

1939

1941

LEGISLATORS



John Adams Jr.



Ernest A. Adams



Hugh B. Ashmore



Emil E. Brodecky



Frank J. Brady



John Callan



Swan Carlson

1939

1941

LEGISLATORS

♦♦♦



George J. Craven



Fred L. Carsten



W.H. Diers



Lester L. Dunn



John F. Doyle



Harry E. Gantz



Dan Garber

1939

1941

LEGISLATORS

♦♦♦



Peter P. Gutoski



George B. Gross



Charles R. Herrick



Jay Hastings



Richard N. Johnson



Leland R. Hall



R.M. Howard

1939

1941

LEGISLATORS

◆◆◆



Sam Klaver



A.M. Johnston



Tom Lambert



A.L. Miller



John E. Mekota



Martin J. Mischke



Fred A. Mueller

1939

1941

LEGISLATORS

◆◆◆



E.M. Neubauer



L.B. Murphy



William J. Norman



Joseph C. Reavis



Carl H. Peterson



James E. Reed



J.B. Rossiter

1939

1941

LEGISLATORS

♦♦♦



Frank Sorrell



O. Edwin Schultz



Amos Thomas



J. Lyndon Thornton



Ray Thomas



Charles F. Tvrdek



A. C. Van Diest

1939

1941

LEGISLATORS

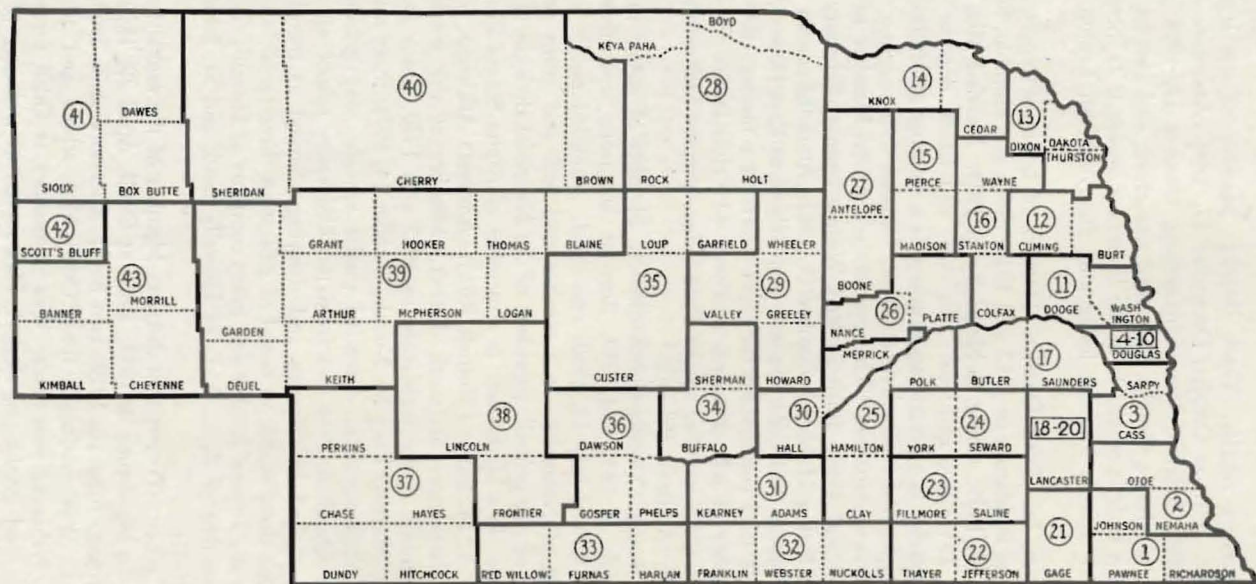
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E. M. Von Seggern



M. E. Westley



LEGISLATIVE DISTRICTS

LEGISLATURE OF 1939-1941

ERNEST ARTHUR ADAMS. Tenth district. Member of the legislature in 1937 and 1939. Born at Omaha, December 17, 1896. Ancestors came from England in 1890. Married Vera Christensen, October 11, 1928; one child. Attended public schools, Omaha Municipal university, and Omaha College of Law. Has been athletic coach. Is in the insurance business. Is member of the Congregational church, Masonic lodge and the American Legion. Address: Benson.

