

## LEGISLATIVE BILL 821

Approved by the Governor February 7, 1990

Introduced by Labeledz, 5, Chairperson, Executive Board

AN ACT relating to counties; to amend sections 22-408, 23-1505, 23-1704.01, 23-1720, 23-1901, 24-534, 25-2215, 25-2216, 25-2217, 32-308, 32-310, 32-310.01, 33-118, 65-101, 77-366, 77-403, 77-404, 77-406, 77-407, 77-423, 77-426, 77-428, 77-1311, 79-311, 79-311.10, 79-312, 79-315, 79-316, 79-317, 79-319, 79-320, 79-320.01, 84-801, 84-802, 84-803, 84-807, 84-808, and 84-809, Reissue Revised Statutes of Nebraska, 1943, sections 77-115, 77-401, 77-408, 77-409, 77-410, 77-412, 77-412.01, 77-429, 77-430, and 77-1318, Revised Statutes Supplement, 1988, and sections 77-401.02 and 79-314, Revised Statutes Supplement, 1989; to transfer and combine provisions relating to county clerks, registers of deeds, treasurers, sheriffs, surveyors, assessors, and superintendents and deputies of county officials; to eliminate a provision relating to assessment of property on and after January 1, 1970, and continuation in office of an assessor in office on such date; to harmonize provisions; and to repeal the original sections, and also sections 77-1341 and 79-313, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 22-408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

22-408. Any two or more adjoining counties may consolidate one or more county or township offices as provided by the provisions of sections 22-408 to 22-416, and 79-311.

Sec. 2. That section 84-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-808. When a county officer, receiving a salary and no fees, is compelled by the pressure of the business of his the office to employ a deputy, the county commissioners may make a reasonable allowance to

such a deputy.

Sec. 3. The county clerk may appoint a deputy for whose acts he or she will be responsible. The clerk may not appoint the county treasurer, sheriff, register of deeds, or surveyor as deputy.

The appointment shall be in writing and revocable in writing by the clerk. Both the appointment and revocation shall be filed and kept in the office of the clerk.

The deputy shall take the same oath as the clerk which shall be endorsed upon and filed with the certificate of appointment. The clerk may require a bond of the deputy.

In the absence or disability of the clerk, the deputy shall perform the duties of the clerk pertaining to the office, but when the clerk is required to act in conjunction with or in place of another officer, the deputy cannot act in the clerk's place.

Sec. 4. That section 23-1505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1505. The register of deeds shall have power to take acknowledgments and administer oaths; and to certify the same under his or her hand and official seal. ; and may appoint one or more deputies when authorized by the county board; who shall have all the powers and perform all the duties of such register of deeds upon giving bond as provided by law-

Sec. 5. When authorized by the county board, the register of deeds may appoint one or more deputies for whose acts he or she will be responsible. The register of deeds may not appoint the county treasurer, sheriff, clerk, or surveyor as deputy.

The appointment shall be in writing and revocable in writing by the register of deeds. Both the appointment and revocation shall be filed and kept in the office of the county clerk.

The deputy shall take the same oath as the register of deeds which shall be endorsed upon and filed with the certificate of appointment. The register of deeds may require a bond of the deputy.

In the absence or disability of the register of deeds, the deputy shall perform the duties of the register of deeds pertaining to the office, but when the register of deeds is required to act in conjunction with or in place of another officer, the deputy cannot act in the place of the register of deeds.

Sec. 6. The county treasurer may appoint a deputy for whose acts he or she will be responsible.

The treasurer may not appoint the county clerk, sheriff, register of deeds, or surveyor as deputy.

The appointment shall be in writing and revocable in writing by the treasurer. Both the appointment and revocation shall be filed and kept in the office of the county clerk.

The deputy shall take the same oath as the treasurer which shall be endorsed upon and filed with the certificate of appointment. The treasurer may require a bond of the deputy.

In the absence or disability of the treasurer, the deputy shall perform the duties of the treasurer pertaining to the office, but when the treasurer is required to act in conjunction with or in place of another officer, the deputy cannot act in the treasurer's place.

Sec. 7. That section 23-1704.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1704.01. The sheriff may appoint such number of deputies as he or she sees fit for whose acts he or she will be responsible. The sheriff may not appoint the county treasurer, clerk, register of deeds, or surveyor as deputy.

The appointment shall be in writing and revocable in writing by the sheriff. Both the appointment and revocation shall be filed and kept in the office of the county clerk.

The deputy shall take the same oath as the sheriff which shall be endorsed upon and filed with the certificate of appointment. The sheriff may require a bond of the deputy.

In the absence or disability of the sheriff, the deputy shall perform the duties of the sheriff pertaining to the office, but when the sheriff is required to act in conjunction with or in place of another officer, the deputy cannot act in the sheriff's place. No ~~PROVIDED~~ that no deputy shall act as constable while deputy sheriff.

