

LEGISLATIVE BILL 357

Approved by the Governor April 16, 2003

Introduced by Government, Military and Veterans Affairs Committee:
Schimek, 27, Chairperson; Aguilar, 35; Burling, 33; Combs, 32;
McDonald, 41; Smith, 48; Vrtiska, 1

AN ACT relating to state government; to amend sections 32-221, 32-308, 32-312, and 67-293, Reissue Revised Statutes of Nebraska, and sections 32-223, 32-230, 32-231, 32-301, and 32-329, Revised Statutes Supplement, 2002; to change provisions for appointment of election board workers; to change provisions relating to registration of voters; to provide for transfers of funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 32-221, Reissue Revised Statutes of Nebraska, is amended to read:

32-221. (1) The election commissioner shall appoint precinct and district inspectors, judges of election, and clerks of election to assist the election commissioner in conducting elections on election day. In counties with a population of less than three hundred thousand inhabitants, judges and clerks of election and inspectors shall be appointed at least thirty days prior to the statewide primary election, shall hold office for terms of two years or until their successors are appointed and qualified for the next statewide primary election, and shall serve at all elections in the county during their terms of office. In counties with a population of three hundred thousand or more inhabitants, judges and clerks of election shall be appointed at least thirty days prior to the first election for which appointments are necessary and shall serve for at least four elections.

(2) Judges and clerks of election may be selected at random from a cross section of the population of the county. All qualified citizens shall have the opportunity to be considered for service. All qualified citizens shall fulfill their obligation to serve as judges or clerks of election as prescribed by the election commissioner. No citizen shall be excluded from service as a result of discrimination based upon race, color, religion, sex, national origin, or economic status. No citizen shall be excluded from service unless excused by reason of ill health or other good and sufficient reason.

(3) All persons appointed shall be of good repute and character, be able to read and write the English language, and except as otherwise provided in subsection (5) of section 32-223, be registered voters in the county. No candidate at an election shall be appointed as a judge or clerk of election or inspector for such election other than a candidate for delegate to a county, state, or national political party convention.

(4) If a vacancy occurs in the office of judge or clerk of election or inspector, the election commissioner shall fill such vacancy in accordance with section 32-223. If any judge or clerk of election or inspector fails to appear at the hour appointed for the opening of the polls, the remaining officers shall notify the election commissioner, select a registered voter to serve in place of the absent officer if so directed by the election commissioner, and proceed to conduct the election. If the election commissioner finds that a judge or clerk of election or inspector does not possess all the qualifications prescribed in this section or if any judge or clerk of election or inspector is guilty of neglecting the duties of the office or of any official misconduct, the election commissioner shall remove the person and fill the vacancy.

Sec. 2. Section 32-223, Revised Statutes Supplement, 2002, is amended to read:

32-223. (1) For each precinct except as provided in subsection (2) of this section, the election commissioner shall appoint a precinct inspector and a receiving board to consist of at least two judges and two clerks of election. The election commissioner may appoint district inspectors to aid the election commissioner in the performance of his or her duties and supervise a group of precincts on election day.

(2) In precincts in which voting machines or punch card voting systems are used, the receiving board shall have at least three members. When more than one voting machine is used, there shall be one additional member for each additional machine. When more than one punch card voting device is used, the election commissioner shall appoint additional members if necessary.

(3) The election commissioner may allow persons serving on a receiving board as judges and clerks of election and precinct inspectors to serve for part of the time the polls are open and appoint other judges and clerks of election and precinct inspectors to serve on the same receiving board for the remainder of the time the polls are open.

(4) On each receiving board at any one time, one judge and one clerk of election shall be registered voters of the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, and one judge and one clerk of election shall be registered voters of the political party casting the next highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, except that one judge or clerk of election may be a registered voter who is not affiliated with either of such parties. If a third judge is appointed, such judge shall be a registered voter of the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election. All precinct and district inspectors shall be divided between all political parties as nearly as practicable in proportion to the number of votes cast in such county at the immediately preceding general election for Governor or for President of the United States by the parties, respectively.

