

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 43

Introduced by Hansen, M., 26.

Read first time January 07, 2021

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend sections 11-119,
2 11-125, 11-126, 22-417, 32-207, 32-211, 32-213, 32-214, 32-217,
3 32-218, 32-219, 32-242, 32-555, 32-615, 32-811, 32-1049, and
4 32-1201, Reissue Revised Statutes of Nebraska, and sections 11-105,
5 11-115, 23-405, 23-2518, 32-101, and 32-208, Revised Statutes
6 Cumulative Supplement, 2020; to provide for election of election
7 commissioners; to change and eliminate provisions related to
8 official bonds, consolidation of county offices, deputy county
9 clerks for elections, civil service commissions, chief deputy
10 election commissioners, removal from office, and vacancies; to
11 harmonize provisions; to provide operative dates; to repeal the
12 original sections; to outright repeal sections 32-209 and 32-210,
13 Reissue Revised Statutes of Nebraska; and to declare an emergency.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 11-105, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 11-105 (1) Official bonds, with the oath endorsed thereon, shall be
4 filed in the proper office within the following time:

5 (a) Of all officers elected at any general election, following
6 receipt of their election certificate and not later than ten days before
7 the first Thursday after the first Tuesday in January next succeeding the
8 election;

9 (b) Of all appointed officers, within thirty days after their
10 appointment; and

11 (c) Of officers elected at any special election and city and village
12 officers, within thirty days after the canvass of the votes of the
13 election at which they were chosen.

14 (2) The filing of the bond with the oath endorsed thereon does not
15 authorize a person to take any official action prior to the beginning of
16 his or her term of office pursuant to Article XVII, section 5, of the
17 Constitution of Nebraska.

18 (3) In counties which provide a bond for county officers pursuant to
19 subdivision (23) ~~{22}~~ of section 11-119, such county officers are not
20 required to comply with the timing requirements of subsection (1) of this
21 section with regard to their official bond but shall file their oaths of
22 office in the proper offices prior to the beginning of their terms of
23 office.

24 Sec. 2. Section 11-115, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 11-115 If any person elected or appointed to any office neglects to
27 have his or her official bond executed and approved as provided by law
28 and filed for record within the time limited by sections 11-101 to 11-130
29 ~~11-122~~, the officer with whom the bond is required to be filed shall
30 immediately issue an order to such person to show cause why he or she has
31 failed to properly file such bond and why his or her office should not be

1 declared vacant. If such person properly files the official bond within
2 ten days of the issuance of the show cause order for appointed officials
3 or before the date for taking office for elected officials, such filing
4 shall be deemed to be in compliance with sections 11-101 to 11-130
5 ~~11-122~~. If such person does not file the bond within ten days of the
6 issuance of such order for appointed officials or before the date for
7 taking office for elected officials and sufficient cause is not shown
8 within that time, his or her office shall thereupon ipso facto become
9 vacant, and such vacancy shall thereupon immediately be filled by
10 election or appointment as the law may direct in other cases of vacancy
11 in the same office. This section does not apply to county officers
12 covered pursuant to subdivision (23) ~~(22)~~ of section 11-119.

13 Sec. 3. Section 11-119, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 11-119 The following named officers shall execute a bond with
16 penalties of the following amounts:

- 17 (1) The Governor, one hundred thousand dollars;
- 18 (2) The Lieutenant Governor, one hundred thousand dollars;
- 19 (3) The Auditor of Public Accounts, one hundred thousand dollars;
- 20 (4) The Secretary of State, one hundred thousand dollars;
- 21 (5) The Attorney General, one hundred thousand dollars;
- 22 (6) The State Treasurer, not less than one million dollars and not
23 more than double the amount of money that may come into his or her hands,
24 to be fixed by the Governor;
- 25 (7) Each county attorney, a sum not less than one thousand dollars
26 to be fixed by the county board;
- 27 (8) Each clerk of the district court, not less than five thousand
28 dollars or more than one hundred thousand dollars to be determined by the
29 county board;
- 30 (9) Each county clerk, not less than one thousand dollars or more
31 than one hundred thousand dollars to be determined by the county board,

1 except that when a county clerk also has the duties of other county
2 offices the minimum bond shall be two thousand dollars;

3 (10) Each election commissioner, ten thousand dollars;

4 (11) ~~(10)~~ Each county treasurer, not less than ten thousand dollars
5 and not more than the amount of money that may come into his or her
6 hands, to be determined by the county board;

7 (12) ~~(11)~~ Each sheriff, in counties of not more than twenty thousand
8 inhabitants, five thousand dollars, and in counties over twenty thousand
9 inhabitants, ten thousand dollars;