Sec. 8. That section 33-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~33-118-~~ The county board shall furnish the sheriff with such deputies as it shall deem necessary and fix the compensation of such deputies, who shall be paid by warrant drawn on the general fund.

Sec. 9. That section 23-1720, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1720. Any sheriff, deputy state sheriff, deputy sheriff, or special deputy sheriff required to be bonded under section 11-119 or ~~84-801~~, 23-1704.01 shall be indemnified by the county employing such sheriff, deputy state sheriff, deputy sheriff, or special deputy sheriff should such person become liable to any surety on a bond written under either such section, 11-119 or 84-801. Any sheriff, deputy state sheriff, deputy sheriff, or special deputy sheriff may, with the approval of the county board, retain his or her own legal counsel to represent him or her in such proceedings at county expense.

Sec. 10. That section 24-534, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~24-534.~~ It shall be the duty of the sheriffs of the several counties to execute or serve all writs and process issued by any county court and to them directed; and to return the same. For any neglect or refusal so to do, they may be proceeded against in the county court in the same manner as for neglect or refusal to execute or serve process issued out of the district court.

Sec. 11. That section 25-2215, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~25-2215.~~ The sheriff shall endorse upon every summons, order of arrest, ~~or order~~ for the delivery of property, ~~or order~~ of attachment, or injunction; the day and the hour it was received by him or her.

Sec. 12. That section 25-2216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~25-2216.~~ The sheriff shall execute every summons, order, or other process; and return the same as required by law. If the sheriff ; and if he fails to do so, unless he or she makes it appear to the satisfaction of the court that he or she was prevented by inevitable accident from so doing, he or she shall be amerced by the court in a sum not exceeding one thousand dollars; and shall be liable to the action of any person aggrieved by such failure.

Sec. 13. That section 25-2217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~25-2217.~~ The sheriff shall exercise the powers and perform the duties conferred and imposed upon him or her by other provisions of this code; by other statutes; and by the common law.

Sec. 14. That section 23-1901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1901. (1) It shall be the duty of the county surveyor to make or cause to be made all surveys within his or her county that the county surveyor may be called upon to make and record the same.

(2) In all counties having a population of fifty thousand inhabitants, but less than one hundred fifty thousand inhabitants, the county surveyor shall be ex officio county engineer and shall be either a registered professional engineer as provided in sections 81-839 to 81-856 or a registered land surveyor as provided in sections 81-8,108 to 81-8,127 or both. In such counties, the office of surveyor shall be full time.

In counties having a population of one hundred fifty thousand inhabitants or more, a county engineer shall be elected who shall be a registered professional engineer as provided in sections 81-839 to 81-856.

(3) The county engineer or ex officio county engineer shall:

(a) Prepare all plans, specifications, and detail drawings for the use of the county in advertising and letting all contracts for the building and repair of bridges, culverts, and all public improvements upon the roads;

(b) Make estimates of the cost of all such contemplated public improvements, make estimates of all material required for such public improvements, inspect the material and have the same measured and ascertained, and report to the county board whether the same is in accordance with ~~their~~ its requirements;

(c) Superintend the construction of all such public improvements and inspect and require that the same shall be done according to contract;

(d) Make estimates of the cost of all labor and material which shall be necessary for the construction of all bridges and improvements upon public highways, inspect all of the work and materials placed in any such public improvements, and make a report in writing to the county board with his or her a statement in regard to whether the same comply with the plans, specifications, and detail drawings of the county board prepared for such work or improvements and under which the contract was let; and

(e) Have charge and general supervision of work or improvements authorized by the county board, inspect all materials, direct the work, and make a

report of each piece of work to the county board.

The county engineer or surveyor shall also have such other and further powers as are necessarily incident to the general powers granted.

(4) The county surveyor shall prepare and file the required annual inventory statement of county personal property in his or her custody or possession, as provided in sections 23-346 to 23-350.

(5) In counties having a population of fifty thousand, but less than one hundred fifty thousand, if the county surveyor is a professional engineer, he or she shall appoint as his or her deputy a registered land surveyor or, if he or she is a registered land surveyor, he or she shall appoint as his or her deputy a professional engineer. This requirement shall not apply if the county surveyor is both a professional engineer and a registered land surveyor.

(6) In counties having a population of one hundred fifty thousand inhabitants or more, the county engineer shall appoint a full-time county surveyor. The county surveyor shall perform all the duties prescribed in sections 23-1901 to 23-1913 and any other duties assigned to him or her by the county engineer. The county surveyor shall be a registered land surveyor as provided in sections 81-8,108 to 81-8,127.

Sec. 15. The county surveyor may appoint a deputy for whose acts he or she will be responsible. The surveyor may not appoint the county treasurer, sheriff, register of deeds, or clerk as deputy.

In counties having a population of fifty thousand but less than one hundred fifty thousand, if the county surveyor is a professional engineer, he or she shall appoint as deputy a registered land surveyor or, if the county surveyor is a registered land surveyor, he or she shall appoint as deputy a professional engineer. This requirement shall not apply if the county surveyor is both a professional engineer and a registered land surveyor.