JOHN ADAMS, JR. Fifth District. Member of house of representatives in 1935 and of the legislature in 1937 and 1939. Born at Columbia, South Carolina, August 14, 1905. Came to Nebraska in 1923. Married Miss Singleton, September 3, 1931; two children. Has A.B. and LL.B. degrees from University of Nebraska. Is a practicing attorney. Is a member of Methodist church and Kappa Alpha Psi fraternity. Address: Omaha.

HUGH BENTON ASHMORE. Thirty-seventh district. Member of the legislature in 1937 and 1939. Born in Red Willow county, February 13, 1881. Married Ruth Esther Hubbard, October 15, 1913. Attended county and grade schools in Nebraska and Colorado and high school in East Denver, Colorado. Was clerk in a steel corporation for eight years. Is a farmer. Served several terms as member of school board, and was 4-H club leader for five years. Is a protestant. Is a member of the Blue lodge, chapter and commandery of A. F. & A. M. Address: Palisade.

FRANK J. BRADY. Twenty-eighth district. Member of senate in 1935 and of the legislature in 1937 and 1939. Born at Atkinson, September 15, 1894. Married Miss Olson, July 12, 1930; one child. Attended public schools and the University of Nebraska. Is a rancher and coal and grain dealer. Has been member of city council, president of the Nebraska division of the Izaak Walton League. Is a Methodist. Is a member of Alpha Sigma Phi fraternity and A. F. & A. M. lodge (Scottish Rite). Address: Atkinson.

EMIL E. BRODECKY. Sixteenth district. Member of the senate in 1933 and 1935, member of the legislature in 1937 and 1939. Born in Schuyler, June 26, 1885. Married Lucy M. Novak, October 14, 1908; three sons. Parents came from Czechoslovakia. Attended public schools; was graduated from Howells high school in 1904 and from the University school of agriculture in 1907. Is engaged in farming and dairying. Served as member of the state militia for three years, on board of education three terms, and as secretary-treasurer of Farmers' lumber and grain company at Howells for seventeen years. Is a member of Z. C. B. J., of Howells band, and St. John's church. Address: Howells.

JOHN S. CALLAN. Twenty-first district. Member of the senate in 1933 and 1935 and of the legislature in 1939. Born at Odell, April 20, 1890. Married Agnes Armstrong, June 18, 1919; two boys. Ancestors came from Scotland and Germany. Was graduated from Odell high school and attended the University of Nebraska two years. Was postmaster at Odell for nine years. Is a hardware and implement dealer. Has served as treasurer of a district school, and as a member of the city council. Served over-seas thirteen months. Is a Mason and a member of the American Legion. Address: Odell.

SWAN CARLSON. Thirty-sixth district. Member of house of representatives in 1935 and of the legislature in 1937 and 1939. Born in Urshult, Sweden. Came to Nebraska in 1893. Married Miss Olson, in 1901; eight children. Educated in common schools of Sweden. Is a farmer. Has served on school district and township boards. Is member of Lutheran church and Master Farmers' Club of Nebraska. Address: Funk.

FRED L. CARSTEN. Third district. Member of the senate in 1935 and of the legislature in 1937 and 1939. Born in Otoe county, November 25, 1886. Is of French and German descent. Married Nancy Ethel Fleshman, May 3, 1911; one son. Attended rural schools near Avoca, Iowa Wesleyan university, Lincoln Business college, and the Nebraska State College of agriculture. Is a farmer. Has served as secretary and treasurer of the Farmers' mutual telephone company and director of Nehawka oil company. Has been precinct assessor and president of the Cass county fair for five years. Is a member of the Congregational church, A. F. & A. M. and I. O. O. F. lodges. Address: Avoca.