10 (13) ~~(12)~~ Each district superintendent of public instruction, one
11 thousand dollars;

12 (14) ~~(13)~~ Each county surveyor, five hundred dollars;

13 (15) ~~(14)~~ Each county commissioner or supervisor, in counties of not
14 more than twenty thousand inhabitants, one thousand dollars, in counties
15 over twenty thousand and not more than thirty thousand inhabitants, two
16 thousand dollars, in counties over thirty thousand and not more than
17 fifty thousand inhabitants, three thousand dollars, and in counties over
18 fifty thousand inhabitants, five thousand dollars;

19 (16) ~~(15)~~ Each register of deeds in counties having a population of
20 more than sixteen thousand five hundred inhabitants, not less than two
21 thousand dollars or more than one hundred thousand dollars to be
22 determined by the county board;

23 (17) ~~(16)~~ Each township clerk, two hundred fifty dollars;

24 (18) ~~(17)~~ Each township treasurer, two thousand dollars;

25 (19) ~~(18)~~ Each county assessor, not more than five thousand dollars
26 and not less than two thousand dollars;

27 (20) ~~(19)~~ Each school district treasurer, not less than five hundred
28 dollars or more than double the amount of money that may come into his or
29 her hands, the amount to be fixed by the president and secretary of the
30 district;

31 (21) ~~(20)~~ Each road overseer, two hundred fifty dollars;

1 (22) ~~(21)~~ Each member of a county weed district board and the
2 manager thereof, such amount as may be determined by the county board of
3 commissioners or supervisors of each county with the same amount to apply
4 to each member of any particular board;

5 (23) ~~(22)~~ In any county, in lieu of the individual bonds required to
6 be furnished by county officers, a schedule, position, or blanket bond or
7 undertaking may be given by county officers, or a single corporate surety
8 fidelity, schedule, position, or blanket bond or undertaking covering all
9 the officers, including officers required by law to furnish an individual
10 bond or undertaking, may be furnished. The county may pay the premium for
11 the bond. The bond shall be, at a minimum, an aggregate of the amounts
12 fixed by law or by the person or board authorized by law to fix the
13 amounts, and with such terms and conditions as may be required by
14 sections 11-101 to 11-130; and

15 (24) ~~(23)~~ Each learning community coordinating council treasurer,
16 not less than five hundred dollars or more than double the amount of
17 money that may come into his or her hands, the amount to be fixed by the
18 learning community coordinating council.

19 All other state officers, department heads, and employees shall be
20 bonded or insured as required by section 11-201.

21 Sec. 4. Section 11-125, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 11-125 If any county treasurer, county attorney, clerk of the
24 district court, county clerk, county judge, election commissioner, clerk
25 magistrate, county assessor, register of deeds, county sheriff, county
26 commissioner or supervisor, or acting officer who is appointed as
27 provided by section 32-561 furnishes a bond executed by a surety company
28 authorized by the laws of this state to execute such bond and such bond
29 is approved by the county board, then the county may pay the premium for
30 such bond. Any surety bond so executed and approved shall contain a
31 covenant to the effect that when the stated term of the bond is reduced

1 to a shorter term by reason of the death, resignation, or removal from
2 office of such official for a cause not imposing liability on the bond,
3 the obligor shall refund to the county the unearned portion of the
4 premium so paid for the term of the bond subject to a reasonable minimum
5 premium charge.

6 Sec. 5. Section 11-126, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 11-126 ~~If whenever~~ any deputy or employee of any county treasurer,
9 county attorney, clerk of the district court, county clerk, election
10 commissioner, county assessor, register of deeds, county sheriff, or
11 county commissioner or supervisor ~~is shall be~~ required by law or the
12 order of the county board of any county to supply bond, either:

13 (1) Such ~~such~~ deputy or employee shall furnish a bond by a surety
14 company, which bond shall be approved by the county board, and the county
15 may pay the premium for such bond; or

16 (2) The ~~the~~ county board may arrange and pay for the writing of a
17 blanket corporate surety bond for the benefit of the county, bonding (a)
18 all such employees of the county or (b) all such deputy county officials
19 or (c) both subdivisions (a) and (b) of this subdivision.