The appointment shall be in writing and revocable in writing by the surveyor. Both the appointment and revocation shall be filed and kept in the office of the county clerk.

The deputy shall take the same oath as the surveyor which shall be endorsed upon and filed with the certificate of appointment. The surveyor may require a bond of the deputy.

In the absence or disability of the surveyor, the deputy shall perform the duties of the surveyor pertaining to the office, but when the surveyor is

required to act in conjunction with or in place of another officer, the deputy cannot act in the surveyor's place.

Sec. 16. That section 32-310.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-310-01- In all counties Each county having a population of more than thirty-five hundred inhabitants and having more than twelve hundred tax returns in any tax year where the office of county assessor has been abolished or does not exist and the duties of such office are performed by the county clerk, the office of shall have an elected county assessor. is hereby reestablished. Any vacancy in the office thus reestablished is to be filled forthwith in the manner otherwise provided by law, and at the same time the county board shall fix the salary to be received by such officer for the remainder of the term. The county assessor thus appointed to fill the vacancy shall devote such time to his office as the proper performance of the duties thereof may require. Each other county shall have an elected county assessor or shall have the county clerk serve as county assessor as determined by the electors of the county in accordance with section 32-310.

The county assessor shall work full time and his or her office shall be separate from that of the county clerk except in counties which do not elect a full-time assessor.

For the performance of the duties as county assessor, the county clerk shall receive such additional salary as may be fixed by the county board.

Sec. 17. That section 77-423, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-423- No person shall be eligible to file for or be appointed to the office of county assessor or serve as deputy assessor in any county of this state unless he or she shall hold holds a county assessor certificate issued pursuant to section 77-422.

Sec. 18. That section 77-429, Revised Statutes Supplement, 1988, be amended to read as follows:

77-429- No person shall be eligible to file for, assume, or be appointed to the office of county clerk acting as ex officio county assessor who does not hold a county assessor's certificate unless he or she holds a county assessor certificate issued pursuant to section 77-422.

Sec. 19. That section 77-426, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~77-426-~~ A county assessor need not be a resident of the county when he or she files for election as county assessor, but a county assessor shall reside in a county in which he or she holds office.

Sec. 20. That section 77-401, Revised Statutes Supplement, 1988, be amended to read as follows:

~~77-401-~~ The county assessor, before entering upon the duties of ~~his or her~~ the office, shall take and subscribe an oath to perform well, faithfully, and impartially such duties and shall execute a bond as required by Chapter 11, article 1.

Sec. 21. That section 77-401.02, Revised Statutes Supplement, 1989, be amended to read as follows:

~~77-401-02-~~ In counties having a population of over two hundred thousand, the county assessor shall have two chief deputies, a chief field deputy and a chief office deputy.

Sec. 22. County assessors and their deputies may administer oaths within their respective counties in matters pertaining to their official duties.

Sec. 23. That section 77-404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~77-404-~~ In case the office of county assessor in any county ~~shall become~~ becomes vacant, the county board shall appoint a person to fill such vacancy, who shall qualify in the same manner as other county officers.

Sec. 24. That section 77-408, Revised Statutes Supplement, 1988, be amended to read as follows:

~~77-408-~~ Any assessor, elected or appointed, who ~~shall willfully neglect or refuse~~ neglects or refuses in whole or in part to perform the duties required ~~of him or her~~ by law in the assessment of property for taxation shall be deemed guilty of a Class V misdemeanor and shall be answerable in damages to the county or any person thereby injured up to the limits of his or her official bond.

Sec. 25. That section 77-403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~77-403-~~ The state, ~~or~~ any municipality, or any person aggrieved or injured by the willful neglect



of duty by the county assessor or any deputy or assistant assessor, may recover upon such the officer's bond or bonds the amount lost to the state, or such municipality, or person on account of such neglect of the county assessor or deputy or assistant assessor, together with the costs of suit.

Sec. 26. That section 79-311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-311-~~ (1) Except as provided in section ~~79-320-01~~ 27 of this act, there shall be a county superintendent in each organized county whose term of service shall be four years and who shall be elected at the same time and in the same manner as other county officers on the nonpolitical ballot, except ; ~~PROVIDED~~; that no county superintendent shall be elected in ~~these counties~~ a county (a) having a population of three thousand inhabitants, or less, and (b) which has been organized into a single school district under the direction of a single board of education and a superintendent of schools elected by that board of education. The superintendent of schools of such a county shall submit all reports and assume the duties ~~hereinafter~~ required of the county superintendent.

(2) In counties or districts having a population of six thousand five hundred inhabitants or more, ~~inhabitants~~; no person shall be eligible to have his or her name appear on the ballot as a nominee for the office of county superintendent at any primary election, to have his or her name appear on the ballot as a candidate for the office of county superintendent at any general election, or to have be issued an election certificate ~~issued to him~~ if he or she is the successful candidate for the office of county superintendent, unless he or she holds a Nebraska certificate valid for administration in all elementary and secondary schools ~~issued in this state~~ and in force on each such occasion, except as otherwise provided for in subsection (4) of this section.