GEORGE I. CRAVEN. Nineteenth district. Member of the legislature in 1939. Born in Loup county, March 17, 1895. Is married. Ancestry English. Attended Sargent high school and the University of Nebraska where he received LL.B. degree in 1922. Is a lawyer. Served as a director of the Eastern Nebraska Public Power District. Is a member of the American Legion, the Lincoln Chamber of Commerce, and Sons of Herman. Address: Lincoln.

WILLIAM H. DIERS. Twenty-fourth district. Member of the house of representatives in 1933, 1935 and of the legislature in 1937 and 1939. Born at Ulysses, May 27, 1890. Married Marjorie Berryhill, November 29, 1916; two sons. Attended University of Nebraska, 1909-1911. Is in the general merchandise business. Is a member of the Presbyterian church, Delta Tau Delta fraternity, I. O. O. F. and A. F. & A. M. lodges. Address: Gresham.

JOHN F. DOYLE. Twenty-ninth district. Member of the house of representatives in 1935 and of the legislature in 1939. Native Nebraskan. Married Anna Agnes Dewhurst, July 31, 1920; three children. Ancestry Irish. Educated in Greeley city schools. Is a merchant. Was first lieutenant in U. S. army, 1917-1918. Is a member of Catholic church, Knights of Columbus and American Legion. Address: Greeley.

LESTER L. DUNN. Twentieth district. Member of the house of representatives in 1935 and of the legislature in 1937 and 1939. Born at Atlantic, Iowa, November 29, 1890. Came to Nebraska in 1910. Married Aetna Eakin, June 4, 1919. Ancestry Irish and German. Attended Lincoln Academy, Valparaiso university, Valparaiso, Indiana, and the University of Nebraska where he received LL.B. degree. Is a lawyer. Was chief of bureau of workmen's compensation, of state of Nebraska. Is a member of Presbyterian church, A. F. & A. M. lodge (Scottish Rite, thirty-second degree), Lincoln University Club, American Legion, Delta Chi and Phi Alpha Tau fraternities and Chamber of Commerce. Address: Lincoln.

HARRY E. GANTZ. Forty-first district. Member of the legislature in 1937 and 1939. Born in Osborne county, Kansas, May 20, 1886. Moved to Alliance in 1905. Married Pearl Mitchell, October 14, 1908. Received LL.B. degree

from Creighton law school in 1916. Is a practicing attorney. Served fourteen years on the board of education of Alliance. Is a member of the Episcopal church, Delta Theta Phi fraternity, A. F. & A. M. (Scottish Rite, Commandery and Thirty-second degree) and Elks lodges. Address: Alliance.

DANIEL GARBER. Thirty-second district. Member of the house of representatives in 1923 and of the legislature in 1939. Born at Nelson, April 3, 1876. Garbers were earliest pioneers on Republican River. Joseph Garber, father, was member of constitutional convention of 1875; Silas Garber, uncle, was governor of Nebraska, 1875-1879. Ancestry Swiss-German. Educated in Red Cloud high school and the University of Nebraska. Married Ruth I. McCracken, December 12, 1915; four children. Is a farmer. Is a member of the Congregational church and the I. O. O. F. lodge. Address: Red Cloud.

GEORGE B. GROSS. Fortieth district. Member of the legislature in 1939. Born at Wisner, November 14, 1897. Married Hilda J. Ross, June 15, 1929; five children. Father was a native of Germany. Attended Wayne Normal and University of Nebraska. Has served as clerk of the district court. Is in the publishing business. Is a member of Phi Alpha Delta fraternity and of the Catholic church. Address: Valentine.

PETER P. GUTOSKI. Eighth district. Member of the house of representatives in 1935 and of the legislature in 1939. Born at DuBois, Pennsylvania, May 22, 1911. Came to Nebraska in 1929. Parents came from Poland. Married Hedrig Edna Butkus, February 6, 1932. Attended public schools in Pennsylvania, and the University of Omaha where he received LL.B. degree in 1933. Is a lawyer. Is a member of the Catholic church. Address: Omaha.

