided in this section, every employer shall pay to each of his or her employees, without regard to the age of the employee, a minimum wage of fifteen dollars ($15.00) per hour on the Effective Date through December 31, 2026.

b. The minimum wage established in subsection (a) of this section shall be increased on January 1, 2027, and on January 1 of successive years, by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the consumer price index for all urban consumers (CPI-U) for the Midwest Region, or its successor index, as published by the U.S. Department of Labor, or its successor agency, with the amount of the minimum wage increase rounded up to the nearest multiple of five cents. No later than October 15 of each year, commencing October 15, 2026, the Finance Director, or their designee, shall calculate and publish the minimum wage rate that will take effect the following January 1.

c. For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents ($2.13) per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the applicable minimum wage rate provided in subsection (a) or (b) of this section. In determining whether or not the individual is compensated by way of gratuities, the burden of proof shall be upon the employer.

d. Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five percent of the minimum wage rate which would otherwise be applicable under this section.

Section 4. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.040 to read as follows:

9.80.040 Posting.

Every employer subject to the provisions of the Lincoln Minimum Wage Ordinance shall keep a summary of the Ordinance, furnished by the Finance Director, or their designee, without charge, posted in a conspicuous place on or about the premises wherein any person subject to the provisions of such Ordinance is employed.

Section 5. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.050 to read as follows:

9.80.050 Penalty for Violations.

a. Any employer subject to the provisions of the Lincoln Minimum Wage Ordinance who violates any provision of Section 9.80.030 shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00. Each day that any violation continues shall constitute a separate and distinct offense.

b. Nothing herein shall preclude an individual from filing or pursuing a complaint with the Nebraska Commissioner of Labor or from pursuing any other remedy allowed by law.

Section 6. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.060 to read as follows:

9.80.060 Collective Bargaining.

Nothing in this Ordinance shall be deemed to interfere with, impede or in any way diminish the right of employees to bargain collectively with their employees through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum under the provisions of the Lincoln Minimum Wage Ordinance and other law.

Section 7. That Title 9 of the Lincoln Municipal Code be amended by adding a new section numbered 9.80.070 to read as follows:

9.80.070 Severability.

In the event that any provision of this Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, the remaining portions, clauses, and phrases shall not be affected, but shall remain in full force and effect.

Section 8. That Sections 1 through 7 of this Ordinance shall be codified in the Lincoln Municipal Code as Chapter 9.80 entitled Lincoln Minimum Wage Ordinance.

Section 9. That Chapter 9.80 shall go into force and effect on July 18, 2026.

Section 10. This ordinance shall be published, within fifteen days after the passage hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on the official bulletin board of the City, located on the wall across from the City Clerk's office at 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk. This ordinance shall take effect and be in force from and after its passage and publication or after its posting and notice of such posting given by publication as herein and in the City Charter provided.

26-41 Introduce: 04-27-26

ORDINANCE NO. _____

Introduced by:

_____

Approved as to Form & Legality:

_____
City Attorney

Approved this ____ day of _____, 2026:

_____
Mayor