(3) In counties having a population of less than six thousand five hundred inhabitants, each nominee, each candidate, and each recipient of an election certificate for the office of county superintendent shall hold a teacher's certificate issued in this state and in force and a baccalaureate degree from a standard institution of higher education and shall have had not less than three years of successful teaching experience if his or her name is to appear on the ballot or if he or she is to receive ~~his an~~ election

certificate, except as otherwise provided for in subsection (4) of this section.

(4) Any person now holding the office of county superintendent in any county who ~~has not~~ does not have the certificate required in a county of the size of the one in which he or she holds office, as provided by subsection (2) or (3) of this section, shall be eligible to be a candidate, nominee, or recipient of an election certificate for such office to succeed himself or herself in that office except that a county superintendent, referred to in subsection (2) of this section, to be so eligible, must hereafter earn at least nine semester college hours of credit every four years until he or she qualifies ~~shall qualify~~ for the certificate referred to in subsection (2) of this section.

(5) It shall be the duty of the county clerk or election commissioner of each county to notify the Commissioner of Education of the nominations for the office of county superintendent in his or her county and of the election to such office at the time the results of the primary and general elections respectively are ascertained.

(6) The county clerk or election commissioner shall refuse to place the name of any candidate on the ballot for such office who ~~shall not have~~ has not presented such clerk or election commissioner with a certified statement from the office of the Commissioner of Education that such candidate holds a valid certificate, required under the provisions of subsection (2) or (3) of this section, in the county of such candidate unless the same is not required under subsection (4) of this section.

(7) A person may serve as county superintendent in more than one county if approved by the county boards of each of ~~said~~ the counties.

(8) All provisions of law relating to the consolidation of county offices shall apply to the office of county superintendent. When the office of county superintendent is consolidated, the combined population of the counties involved shall be used for the purposes of subsections (2) and (3) of this section.

Sec. 27. That section 79-320.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-320-01-~~ The county board of any county may elect to discontinue the office of county superintendent upon expiration of the term of an incumbent. Such decision shall be made not later than twelve months

prior to the expiration of such term, and only after the county board has discussed such discontinuance at a public hearing for which proper notice has been duly given. If the county board elects to discontinue the office, it may contract with the educational service unit of which it is a part or a Class II, III, IV, V, or VI school district for performance of all of the duties imposed by law upon the county superintendent. Educational service units and Class II, III, IV, V, and VI school districts may enter into such contracts and perform such duties. The annual cost to the county of any such contract shall not exceed the proceeds of a tax of three-tenths of one cent on each one hundred dollars on the actual valuation of all taxable property except intangible property in the county or two thousand five hundred dollars, whichever is greater.

Sec. 28. That section 79-316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-316-~~ The county superintendents shall be subject to such rules and instructions as the Commissioner of Education may from time to time prescribe. They shall report annually to the commissioner, at such times as he or she may direct, the official labors performed, the general condition and management of the schools under their charge, and such other information as may be required of them by the commissioner.

Sec. 29. That section 79-312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-312-~~ The county superintendent shall:

(1) Visit each of the schools of his or her county at least once in each year to examine carefully into the discipline, modes of instruction, progress, and proficiency of the pupils; and make a record of his or her findings;

(2) Counsel ~~counset~~ with teachers and district boards as to the course of study to be pursued; and methods for the improvement of the instruction and discipline of the school;

(3) Note ~~note~~ the condition of the schoolhouse and appurtenances thereto, and may make suggestions as to locations for new schoolhouses, for warming and ventilating the same, and for the general improvement of the schoolhouse and grounds;

(4) Promote ~~promote~~ by public lectures and teachers institutes; and by such other means as he or she may devise; the improvement of the schools in ~~his~~

the county; and the elevation of the character and qualifications of the teachers thereof;

(5) ~~Enforce enforce~~ the compulsory attendance laws and consult with the teachers and school boards to secure general and regular attendance of the children of ~~his~~ the county at the public schools;

(6) ~~Furnish furnish~~ to each district in the county a copy of the course of study for public schools, as prescribed by the State Department of Education, and forward to the teachers, from time to time, such written or printed questions for reviews based upon such course of study as in his or her judgment are necessary or expedient;

(7) ~~Furnish furnish~~ the necessary blanks for the annual report of the secretary, the census report of the district, and such other blanks as he or she may deem helpful for the work of the schools; and ~~furnish~~ the necessary record books for the schools and for the district officers;

(8) ~~Purchase purchase~~ all supplies required for the operation of ~~his~~ the office; to be paid for from the funds allotted ~~to him~~ in the budget;

(9) ~~Prepare prepare~~ and file the required annual inventory statement of county personal property in his or her custody or possession; as provided in sections 23-346 to 23-350;