(5) The election commissioner may appoint a person who is at least sixteen years old but is not eligible to register to vote as a clerk of election. Such clerk of election shall meet the requirements of subsection (3) of section 32-221, except that such clerk shall not be required to be a registered voter. No more than one clerk of election appointed under this subsection shall serve at any precinct. A clerk of election appointed under this subsection shall be considered a registered voter who is not affiliated with a political party for purposes of this section.

Sec. 3. Section 32-230, Revised Statutes Supplement, 2002, is amended to read:

32-230. (1) As provided in subsection (5) of this section, the precinct committeeman and committeewoman of each political party shall appoint a receiving board consisting of three judges of election and two clerks of election except as provided in subsection (3) of this section and a counting board if required pursuant to section 32-234 consisting of two judges of election and two clerks of election. The chairperson of the county central committee of each political party shall send the names of the appointments to the county clerk no later than February 1 prior to the primary election.

(2) If no names are submitted by the chairperson, the county clerk shall appoint judges or clerks of election from the appropriate political party. Judges and clerks of election may be selected at random from a cross section of the population of the county. All qualified citizens shall have the opportunity to be considered for service. All qualified citizens shall fulfill their obligation to serve as judges or clerks of election as prescribed by the county clerk. No citizen shall be excluded from service as a result of discrimination based upon race, color, religion, sex, national origin, or economic status. No citizen shall be excluded from service unless excused by reason of ill health or other good and sufficient reason.

(3) In precincts in which voting machines or punch card voting systems are used, the receiving board shall have at least three members. When more than one voting machine is used, there shall be one additional member for each additional machine. When more than one punch card voting device is used, the county clerk shall appoint additional members if necessary.

(4) The county clerk may allow persons serving on a receiving board to serve for part of the time the polls are open and appoint other persons to serve on the same receiving board for the remainder of the time the polls are open.

(5) In each precinct at any one time, one judge and one clerk of election shall be appointed from the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, one judge and one clerk shall be appointed from the political party casting the next highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, and one judge shall be appointed from the political party casting the third highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election. If the political party casting the third highest number of votes cast less than ten percent of the total vote cast in the county at the immediately preceding general election, the political party casting the highest number of votes at the immediately preceding general election shall be entitled to two judges and one clerk. If a counting board

is required pursuant to section 32-234, one judge and one clerk of election shall be appointed to be members of the counting board from the political party casting the highest number of votes for Governor or for President of the United States in the county in the immediately preceding general election and one judge and one clerk of election shall be appointed to be members of the counting board from the political party casting the next highest number of votes.

(6) The county clerk may appoint registered voters to serve in case of a vacancy among any of the judges or clerks of election or in addition to the judges and clerks in any precinct when necessary to meet any situation that requires additional judges and clerks. Such appointees may include registered voters unaffiliated with any political party. Such appointees shall serve at subsequent or special elections as determined by the county clerk.

(7) The county clerk may appoint a person who is at least sixteen years old but is not eligible to register to vote as a clerk of election. Such clerk of election shall meet the requirements of subsection (1) of section 32-231, except that such clerk shall not be required to be a registered voter. No more than one clerk of election appointed under this subsection shall serve at any precinct. A clerk of election appointed under this subsection shall be considered a registered voter who is not affiliated with a political party for purposes of this section.

Sec. 4. Section 32-231, Revised Statutes Supplement, 2002, is amended to read:

32-231. (1) Each judge and clerk of election appointed pursuant to section 32-230 shall (a) be of good repute and character and able to read and write the English language, (b) reside in the precinct in which he or she is to serve unless necessity demands that personnel be appointed from another precinct, (c) be a registered voter except as otherwise provided in subsection (7) of section 32-230, and (d) serve for a term of two years or until judges and clerks of election are appointed for the next primary election. No candidate at an election shall be eligible to serve as a judge or clerk of election at the same election other than a candidate for a delegate to a county, state, or national political party convention.

(2) The county clerk may appoint district inspectors to aid the county clerk in the performance of his or her duties and supervise a group of precincts on election day. A district inspector shall meet the requirements for judges and clerks of election as provided in subsection (1) of this section, shall oversee the procedures of a group of polling places, and shall act as the personal agent and deputy of the county clerk. The district inspector shall ensure that the Election Act is uniformly enforced at the polling places assigned to him or her and perform tasks assigned by the county clerk. The district inspector may perform all of the duties required of a judge or clerk of election.