20 Sec. 6. Section 22-417, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 22-417 (1) Any county may consolidate the office of clerk of the
23 district court, county assessor, county clerk, county engineer, county
24 surveyor, election commissioner, or register of deeds, except that the
25 consolidated officeholder shall meet the qualifications of each office as
26 required by law. The consolidated office shall have the powers and duties
27 provided by law for each office consolidated. The county board may adopt
28 a resolution for the consolidation of any of such offices and submit the
29 issue of the consolidated office to the registered voters for approval at
30 the next general election or at a special election called for such
31 purpose. The county board shall hold a public hearing prior to adoption

1 of a resolution for the consolidation of offices and shall give notice of
2 the hearing by publication in a newspaper of general circulation in the
3 county once each week for three consecutive weeks prior to the hearing.
4 Final publication shall be within seven calendar days prior to the
5 hearing. The notice shall describe the offices to be consolidated and
6 that the holder of the offices to be consolidated shall have his or her
7 term of office end on the first Thursday after the first Tuesday in
8 January following the general election in which the holder of the
9 consolidated office is elected.

10 (2) The county board shall adopt the resolution for the
11 consolidation of offices by majority vote of the board and shall submit
12 the issue of consolidation to the registered voters for approval at the
13 next general election or at a special election called for such purpose.
14 For each consolidated office submitted for approval, the question shall
15 be submitted to the voters in substantially the following form:

16 "Shall (name of each office proposed to be consolidated) be
17 consolidated into one consolidated office according to the resolution
18 adopted by the county board of (name of county) on (date of adoption of
19 the resolution by the county board)? Yes No".

20 (3) If the majority of the registered voters in the county voting on
21 the question vote in favor of consolidation, the consolidated office
22 shall be filled at the next general election, and the terms of the
23 incumbents shall end on the first Thursday after the first Tuesday in
24 January following the general election in which the holder of the
25 consolidated office is elected.

26 (4) The term of a consolidated officer shall be four years or until
27 his or her successor is elected and qualified, except that the term of a
28 consolidated officer elected in the year 2000 or any fourth year
29 thereafter shall be two years or until his or her successor is elected
30 and qualified.

31 (5) Any election under this section shall be in accordance with the

1 Election Act.

2 Sec. 7. Section 23-405, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

4 23-405 (1) The commission shall consist of five members who shall be
5 in sympathy with the application of merit principles to public
6 employment. No member of the commission shall be a member of any local,
7 state, or national committee of a political party or an officer or member
8 of a committee in any partisan political club or organization.

9 (2) The members of the commission shall be as follows: (a) Two
10 elected officers selected from the offices of and elected by the county
11 commissioners, clerk, assessor, treasurer, public defender, register of
12 deeds, clerk of the district court, election commissioner, engineer, and
13 sheriff, being of opposite political parties if possible, and each party
14 shall separately select its own member, (b) two full-time permanent
15 county employees, and (c) one public member holding no public or
16 political office. The initial two such employees shall be selected by the
17 two elected officers referred to in subdivision (a) of this subdivision
18 as follows: Any such employee who is at least twenty-one years of age may
19 submit his or her name as a candidate to the elected officer of the
20 political party with which the employee is registered who shall then
21 select one commission member from such list of names. The four members of
22 the commission shall then select the public member. The commission shall
23 establish employee election procedures which shall provide that all
24 county employees subject to the County Civil Service Commission Act may
25 vote and, if not less than twenty-one years of age, be candidates for a
26 member of the commission. One employee member of the commission shall be
27 a Democrat elected by the Democrat-registered employees subject to the
28 County Civil Service Commission Act and one employee member of the
29 commission shall be a Republican elected by the Republican-registered
30 employees subject to the County Civil Service Commission Act. An employee
31 otherwise eligible to vote and be a candidate for the office of employee

1 member of the commission, but who is not registered as either a Democrat
2 or a Republican, may become eligible to vote, and become a candidate for
3 the office of employee member of the commission by making a declaration
4 that he or she desires to vote for such a member of the commission, or be
5 a candidate for such office, and, in the same declaration, designating
6 the party, Democrat or Republican, with which he or she desires to be
7 affiliated for this purpose. After making such declaration, that employee
8 shall have the same right to vote for a candidate, and be a candidate for
9 the office of employee member of the commission as if the employee were a
10 registered member of the party so designated in the declaration. The
11 manner, form, and contents of such declaration shall be initially
12 established by the two elected officials referred to in subdivision (2)
13 (a) of this section, subject to modification by the commission after it
14 has been fully formed.

15 (3) The initial term of office of (a) the two elected officers shall
16 be three years from May 21, 1971; (b) the initial term of office of the
17 county employees shall be two years from May 21, 1971; and (c) the
18 initial term of the public member shall be three years from May 21, 1971.