(10) ~~Attend attend~~ all meetings required by the department; ~~and~~

(11) ~~Submit submit~~ to the department, on or before August 15 of each year, a consolidated census report under oath; showing the number of children belonging to each school district of the county through twenty years old based on the census report from the secretary of each district in the county; ~~and~~

(12) ~~Receive all such blanks and communications as may be directed to him or her by the Commissioner of Education and dispose of them in the manner directed by the commissioner.~~

Sec. 30. That section 79-314, Revised Statutes Supplement, 1989, be amended to read as follows:

79-314. The county superintendent shall examine the correctness of the reports of the school district boards and may, when necessary, require them to be amended. He or she shall endorse ~~his~~ or her approval on the reports found to be correct and transmit duplicate reports of the annual statistical summary on or before July 31 to the Commissioner of Education. The county superintendent shall also transmit duplicate

reports of the annual financial report of each Class I school district on or before October 1 to the commissioner and notify the commissioner of any amendments required to the annual financial report of each Class II, III, IV, V, and VI school district of the county on or before November 15.

Sec. 31. That section 77-407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~77-407-~~ The county superintendent, of public instruction of the several counties of the state, on or before January 1 of each year, shall furnish to the county assessor for his use a map showing the number, and metes and bounds, of every school district or part of a school district within the county.

Sec. 32. That section 79-315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-315-~~ For any purpose connected with the administration of the school law, county superintendents are authorized to administer oaths.

Sec. 33. That section 79-311.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-311-10-~~ By action of the county board, the office of county superintendent may be a part-time rather than a full-time position. The county board shall fix the compensation of the part-time superintendent.

Sec. 34. That section 79-317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-317-~~ Whenever, by death, resignation, removal, or otherwise, the office of county superintendent shall ~~become~~ becomes vacant, the county board shall have power to fill such vacancy. No person shall be appointed to fill ~~such the~~ vacancy who ~~shall~~ does not, at the time of his appointment, have the qualifications required for election to the office.

Sec. 35. That section 79-319, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-319-~~ The county superintendent in each county in the state, with the approval of the county board, shall have authority to employ (1) a deputy county superintendent who shall serve as assistant to the county superintendent in the supervision and administration of the schools of the county and who shall have at least a certificate approved for such

office by the State Board of Education which shall be in force at the time of appointment; and (2) such other persons as may be necessary to assist the county superintendent.

Sec. 36. That section 79-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-320-~~ When it is necessary for the county superintendent or his a deputy to travel on business of the county, he or she shall be allowed mileage at the rate allowed by the provisions of section 23-1112 for each mile actually and necessarily traveled by the most direct route; if the trip or trips be are made by automobile, but if travel by rail or bus ~~shall be~~ is economical and practical, he or she shall be allowed only the actual cost of rail or bus transportation; upon the presentation of his the bill for the same accompanied by a proper voucher; to the county board of his or her county in like manner as is provided for as to all other claims against the county.

Sec. 37. That section 84-809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~84-809-~~ Deputy clerks of the district and county courts in this state are authorized to take acknowledgments of deeds and other instruments in writing in the name of their principals, and ~~said~~ the acknowledgments shall be as legal and as valid as if taken by their principals.

Sec. 38. That section 32-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-308. (1) A county sheriff, county treasurer, and county attorney shall be elected in each county at the general election in 1962 and every fourth year thereafter.

(2) When there is a qualified surveyor within a county who will accept the office of county surveyor if elected, a county surveyor on either a full-time or part-time basis, as determined by the county board in accordance with section 23-1901, shall be elected in each county with a population of less than one hundred fifty thousand inhabitants at the general election in 1982 and every fourth year thereafter. in counties where the county surveyor is an ex officio county engineer as provided in section 23-1901; the office of surveyor shall be full time-

(3) Except as provided in section 79-311 26 of this act, a county superintendent of public instruction

shall be elected in each county at the general election in 1962 and every fourth year thereafter.

(4) A county clerk shall be elected, in each county having a population of two hundred thousand inhabitants or less, at the general election in 1962 and every fourth year thereafter and, in counties having a population in excess of two hundred thousand inhabitants, at the general election in 1964 and every fourth year thereafter.

(5) A register of deeds shall be elected, in each county having a population of more than sixteen thousand five hundred and not more than two hundred thousand inhabitants, at the general election in 1962 and every fourth year thereafter and, in counties having a population in excess of two hundred thousand inhabitants, at the general election in 1964 and every fourth year thereafter.

(6) A county engineer shall be elected in each county having a population of one hundred fifty thousand inhabitants or more at the general election in 1986 and every fourth year thereafter.