LELAND R. HALL. Thirty-first district. Member of the state senate, 1935 and of the legislature 1937 and 1939. Born at Elkhorn, May 6, 1894. Married Hazel A. Parks, June 23, 1920; two children. Is a graduate of Roseland high school and Hastings College. Received A.B. degree in 1915. Is a banker. Was village clerk for 21 years; member of board of education for 12 years, secretary Glenwood telephone company; and member of State Democratic Central Committee. Is a member of the Methodist church, Knights of Pythias, U. C. T., and A. F. & A. M. (Scottish Rite and Shrine) lodges. Address: Roseland.

JAY HASTINGS. Twenty-fifth district. Member of the house of representatives in 1935 and of the legislature in 1939. Born at Aurora, Illinois in 1878. Came to Nebraska in 1882. Married Tillie E. Stiles in 1899; one child. Attended David City schools. Was a farmer, realtor and merchant. Had served as president of the Osceola community club, chairman of the park board, and secretary of the Polk county fair association. Was a member of the Christian church, the Osceola community club and the Modern Woodmen of America. Deceased, November 14, 1939.

CHARLES ROSCOE HERRICK. Thirty-eighth district. Member of house of representatives in 1935 and of the legislature in 1939. Born at Harman, Illinois. Came to Nebraska in 1890. Married Nola Belle Ritchey, August 17, 1909; four children. Ancestry English and Irish. Is a graduate of Franklin Academy and Kearney State Teachers College. Is a farmer. Has been a teacher. Has served as director of school district. Is member of Christian church. Address: Curtis.

RUFUS MELVIN HOWARD. Thirty-ninth district. Member of the house of representatives in 1935 and of the legislature in 1937 and 1939. Born at Grant City, Missouri, May 23, 1888. Came to Nebraska in 1909. Married Florence M. Wingerd, October 31, 1915; two children. Ancestry, English. Attended University of Missouri and University of Nebraska. Is a ranchman. Was member of school board twenty-three years and county commissioner two terms. Is a member of Methodist church. Address: Flats.

RICHARD N. JOHNSON. Eleventh district. Member of the legislature in 1939. Born at Fremont, October 15, 1903. Ancestors came from Sweden. Attended Fremont public schools, Stanford university and University of Nebraska where he received his A.B. degree in 1925 and LL.B. in 1930. Is a lawyer and farmer. Address: Fremont.

ALVA M. JOHNSTON. Thirtieth district. Member of the house of representatives in 1935 and of the legislature in 1939. Born at Frost, Ohio, February 15, 1872. Came to Nebraska in 1888. Attended public schools and Grand Island Business College. Married Viola H. Martin, January 16, 1901; two children. Is a farmer. Was treasurer of the township board for twenty years. Address: Doniphan.

SAM KLAVER. Sixth district. Member of the legislature in 1939. Born in Rumania, October 16, 1899. Came to Nebraska in 1909. Married Ann Roitstein, December 21, 1924; one child. Attended Omaha public schools, and Omaha University where he received his LL.B. degree in 1926. Is an attorney and newspaper publisher. Has served as clerk in the county treasurers and county assessors office. Is a member of the Odd Fellows, Elks, Knights of Pythias, Bnai Brith and the Hebrew church. Has been president of the Mid-City Business Mens Association and the Douglas County Voters League. Address: Omaha.

THOMAS LEWIS LAMBERT. Twenty-sixth district. Member of the legislature in 1939. Born at Coon Rapids, Iowa, June 7, 1903. Came to Nebraska in 1908. Married Lucile Randall, September 11, 1933; two children. Ancestry English and German. Attended public schools in Palmer, Nebraska and Illinois College of Chiropractic, 1929-1930. Is general manager of a wholesale and retail oil business and state director of the Nebraska Petroleum Marketers. Is a member of the Congregational church, Masonic, Eagles, and Modern Woodmen lodges and of the Columbus Chamber of commerce. Address: Columbus.