19 (4) At the expiration of the initial term of office, a successor
20 member shall be elected or appointed as provided in the County Civil
21 Service Commission Act for a term of three years. Membership on the
22 commission of any member shall terminate upon the resignation of any
23 member or at such time as the member no longer complies with the
24 qualifications for election or appointment to the commission. If a
25 member's term terminates prior to the expiration of the term for which
26 the member was elected or appointed, the commission shall appoint a
27 successor complying with the same qualifications for the unexpired term.

28 Sec. 8. Section 23-2518, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 23-2518 For purposes of the County Civil Service Act:

31 (1) Appointing authority means elected officials and appointed

1 department directors authorized to make appointments in the county
2 service;

3 (2) Board of county commissioners means the board of commissioners
4 of any county with a population of one hundred fifty thousand or more but
5 less than four hundred thousand inhabitants as determined by the most
6 recent federal decennial census;

7 (3) Classified service means the positions in the county service to
8 which the act applies;

9 (4) County personnel officer means the employee designated by the
10 board of county commissioners to administer the act;

11 (5) Department means a functional unit of the county government
12 headed by an elected official or established by the board of county
13 commissioners;

14 (6) Deputy means an individual who serves as the first assistant to
15 and at the pleasure of an elected official;

16 (7) Elected official means an officer elected by the popular vote of
17 the people and known as the county attorney, public defender, county
18 sheriff, county treasurer, clerk of the district court, election
19 commissioner, register of deeds, county clerk, county assessor, or county
20 surveyor;

21 (8) Internal Revenue Code means the Internal Revenue Code as defined
22 in section 49-801.01;

23 (9) Political subdivision means a village, city of the second class,
24 city of the first class, city of the primary class, city of the
25 metropolitan class, county, school district, public power district, or
26 any other unit of local government including entities created pursuant to
27 the Interlocal Cooperation Act or the Joint Public Agency Act. Political
28 subdivision does not include a contractor with the county;

29 (10) State means the State of Nebraska;

30 (11) Straight-time rate of pay means the rate of pay in effect on
31 the date of transfer of employees stated in the resolution by the county

1 board requesting the transfer; and

2 (12) Transferred employee means an employee of the state or a
3 political subdivision transferred to the county pursuant to a request for
4 such transfer made by the county under section 23-2518.01.

5 Sec. 9. Section 32-101, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 32-101 Sections 32-101 to 32-1551 and sections 19 and 20 of this act
8 shall be known and may be cited as the Election Act.

9 Sec. 10. Section 32-207, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 32-207 The office of election commissioner shall be created for each
12 county having a population of more than one hundred thousand inhabitants.
13 Until an election commissioner is elected and takes office as provided in
14 section 20 of this act, the The election commissioner shall be appointed
15 by the Governor, ~~and~~ shall serve for a term of four years or until a
16 successor has been appointed and qualified, and in ~~In~~ the event of a
17 vacancy, the Governor shall appoint an election commissioner to serve the
18 unexpired portion of the term.

19 Sec. 11. Section 32-208, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 32-208 The election commissioner in counties having a population of
22 more than one hundred thousand inhabitants shall be a registered voter, a
23 resident of such county for at least one year, and of good moral
24 character and integrity and capacity. No person who is a candidate for
25 any other elective office or is a deputy, clerk, or employee of any
26 person who is a candidate for any elective office shall be eligible for
27 the office of election commissioner. The election commissioner shall not
28 hold any other elective office or become a candidate for any other ~~an~~
29 elective office during his or her term of office. An election
30 commissioner may be appointed to any other ~~an~~ elective office during his
31 or her term of office as election commissioner, and acceptance of such

1 appointment shall be deemed to be his or her resignation from the office
2 of election commissioner.

3 Sec. 12. Section 32-211, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 32-211 (1) The office of election commissioner may be created for
6 each county having a population of not less than twenty thousand nor more
7 than one hundred thousand inhabitants. Such office may be created by
8 resolution of the county board establishing such office, and until an
9 election commissioner is elected and takes office as provided in section
10 20 of this act, the election commissioner shall be appointed by the
11 county board. ~~The appointment of a chief deputy election commissioner~~
12 ~~shall be at the option of the county board. If a chief deputy election~~
13 ~~commissioner is appointed, he or she shall be a member of a different~~
14 ~~political party than the election commissioner.~~

15 (2) The election commissioner ~~and chief deputy election commissioner~~
16 shall be a registered voter voters, a resident residents of such county
17 for at least one year, and of good moral character and integrity and
18 capacity.

19 (3) Until an election commissioner is elected and takes office as
20 provided in section 20 of this act, the ~~The election commissioner and~~
21 ~~chief deputy election commissioner~~ shall serve for a term terms of four
22 years from the date of the their initial appointment or until a successor
23 has their successors have been appointed and qualified.