Sec. 39. That section 32-310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-310. (1) At the general election in 1962, and each four years thereafter, there shall be elected a county assessor in each county of the state, except in counties having a population of not more than thirty-five hundred inhabitants and not more than twelve hundred tax returns where the office of county assessor has been abolished, whose term of office shall be four years. In any county having a population of not more than thirty-five hundred inhabitants and not more than twelve hundred tax returns, upon presentation of a petition to the county board, not less than sixty days before any general election, signed by at least ten percent of the electors of the county secured in not less than two-fifths of the townships or precincts of the county, and praying that the question of electing a county assessor in the county be submitted to the electors therein, the county board at the next general election shall order the submission of the question to the qualified voters of the county. The form of submission upon the ballot shall be as follows: Against election of county assessor, For election of county assessor.

(2) If a majority of the votes cast on the question, at the election provided for in subsection (1) of this section, shall be ~~is~~ against the election of

county assessor in such county, the office shall either (a) cease therein with the expiration of the term of the incumbent or (b) ~~shall~~ continue to be abolished, if there is no such office at such time, and the duties of the county assessor shall be performed by the county clerk.

(3) If a majority of the votes cast on the question, at the election provided for in subsection (1) of this section, ~~shall be~~ is for the election of a county assessor, either (a) the office shall continue or (b) a county assessor shall be elected at the next general election.

~~(4) For the performance of the duties of the county assessor, as referred to in subsection (2) of this section, the county clerk shall receive such additional salary as may be fixed by the county board-~~

Sec. 40. That section 65-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

65-101. Oaths and affirmations may be administered, in all cases whatsoever, by Judges of the Supreme Court, judges of the district court, Clerk of the Supreme Court, clerks of the district and county courts, within their respective jurisdictions; by county judges and clerk magistrates, within their respective counties; and by notaries public. ~~County or deputy assessors shall be authorized and empowered to administer oaths within their respective counties in matters pertaining to their official duties only-~~

Sec. 41. That section 77-115, Revised Statutes Supplement, 1988, be amended to read as follows:

77-115. The term county assessor shall include a county clerk who is an ex officio county assessor. ~~pursuant to sections 32-310 and 32-310-01-~~

Sec. 42. That section 77-366, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-366. (1) The Tax Commissioner shall appoint and employ such deputies, inspectors, agents, and other persons as he or she deems necessary to administer and effectively enforce all provisions of the revenue laws of this state. Each appointed officer shall hold his or her office at the pleasure of the Tax Commissioner. Any appointed or nonappointed employee shall perform the duties assigned to him or her by the Tax Commissioner.

(2) All deputies and similar officers appointed by the commissioner shall be bonded as



provided in section 84-801 under the blanket surety bond required by section 11-201. Such deputies and officers are vested with the authority and power of a law enforcement officer to carry out the revenue laws of this state. Such officers are empowered to arrest with or without a warrant, file and serve any lien, seize property, serve and return a summons and subpoena issued by the Tax Commissioner, collect taxes, and bring an offender before any court with jurisdiction in this state, except that such officer shall not be authorized to carry weapons or enforce any laws other than revenue.

(3) Subsection (2) of this section shall not be construed to restrict any other law enforcement officer of this state from enforcing any state law, revenue or otherwise.

Sec. 43. That section 77-428, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-428. The Tax Commissioner may promulgate such rules and regulations and prescribe such forms as he shall deem necessary to implement the provisions of sections 77-421, 77-422, and 77-425 and sections 17 and 18 of this act. ~~to 77-428-~~

Sec. 44. That section 77-406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-406- In preparing the tax list, each county assessor shall enter in a separate column, opposite the name of each person, his the person's post office address and the number of the school and road districts in which the personal property of such person is assessable.

Sec. 45. That section 77-409, Revised Statutes Supplement, 1988, be amended to read as follows:

77-409- The county assessor with the aid of his or her deputy and assistants shall carefully examine, check, and verify all personal property tax returns. The assessor may and check all returns of personal property for taxation- He or she shall have the power ~~to~~ make such investigation, examination, and inspection of the property set out in the a return and ~~to~~ examine under oath the person making the return as to his or her books, records, and papers in order to enable the assessor to determine that all personal property of the taxpayer is listed for taxation at its actual value.

Sec. 46. That section 77-410, Revised Statutes Supplement, 1988, be amended to read as follows:

~~77-410-~~ The county assessor shall have general supervision over and direction of the assessment of all personal property in his or her county. He or she shall advise and instruct all deputies and assistants as to their duties and shall require of ~~his or her deputies and assistants~~ them that the assessment of property be uniform throughout the county and that property be assessed as directed by law.

The county assessor may, in extending a value on any item of personal property, reject all values that fall below two dollars and fifty cents and extend all values of two dollars and fifty cents or more to the next higher five dollars or multiples thereof, making all valuations end in zero or five.

Sec. 47. That section 77-412, Revised Statutes Supplement, 1988, be amended to read as follows:

77-412- (1) The county assessor shall change the reported valuation of any item of personal property listed on the return of any taxpayer to conform the valuation to actual value. The assessor shall make a change to the valuation of any item of personal property for the current taxing period and the three previous taxing periods or any taxing period included therein.