JOHN E. MEKOTA. Twenty-third district. Member of the legislature in 1939. Born at Solon, Iowa, April 23, 1893. Came to Nebraska in 1920. Married Edna Dreyer, August 25, 1917; two children. Father came to the United States from Czechoslovakia in 1870. Attended Iowa City academy and University of Iowa. Is a lawyer. Served as county attorney of Saline county for eight years. Attends the Lutheran church. Is a member of the American Legion. Address: Crete.

ARTHUR L. MILLER. Forty-third district. Member of the legislature in 1937 and 1939. Is married and has one child. Graduated from Plainview high school in 1911; attended the University of Nebraska for one year, and was graduated from Loyola university medical school in Chicago, in 1918. Has

M.D. and F. A. C. S. degrees. Is a physician and surgeon. Has served as mayor of Kimball; was member of school board for ten years; was district governor of Nebraska Lions club; was county commander of the American Legion and president of the Nebraska State Medical Association 1939-1940. Is a member of the Methodist church, A. F. & A. M. (32nd degree and Shrine), Knights of Pythias, and fellow in the American College of Surgeons. Address: Kimball.

MARTIN JULIUS MISCHKE. Fourteenth district. Member of the legislature in 1939. Born at Crofton, October 21, 1909. Attended Crofton public schools and Yankton College, S. D. where he received A.B. degree in 1934. Is a farmer and a rancher. Is a protestant. Address: Crofton.

FRED A. MUELLER. Thirty-fourth district. Member of the house of representatives in 1929, 1931 and 1933 and of the legislature in 1939. Born June 14, 1881. Came with his parents to Buffalo county, Nebraska in 1890. Married Anna Schipman, June 8, 1905; four children. Mrs. Mueller is deceased. Was formerly a farmer and a banker, is now in the automobile business. Has been president of the Kearney city council, county supervisor and member of the board of education. Is affiliated with the Lutheran church. Address: Kearney.

LESLIE B. MURPHY. Forty-second district. Member of the legislature in 1937 and 1939. Born at Humansville, Missouri, October 24, 1884. Came to Nebraska in 1916. Married Lillie B. Dippel, December 12, 1906; one child. Attended Bles military academy and William Jewell college. Is a merchant. Has been member of city council at Scottsbluff. Is member of Masonic and Elks lodges. Address: Scottsbluff.

E. M. NEUBAUER. Thirty-third district. Was member of house of representatives in 1925, 1927, 1929, of the senate in 1931, 1933 and of the legislature in 1937 and 1939. Born at Oxford, in 1885. Ancestry, German. Educated in the public schools and Hastings college. Married Annetta Davis, November 22, 1906; two children. Has been in hardware business. Is a farmer and stock raiser. Is member of the school board. Has been township clerk; president of Farmers' elevator for five years, secretary-treasurer of Farmers' Butter factory for three years. Is member of Presbyterian church and Modern Woodmen lodge. Address: Orleans.

WILLIAM JOSEPH NORMAN. Fourth district. Member of the legislature in 1939. Born at Crete, May 8, 1874. His father, who came from Germany when he was eleven years old, came to Nebraska in 1866 after serving four years in the Northern Army during the Civil War. Married Nora E. Waller, October 20, 1908. Attended public schools. Is a newspaper publisher and publishes the North Omaha Booster and the Benson Times. Is a member of the Masonic, I. O. O. F. and Woodmen of the World lodges and the Omaha Chamber of Commerce. Is a protestant. Address: Omaha.

CARL HENRY PETERSON. Fifteenth district. Member of the legislature in 1937 and 1939. Born at Argyle, Wisconsin, October 5, 1895. Came to Nebraska in 1901. Ancestry, Norwegian and Danish. Educated in Neligh public schools, University of Nebraska where he received LL.B. degree. Is a lawyer.

Has been county attorney, Madison county. Is a member of Episcopal church, American legion and Veterans of Foreign wars. Address: Norfolk.