24 (4) The county board may by resolution eliminate the office of
25 election commissioner at the end of a term or upon a vacancy in the
26 office. The county board shall not appoint any county official who is
27 serving an elected term to the office of election commissioner ~~or chief~~
28 ~~deputy election commissioner.~~

29 (5) If a vacancy occurs in the either office, the county board shall
30 appoint an election commissioner ~~or chief deputy election commissioner~~ to
31 serve for the unexpired term until January 2022, and after an election

1 commissioner is elected and takes office as provided in section 20 of
2 this act, a vacancy in the office of election commissioner shall be
3 filled as provided in section 32-567.

4 Sec. 13. Section 32-213, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 32-213 Before entering upon his or her duties, the election
7 commissioner shall take and subscribe an oath in the form provided in
8 section 11-101.01 and shall give bond in the sum of ten thousand dollars
9 conditioned on the faithful and honest performance of the duties of the
10 office and the care and preservation of the property of the office ~~within~~
11 ~~thirty days after appointment~~ as provided in section 11-105. When the
12 election commissioner is appointed by the Governor, the bond shall be
13 given to the State of Nebraska, approved by the Governor, and filed with
14 the Secretary of State. When the election commissioner is appointed by
15 the county board, the bond shall be given to, approved by, and filed with
16 the county board. When the election commissioner is elected, the bond
17 shall be subject to sections 11-101 to 11-130.

18 Sec. 14. Section 32-214, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 32-214 The election commissioner shall be responsible for the
21 enforcement of the Election Act as it relates to his or her office and
22 for the competency, integrity, and conduct of ~~his or her chief deputy~~
23 ~~election commissioner and all~~ personnel appointed by the election
24 commissioner ~~him or her~~. The election commissioner or chief deputy
25 election commissioner shall be removed when it appears that (1) he or she
26 has been derelict in the performance of the duties of his or her office,
27 (2) he or she is incompetent, (3) his or her conduct is prejudicial to
28 the public interest, (4) he or she has appointed incompetent, negligent,
29 or corrupt precinct or district inspectors, judges of election, clerks of
30 election, or deputy registrars, (5) a fair and impartial registration of
31 voters was not obtained in any district of the county, or (6) the act was

1 ~~not enforced in the county. If the election commissioner is appointed by~~
2 ~~the Governor, the Governor shall remove the election commissioner or~~
3 ~~chief deputy election commissioner when either is subject to removal~~
4 ~~under this section. If the Governor fails to remove the election~~
5 ~~commissioner or the chief deputy election commissioner when either the~~
6 ~~election commissioner or deputy, or both, are subject to removal under~~
7 ~~this section, any citizen of the county may institute an action to order~~
8 ~~the Governor to remove the election commissioner, chief deputy election~~
9 ~~commissioner, or both. If the election commissioner is appointed by the~~
10 ~~county board, the county board shall remove the election commissioner or~~
11 ~~chief deputy election commissioner when either is subject to removal~~
12 ~~under this section. If the county board fails to remove the election~~
13 ~~commissioner or the chief deputy election commissioner when either the~~
14 ~~election commissioner or deputy, or both, are subject to removal under~~
15 ~~this section, any citizen of the county may institute an action to order~~
16 ~~the county board to remove the election commissioner, chief deputy~~
17 ~~election commissioner, or both.~~

18 Sec. 15. Section 32-217, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 32-217 The election commissioner, ~~the chief deputy election~~
21 ~~commissioner,~~ and all employees of the office of the election
22 commissioner shall be county employees. The county board shall set the
23 salaries of the election commissioner and ~~chief deputy election~~
24 ~~commissioner~~ at least sixty days prior to the expiration of the term of
25 office of the election commissioner holding office. The salary shall
26 become effective as soon as such salary may become operative under the
27 Constitution of Nebraska.

28 In counties having a population of more than two hundred thousand
29 inhabitants, the salary of the election commissioner shall be at least
30 ten thousand five hundred dollars annually payable in periodic
31 installments out of the county general fund ~~and the salary of the chief~~

1 ~~deputy election commissioner shall be at least nine thousand dollars~~
2 ~~annually payable in periodic installments out of the county general fund.~~

3 In counties having a population of more than one hundred fifty
4 thousand and not more than two hundred thousand inhabitants, the salary
5 of the election commissioner shall be at least seven thousand five
6 hundred dollars annually payable in periodic installments out of the
7 county general fund ~~and the salary of the chief deputy election~~
8 ~~commissioner shall be at least six thousand dollars annually payable in~~
9 ~~periodic installments out of the county general fund.~~