(2) The county assessor shall list any item of personal property omitted from or not returned on a personal property return of any taxpayer and value the property at its actual value. The assessor shall list and value omitted or not returned property for the current taxing period and the three previous taxing periods or any taxing period included therein. Property so listed and valued shall be taxed at the same rate as would have been imposed upon the property in the governmental subdivision of the state in which the property should have been returned for taxation. To the tax shall be added a penalty of fifty percent of the tax due. Interest shall be assessed upon both the tax and the penalty at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid.

(3) For purposes of this section, the county assessor shall send notice, by first-class mail to the last-known address of the taxpayer, on a form prescribed by the Tax Commissioner, advising the taxpayer of the action taken, the penalty, and the rate of interest, if any. The notice shall also state the taxpayer's appeal rights and the appeal procedures.

(4) The county assessor may with the approval

of the county board of equalization waive all or part of the penalty assessed and any interest thereon. The entire penalty and interest shall be waived if the omission or failure to return any item of personal property was for the reason that the property was not required to be reported in previous years or the property was timely reported in the wrong taxing district.

(5) For purposes of this section, the taxpayer may appeal the action of the county assessor, either as to the valuation of property or the penalties imposed, to the county board of equalization within thirty days of the date the notice was mailed by the county assessor. The taxpayer shall preserve his or her appeal by filing an appeal with the county clerk in the same manner as prescribed in section 77-1502. The action of the county assessor shall become final unless an appeal is filed within the time prescribed.

(6) Upon ten days' notice to the taxpayer, the county board of equalization shall set a date for hearing the appeal of the taxpayer. The county board of equalization shall make its determination on the appeal within thirty days after the date of hearing. The county clerk shall, within seven days of the determination of the county board, send notice to the taxpayer and the county assessor, on forms prescribed by the Tax Commissioner, of the action of the county board. Appeal de novo may be taken from the decision of the county board of equalization to the district court of the county in which the assessment is made in the manner prescribed in sections 77-1510 and 77-1511.

(7) Taxes and penalties assessed for the current year, if not delinquent, shall be certified to the county treasurer and collected as if the property had been properly reported for taxation, except that separate tax statements may be mailed. Taxes and penalties assessed for the current year, if delinquent, and taxes and penalties assessed for prior years shall be certified to the county treasurer, and the tax, penalties, and interest thereon shall be due and collectible immediately upon certification. Collection procedures shall be started immediately regardless of the provisions of any other statute to the contrary.

Sec. 48. That section 77-412.01, Revised Statutes Supplement, 1988, be amended to read as follows:

~~77-412-01-~~ If a return is voluntarily filed or omitted property is voluntarily reported after the final date for returning such property has passed for

the current taxing period and the three previous taxing periods or any taxing period included therein, the property shall be taxed at the same rate as imposed upon the property in the governmental subdivision of the State of Nebraska in which the property should have been returned for taxation. To the tax shall be added a penalty of ten percent of the amount of tax due on tangible personal property. Interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be assessed upon such penalty from the date of delinquency of the tax until paid. The county assessor with the approval of the county board of equalization may waive all or part of the penalty and the interest on the penalty. If the omission or failure to return or report property was caused by the fact that such property had not been required to be reported in previous years or that such property was timely reported in the wrong taxing district, the entire penalty and the interest on the penalty shall be waived. Appeals may be taken under the same conditions and in the same manner as provided in section 77-412 47 of this act. A return shall be deemed to be voluntarily filed or omitted property shall be deemed to have been voluntarily reported if the action is done without notice from any taxing official or if the taxpayer prior to such notice notified the county assessor in writing that such return would be filed late and the return was subsequently filed within thirty days. Returns voluntarily filed or omitted property voluntarily reported as provided in this section shall not be subjected to any other penalty. This section shall not be so construed as to prohibit any taxing official from the proper discovery, assessment, taxation, and penalization of and for any property not listed or returned, regardless of when or in what manner the return was filed.

Sec. 49. That section 77-1311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1311. The county assessor; he shall have general supervision over and direction of the assessment of all property in his or her county. In addition to the other duties provided by law, the county assessor shall:

(1) check and verify with the aid of his or her assistants all personal tax returns and (2) annually Annually revise the real estate assessment for the correction of errors and, where when properties have been assessed as entities and afterward part or parts

transferred to other parties, to set off and apportion to each its just and equitable portion of the actual valuation. The county assessor shall have general supervision over and direction of the assessment of all property in his or her county. The county assessor shall obey

(2) Obey all rules and regulations made under this chapter Chapter 77 and the instructions sent out by the State Board of Equalization and Assessment or the Tax Commissioner;

(3) Examine - It shall be the duty of the county assessor to examine the records in the office of the register of deeds and county clerk for the purpose of ascertaining whether mortgages on real estate and security interests on personal property, producing mineral leases, title notes, contracts, and bills of sale, intended to operate as a lien in the county, have been fully and correctly listed. He or she shall add to the assessment roll all omitted mortgages, security interests, producing mineral leases, title notes, contracts, and bills of sale intended to operate as a lien and any which have been omitted, belonging to residents of his or her county, and not otherwise assessed, upon notice to the owner thereof or his or her agents;