JOSEPH C. REAVIS. First district. Member of the legislature in 1939. Born at Falls City, August 15, 1899. His grandfather Isham Reavis, who came to Nebraska in 1858, was a member of the Nebraska state senate in 1869. Married Florence Tyler, April 25, 1925; two children. Attended public schools of Falls City and the University of Nebraska where he received LL.B. degree. Is a lawyer. Has served as city attorney of Falls City and as director of the Eastern Nebraska Public Power District. Is a member of the Methodist church, Phi Delta Theta and Phi Delta Phi fraternities, the Masonic and Elks lodges and the Lions club. Address: Falls City.

JAMES E. REED. Eighteenth district. Member of the house of representatives in 1931, 1933, 1935 and of the legislature in 1939. Born at Lincoln, August 6, 1888. Ancestors came from England in 1872. Attended Havelock public schools and the University of Nebraska where he received the B.Sc. degree in 1907. Married Julia Gannon, December 1, 1909; one child. Is a farmer. Is a member of the Episcopal church and the I. O. O. F. and Rebekah lodges. Address: Lincoln.

JAMES BERT ROSSITER. Thirteenth district. Member of the legislature in 1939. Born at Bancroft, June 15, 1890. Ancestry Irish. Attended public schools of Bancroft and Mozer-Lampman Business College, Omaha. Studied law while serving as court reporter. Married Effie Starbuck, December 20, 1927; two children. Is president of the First National Bank of Walthill. Is chairman of the Nebraska State Racing Commission; has served as president of the Thurston county fair association, the Walthill school board, the chamber of commerce and as commander of the Walthill American Legion post. Is a member of the Catholic church, American Legion and the Forty and Eight. Address: Walthill.

OSCAR EDWIN SCHULTZ. Twenty-seventh district. Member of the senate in 1935 and of the legislature in 1937 and 1939. Born at Elgin, October 31, 1898. Married Merle Farris, October 4, 1928. Attended Elgin public schools. Is a farmer. Is a member of the board of directors of Antelope county fair. Is a Presbyterian, a member of A. F. & A. M. lodge and Elgin Commercial club. Address: Elgin.

JAMES FRANKLIN SORRELL. Second district. Born at Canaan, Missouri, June 22, 1894. Came to Nebraska in 1914. Married Oma E. Sewell, June 23, 1915; three children. Attended Weller school in Gasconade county, Missouri. Is a realtor, insurance agent and auctioneer. Is vice president of the Syracuse Business Men's Association and secretary of the Otoe county agricultural association. Is a protestant and member of the Modern Woodmen of America. Address: Syracuse.

AMOS THOMAS. Ninth district. Member of the legislature in 1937 and 1939. Born at Milwaukee, Wisconsin, August 30, 1882. Came to Seward county, Nebraska in 1886. Married Gertrude Owen, August 25, 1917; three daughters. Ancestors came to this country before the Revolutionary war, from Scotland, England and Wales. Educated in the public schools and the University of Nebraska where he received LL.B. degree in 1909. Is an at-

torney. Was formerly a wood preservation engineer with the federal government and with the Burlington and Illinois Central railroads. Served as assistant attorney general of Nebraska, 1919-1920; is chairman of Omaha municipal airport commission, is Brigadier General of Nebraska National Guard, National Guard of the U. S. Is a Mason and a member of the American legion. Address: Omaha.

RAY THOMAS. Twenty-fifth district. Member of the house of representatives in 1935 and of the legislature for the special session in January, 1940. Born at Nelson, April 1, 1883. Married Verna L. Northrop, May 19, 1909; three children. Attended public schools in Nuckolls county. Has been a farmer. Is in hatchery business. Served as member of school board six years, as president of Clay county farmers' union and as president of the farmers' union cooperative elevator. Is a member of the Christian church. Address: Clay Center.

J. LYNDON THORNTON. Twenty-second district. Member of the legislature in 1939. Born at Green, Kansas, January 14, 1886. Came to Nebraska in 1895. Married Elseyne Marcell, April 17, 1907; four children. Ancestors are English. Attended Fairbury high school. Has served as president of Fairbury chamber of commerce. Was member of city council two years and postmaster two years. Is a member of the Methodist church and the Masonic lodge. Address: Fairbury.