10 In counties having a population of more than one hundred thousand
11 and not more than one hundred fifty thousand inhabitants, the salary of
12 the election commissioner shall be at least nine thousand five hundred
13 dollars annually payable in periodic installments out of the county
14 general fund ~~and the salary of the chief deputy election commissioner~~
15 ~~shall be at least eight thousand five hundred dollars annually payable in~~
16 ~~periodic installments out of the county general fund.~~

17 In counties having a population of not more than one hundred
18 thousand inhabitants, the salary of the election commissioner shall be at
19 least six thousand five hundred dollars annually payable in periodic
20 installments out of the county general fund ~~and the salary of the chief~~
21 ~~deputy election commissioner shall be at least five thousand dollars~~
22 ~~annually payable in periodic installments out of the county general fund.~~

23 Sec. 16. Section 32-218, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 32-218 (1) ~~The county clerk shall have the powers and perform the~~
26 ~~duties assigned to the election commissioner except in those counties~~
27 ~~which have an election commissioner as provided by section 32-207 or~~
28 ~~32-211. The powers and duties assigned to the county clerk in the~~
29 ~~Election Act relating to the registration of voters and the conduct of~~
30 ~~elections shall only apply to county clerks in counties without an~~
31 ~~election commissioner. The county clerk may hire additional personnel to~~

1 perform the duties assigned under the act.

2 ~~(2) The county board may establish the position of deputy county~~
3 ~~clerk for elections. Such deputy shall be appointed by the county clerk~~
4 ~~and shall not be a member of the same political party as the county~~
5 ~~clerk, except that any deputy county clerk for elections serving on~~
6 ~~January 1, 1995, shall be allowed to continue in his or her position for~~
7 ~~as long as he or she holds the position. Under the direction of the~~
8 ~~county clerk, the deputy shall be primarily responsible for performing~~
9 ~~the duties imposed on the county clerk by the election laws of this state~~
10 ~~and shall perform such other duties as may from time to time be assigned~~
11 ~~to him or her by the county clerk. The deputy shall serve at the pleasure~~
12 ~~of the county clerk. The county board shall determine the compensation of~~
13 ~~the deputy.~~

14 Sec. 17. Section 32-219, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 32-219 The election commissioner ~~and chief deputy election~~
17 ~~commissioner~~, once elected or appointed, qualified, bonded, and sworn
18 into office, and the county clerk acting as the election officer, shall
19 not hold a political party office or be a member or officer of a
20 candidate committee for any candidate seeking public office. This section
21 shall not prohibit an election commissioner or a county clerk acting as
22 the election officer from participating in his or her own reelection
23 campaign or fundraisers. This section shall not be construed to preclude
24 an election commissioner, ~~a chief deputy election commissioner~~, or a
25 county clerk from being a delegate to a county, state, or national
26 political party convention.

27 Sec. 18. Section 32-242, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 32-242 (1) The election commissioner, county clerk, ~~chief deputy~~
30 ~~election commissioners~~, office personnel of the election commissioner or
31 county clerk, judges of election, precinct or district inspectors, and

1 deputy registrars may administer all oaths required or necessary in the
2 administration of the Election Act.

3 (2) The election commissioner or county clerk may adopt an official
4 seal for use as prescribed by law.

5 Sec. 19. It is the intent of the Legislature that the following
6 county officers be elected: County attorney, public defender, county
7 sheriff, county treasurer, clerk of the district court, election
8 commissioner, register of deeds, county clerk, county assessor, county
9 engineer, and county surveyor.

10 Sec. 20. Except as provided in section 22-417, an election
11 commissioner shall be elected in each county having a population of more
12 than four hundred thousand inhabitants at the statewide general election
13 in 2022 for a two year term and in 2024 and each four years thereafter
14 and in counties having a population of not less than forty thousand nor
15 more than four hundred thousand inhabitants at the statewide general
16 election in 2022 and each four years thereafter. The election
17 commissioner shall meet the qualifications found in section 32-208 or
18 32-211 as applicable. The election commissioner shall be elected on the
19 nonpartisan ballot.

20 Sec. 21. Section 32-555, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 32-555 (1) Except as provided in subsection (4) of this section, if
23 the governing board of any city, village, county, or school district
24 which nominates or elects members to the board by district or ward fails
25 to draw district boundaries by the date established in subsection (1) of
26 section 32-553 or subsection (4) of section 32-554, the county attorney
27 of the county in which the board is located shall file an action in the
28 district court for the purpose of ordering the board to draw district
29 boundaries. If within six months after the receipt of such order the
30 board does not comply, the members of the board shall be subject to
31 removal and the court shall order the Secretary of State to draw district

1 boundaries in accordance with the most recent federal decennial census.
2 Any vacancy resulting from such removal from office shall be filled as
3 provided by law.