(4) Examine - He or she shall examine the records in the office of the county judge and ascertain whether the property belonging to minors, persons with mental retardation or a mental disorder, and estates of deceased persons has been fully and correctly listed and shall add to or change any such assessments so that the same shall be fully assessed;

(5) Examine - He or she shall examine the records in the office of the clerk of the district court to ascertain whether any judgments or liens thereon filed, belonging to residents of his or her county and not otherwise assessed, have been omitted from the assessment rolls. In and, in case of any such omission, he or she shall add the same to the assessment roll after notice to the owner; and

(6) Make - He or she shall make up the assessment books as provided in section 77-1303. He or she shall work full time and his or her office shall be separate from that of the county clerk except in counties which do not elect a full-time assessor.

Sec. 50. That section 77-430, Revised Statutes Supplement, 1988, be amended to read as follows:

77-430- The county assessor may, in extending

a value on any ~~item of personal property~~ or parcel of real property, reject all values that fall below two dollars and fifty cents and extend all values of two dollars and fifty cents or more to the next higher five dollars or multiples thereof, making all valuations end in zero or five.

Sec. 51. That section 77-1318, Revised Statutes Supplement, 1988, be amended to read as follows:

77-1318. All taxes charged under section 77-1317 shall be exempt from any back interest or penalty and shall be collected in the same manner as other taxes levied upon real estate, except for taxes charged on improvements to real property made after September 1, 1980. Interest at the rate provided in section 77-207 and the following penalties and interest on penalties for late reporting or failure to report such improvements pursuant to section 77-1318.01 shall be collected in the same manner as other taxes levied upon real property. The penalty for late reporting or failure to report improvements made to real property after September 1, 1980, shall be as follows: (1) A penalty of twelve percent of the tax due on the improvements for each taxing period for improvements voluntarily filed or reported after April 1 has passed; and (2) a penalty of twenty percent of the tax due on improvements for each taxing period for improvements not voluntarily reported for taxation purposes after April 1 has passed. Interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be assessed upon such penalty from the date of delinquency of the tax until paid. No penalty excluding interest shall be charged in excess of one thousand dollars per year. For purposes of this section improvement shall mean any new structure or permanent fixtures added to an existing structure.

Any additional taxes, penalties, or interest on penalties imposed pursuant to this section may be appealed in the same manner as appeals are made under section ~~77-412~~ 47 of this act.

Sec. 52. That section 84-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-801. The Auditor of Public Accounts, State Treasurer, and State Librarian respectively, ~~and each county register of deeds, treasurer, sheriff, clerk and surveyor,~~ may appoint a deputy, for whose acts he or she shall be responsible. ~~The~~ ; which appointment shall be in writing and shall be revocable by ~~writing under the~~

principal's hand in writing by the principal. The deputy for each of the state offices shall be bonded under the blanket surety bond required by section 11-201. A bond may be required from each of the deputies for each of the county offices. Both the appointment and revocation shall be filed and kept in the office of the county clerk in case of deputies for county officers; but in case of state officers they shall be filed and kept by the principals by the principal.

Sec. 53. That section 84-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-802. In the absence or disability of the principal, the deputy shall perform the duties of his the principal pertaining to his own the office, but when an the officer is required to act in conjunction with or in place of another officer, his the deputy cannot supply his act in the officer's place.

Sec. 54. That section 84-803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-803. The Auditor of Public Accounts, State Treasurer, and State Librarian cannot appoint any of the others his or her deputy. nor can the treasurer, sheriff, register of deeds, clerk or surveyor of a county appoint any of the others.

Sec. 55. That section 84-807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-807. Each deputy shall take the same oath as his the principal, which shall be endorsed upon and filed with the certificate of his appointment.

Sec. 56. That original sections 22-408, 23-1505, 23-1704.01, 23-1720, 23-1901, 24-534, 25-2215, 25-2216, 25-2217, 32-308, 32-310, 32-310.01, 33-118, 65-101, 77-366, 77-403, 77-404, 77-406, 77-407, 77-423, 77-426, 77-428, 77-1311, 79-311, 79-311.10, 79-312, 79-315, 79-316, 79-317, 79-319, 79-320, 79-320.01, 84-801, 84-802, 84-803, 84-807, 84-808, and 84-809, Reissue Revised Statutes of Nebraska, 1943, sections 77-115, 77-401, 77-408, 77-409, 77-410, 77-412, 77-412.01, 77-429, 77-430, and 77-1318, Revised Statutes Supplement, 1988, and sections 77-401.02 and 79-314, Revised Statutes Supplement, 1989, and also sections 77-1341 and 79-313, Reissue Revised Statutes of Nebraska, 1943, are repealed.