CHARLES F. TVRDIK. Seventh district. Member of senate, special session, October, 1935, and of the legislature in 1937 and 1939. Born at Omaha, May 9, 1903. Ancestry Bohemian. Mother came to this country in 1886, father in 1892. Married Agnes Cecilia Vondra, June 6, 1927; three children. Attended parochial school, South high school, Boyles business college and La Salle Extension University. Does supervisory work for the Joint Agency Live Stock Exchange Building. Was president for five years of the South-East Progressive Improvement Club. Is a member of the South Omaha Merchants Association, Vinton Commercial Club, Better Omaha Club, Fraternal Order of the Eagles and of the Catholic church. Address: Omaha.

ALBERT CORNELIUS VAN DIEST. Thirty-fifth district. Member of the legislature in 1939. Born at Pella, Nebraska, November 20, 1892. Married Bertha Jane Moats, December 17, 1912; one child. Ancestors came from the Netherlands in 1856. Attended Colorado public schools. Has served as county commissioner. Is a rancher. Is also interested in irrigation development and construction. Is a member of the Congregational church. Address: Almeria.

E. M. VON SEGGERN. Twelfth district. Member of house of representatives in 1935 and of the legislature in 1937 and 1939. Born at Hooper, February 28, 1882. Married Margaret Romberg, January 2, 1908; three sons. Parents came from Germany. Attended Hooper high school and Fremont Normal. Is editor and publisher. Has served on city council and as president of West Point community club. Is member of A. F. & A. M. lodge. Address: West Point.

M. E. WESTLEY. Seventeenth district. Member of the legislature in 1939. Born in Brainard in January, 1897. Ancestry is English, Scotch-Irish and

Dutch. Attended Brainard schools and Wesleyan University. Married Leona P. Fischer in 1926. Has taught school and homesteaded in Wyoming after serving throughout the World War. Operates a cafe in Brainard. Was a charter member of the Volunteer Fire Department and is member of the American Legion. Address: Brainard.

EXECUTIVE BRANCH

The executive branch of the state government, headed by the governor and lieutenant-governor, consists of the following officers and agencies: five executive departments provided for in the state constitution; seven administrative or "code" departments, created by statute; and some twenty-three boards, commissions, and other administrative agencies, some of which are provided for in the constitution, and the remainder established by statute. The governor, lieutenant-governor, and the heads of the constitutional departments are elected by popular vote; the heads of the administrative or "code" departments are appointed by the governor with the advice and consent of the legislature; and of the heads of the other agencies, some are elected, some appointed, and others serve ex-officio. In addition to these agencies, three offices of sub-department grade are placed directly under the supervision of the governor, and many of the departments are subdivided into bureaus and divisions.

GOVERNOR

Governor—R. L. Cochran, Lincoln	Salary \$7,500
Private Secretary—Otho K. DeVilbiss	2,640
Total number of employees: 4.	

Appropriation, 1939-1940: \$34,152.61.

Publications: Governor's messages printed in pamphlet form when delivered and also in the legislative journal; budget message printed in pamphlet form when delivered and also in the legislative journal.

During the territorial period, governors were appointed by the President of the United States. Francis Burt, first territorial governor arrived in Nebraska on October 16, 1854. The salary of territorial governors was \$2,000. David Butler, first governor of the state of Nebraska, entered upon his duties February 20, 1867. The salary of state governors was \$1,000 until raised by the constitution of 1875 to \$2,500. The constitution of 1920 fixed the governor's salary at \$7,500 until otherwise provided by law. The legislature of 1933 reduced the salaries of the governor and certain other constitutional officers, but the supreme court declared the act to be unconstitutional. (129 Neb. 669, 699). Beginning with 1889 the state paid the rent of a residence for the governor until 1899, except during the incumbency of Governor Crouse, who refused to accept the additional payments. In 1899 the legislature appropriated \$25,000 for the purchase and furnishings of an executive mansion. Of this sum, \$21,385.30 was expended. The supreme court has held that the constitutional provision that state officers shall receive no compensation in addition to their salaries is not violated by the maintenance of a