4 (2) If the county attorney fails to file the action required by
5 subsection (1) of this section, he or she shall be subject to removal
6 from office. If the county attorney fails to file such action, any
7 citizen within the jurisdiction of the governing board may file the
8 action. The court shall order the board to pay any costs and attorney's
9 fees involved in such action.

10 (3) If an election commissioner required to draw district boundaries
11 for any county having more than four hundred thousand inhabitants as
12 determined by the most recent federal decennial census pursuant to
13 sections 23-151 and 32-553 fails to do so, the election commissioner
14 shall be subject to (a) suit by the county attorney for the purpose of
15 ordering the drawing of district boundaries, and (b) ~~removal from office~~
16 ~~pursuant to section 32-214 for failure to comply with an order to draw~~
17 ~~district boundaries within six months of receipt of such order, and (c)~~
18 suit by any citizen for the purpose of ordering the drawing of district
19 boundaries and shall be obligated to pay any costs and attorney's fees
20 involved in any such action.

21 (4) If the county board of any county having more than four hundred
22 thousand inhabitants as determined by the most recent federal decennial
23 census fails to complete the process of drawing district boundaries as
24 provided for in sections 23-151 and 32-553, the procedures set forth in
25 subdivision (3)(b) of section 23-151 shall be followed.

26 Sec. 22. Section 32-615, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 32-615 (1) Except as otherwise provided in subsection (2) of this
29 section, any candidate engaged in or pursuing a write-in campaign shall
30 file a notarized affidavit of his or her intent together with the receipt
31 for any filing fee with the filing officer as provided in section 32-608

1 no earlier than December 1 and no later than the second Friday prior to
2 the election.

3 (2) For any county office elected pursuant to sections 32-517 to
4 32-529 and section 20 of this act which is subject to subdivision (1)(a)
5 or (1)(b) of section 32-811, a candidate may engage in or pursue a write-
6 in campaign if he or she files a notarized affidavit of his or her intent
7 together with the receipt for the filing fee with the filing officer as
8 provided in section 32-608 on or before March 3 of the year of the
9 statewide primary election. If such an affidavit is filed as prescribed,
10 the election commissioner or county clerk shall place that county office
11 on the statewide primary election ballot with the names of the candidate
12 properly filed for the nomination of the ~~applicable~~ political party, if
13 applicable, and a line for write-in candidates.

14 (3) A candidate submitting an affidavit under this section for a
15 partisan office shall be a registered voter of the political party named
16 in the affidavit unless the political party allows candidates not
17 affiliated with the party by not adopting a rule under section 32-702.

18 (4) A candidate who has been defeated as a candidate in the primary
19 election or defeated as a write-in candidate in the primary election
20 shall not be eligible as a write-in candidate for the same office in the
21 general election unless (a) a vacancy on the ballot exists pursuant to
22 section 32-625 or (b) the candidate was a candidate for an office
23 described in sections 32-512 to 32-550 and the candidate lost the
24 election as a result of a determination pursuant to section 32-1122 in
25 the case of a tie vote.

26 (5) A candidate who files a notarized affidavit shall be entitled to
27 all write-in votes for the candidate even if only the last name of the
28 candidate has been written if such last name is reasonably close to the
29 proper spelling.

30 Sec. 23. Section 32-811, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 32-811 (1)(a) If the names of candidates properly filed for
2 nomination at the primary election for election commissioner, directors
3 of natural resources districts, directors of public power districts,
4 members of airport authority boards elected pursuant to sections 32-547
5 to 32-549, members of the boards of governors of community college areas,
6 members of the boards of Class III or Class V school districts which
7 nominate candidates at a primary election, and officers of cities of the
8 first or second class and cities having a city manager plan of government
9 do not exceed two candidates for each position to be filled, any such
10 candidates shall be declared nominated and their names shall not appear
11 on any primary election ballots.

12 (b) If the number of candidates properly filed for the nomination of
13 a political party at the primary election for any county officer elected
14 pursuant to sections 32-517 to 32-529 does not exceed the number of
15 candidates to be nominated by that party for that office, any such
16 properly filed candidates shall be declared nominated and their names
17 shall not appear on any primary election ballots.

18 (c) The official abstract of votes kept by the county or state shall
19 show the names of such candidates with the statement Nominated Without
20 Opposition. The election commissioner or county clerk shall place the
21 names of such automatically nominated candidates on the general election
22 ballot as provided in section 32-814 or 32-815.

23 (2) Candidates shall not appear on the ballot in the primary
24 election for the offices listed in subsection (2) of section 32-606.

25 (3) If the number of candidates for delegates to a county or
26 national political party convention are the same in number or less than
27 the number of candidates to be elected, the names shall not appear on the
28 primary election ballot and those so filed shall receive a certificate of
29 election.

30 Sec. 24. Section 32-1049, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 32-1049 Any election commissioner or county clerk using a vote
2 counting device to count ballots in a centralized location shall:

3 (1) Provide for the proper sealing of the containers and the
4 security of the ballots when transported from each polling place to the
5 centralized location and when removed from their containers and delivered
6 to the personnel who operate the vote counting devices;

7 (2) Provide a process of counting which allows for the ballots of
8 each precinct to be placed in a sealed container and placed in a secure
9 location after the counting process has been completed;

10 (3) Provide for a method of overseeing the ballots that have been
11 overvoted or damaged which does not involve judging voter intent to
12 assure that these ballots have not been or will not be intentionally
13 mismarked;

14 (4) Provide for a procedure for counting write-in votes when such
15 votes and names of write-in candidates are to be counted and recorded;

16 (5) Provide for at least three independent tests to be conducted
17 before counting begins to verify the accuracy of the counting process,
18 which includes the computerized program installed for counting various
19 ballots by vote counting devices, by (a) the election commissioner or
20 county clerk, (b) ~~the chief deputy election commissioner~~ or a registered
21 voter with a different party affiliation than that of the election
22 commissioner or county clerk, and (c) the person who installed the
23 program in the vote counting device or the person in charge of operating
24 the device;

25 (6) Provide for storing and safeguarding the magnetic tapes or
26 computer chips of the vote counting devices for the required period of
27 time;

28 (7) Provide the appropriate security personnel or measures necessary
29 to safeguard the secrecy and security of the counting process;

30 (8) Develop a procedure for picking up and counting ballots during
31 election day at the discretion of the election commissioner or county

1 clerk. No report or tabulation of vote totals for such ballots shall be
2 produced or generated prior to one hour before the closing of the polls;
3 and

4 (9) Submit a written plan to the Secretary of State specifically
5 outlining the procedures that will be followed on election day to
6 implement this section. The plan shall be submitted no later than twenty-
7 five days before the election and shall be modified, as necessary, for
8 each primary, general, or special election.

9 Sec. 25. Section 32-1201, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 32-1201 The county board shall draw warrants in payment of all bills
12 submitted by the election commissioner or county clerk related to the
13 cost of any election conducted by the office of the election commissioner
14 or county clerk. Except as otherwise provided in subsection (4) of
15 section 32-1203, the initial payment for bills submitted to the election
16 commissioner or county clerk for the cost of preparing for and conducting
17 elections shall be a county expense. The compensation of the election
18 commissioner or county clerk, ~~the deputy election commissioner or deputy~~
19 ~~county clerk for elections,~~ and all permanent employees of the election
20 commissioner or county clerk, the expenditures for the rental,
21 furnishing, and equipping of the office of the election commissioner or
22 county clerk, the expenditures for necessary office supplies, books,
23 documents, and appurtenances relating to or used in performing the duties
24 of the election commissioner or county clerk in relation to elections,
25 and the cost of elections for county, state, and federal governments
26 shall be an apportioned county expense and shall not be chargeable to
27 other political subdivisions.

28 Sec. 26. Sections 1, 2, 3, 4, 5, 6, 7, 8, 13, 14, 15, 16, 18, 21,
29 24, 25, 27, and 29 of this act become operative on January 5, 2023. The
30 other sections of this act become operative on their effective date.

31 Sec. 27. Original sections 11-119, 11-125, 11-126, 22-417, 32-213,

1 32-214, 32-217, 32-218, 32-242, 32-555, 32-1049, and 32-1201, Reissue
2 Revised Statutes of Nebraska, and sections 11-105, 11-115, 23-405, and
3 23-2518, Revised Statutes Cumulative Supplement, 2020, are repealed.

4 Sec. 28. Original sections 32-207, 32-211, 32-219, 32-615, and
5 32-811, Reissue Revised Statutes of Nebraska, and sections 32-101 and
6 32-208, Revised Statutes Cumulative Supplement, 2020, are repealed.

7 Sec. 29. The following sections are outright repealed: Sections
8 32-209 and 32-210, Reissue Revised Statutes of Nebraska.

9 Sec. 30. Since an emergency exists, this act takes effect when
10 passed and approved according to law.