Sec. 5. Section 32-301, Revised Statutes Supplement, 2002, is amended to read:

32-301. (1) The Secretary of State shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the office of the Secretary of State that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state. The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state and shall comprise the voter registration record. The computerized list shall be coordinated with other agency data bases within the state and shall be available for electronic access by election commissioners and county clerks. The computerized list shall serve as the official voter registration list for the conduct of all elections under the Election Act. The Secretary of State shall provide such support as may be required so that election commissioners and county clerks are able to electronically enter voter registration information obtained by such officials on an expedited basis at the time the information is received. The Secretary of State shall provide adequate technological security measures to prevent unauthorized access to the computerized list. No General Funds shall be appropriated for purposes of this list, and funds available in the Election Administration Fund may be used for such purposes.

(2) The election commissioner or county clerk shall provide for the registration of the electors of the county. ~~He or she~~ Until the statewide voter registration list is operational, the election commissioner or county clerk shall furnish and prepare a voter registration register containing records of registration for applicants who qualify as registered voters. Upon

receipt of an original affidavit of registration in his or her office, the election commissioner or county clerk may create an electronic image, photograph, microphotograph, or reproduction in an electronic digital format to be used as the voter registration record. The register shall contain the information required by section 32-312. ~~The~~ Such register shall remain in the office of the election commissioner or county clerk. A duplicate register containing the precinct voter registration register for each precinct shall be provided by the election commissioner or county clerk for the use of judges and clerks of election in their respective precincts on election day. An electronically prepared list of registered voters in a form prescribed by the Secretary of State shall meet the requirements for a duplicate register.

Sec. 6. Section 32-308, Reissue Revised Statutes of Nebraska, is amended to read:

32-308. (1) The Secretary of State and the Director of Motor Vehicles shall enter into an agreement to match information in the computerized statewide voter registration list with information in the data base of the Department of Motor Vehicles to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. The Director of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the federal Social Security Act, 42 U.S.C. 405(r)(8), as such section existed on the effective date of this act for purposes of the Election Act.

(2) The Department of Motor Vehicles, with the assistance of the Secretary of State, shall prescribe a voter registration form which may be used to register to vote or change his or her address for voting purposes at the same time an elector applies for an original or renewal motor vehicle operator's license, an original or renewal state identification card, or a replacement or duplicate thereof. The voter registration form shall contain the information required pursuant to section 32-312 and shall be designed so that it does not require the duplication of information in the application form for the motor vehicle operator's license or state identification card, except that it may require a second signature of the applicant. The department and the Secretary of State shall make the forms available to the county treasurer, the license examiners of the department, and any other person who issues operators' licenses or state identification cards. Registration forms shall be completed at the office of the county treasurer or department by the close of business on the third Friday preceding any election to be registered to vote at such election. A registration received after the deadline shall not be processed by the election commissioner or county clerk until after the election.

~~(2)~~ (3) State agency personnel and county treasurers involved in the voter registration process pursuant to this section and section 32-309 shall not be considered deputy registrars or agents or employees of the election commissioner or county clerk.

Sec. 7. Section 32-312, Reissue Revised Statutes of Nebraska, is amended to read:

32-312. The office personnel of the election commissioner or county clerk or the deputy registrar shall examine all persons who may personally apply to register to vote as to his or her qualifications, and in the presence of the applicant, the information listed in this section shall be entered in the register.

CITIZENSHIP--"Are you a citizen of the United States of America?" and boxes to check to indicate whether the applicant is or is not a citizen of the United States.

AGE--"Are you at least eighteen years of age or will you be eighteen years of age on or before the first Tuesday following the first Monday of November of this year?" and boxes to check to indicate whether or not the applicant will be eighteen years of age or older on election day.

WARNING--"If you checked 'no' in response to either of these questions, do not complete this form."

NAME--the name of the applicant giving the first and last name in full, the middle name in full or the middle initial, and the maiden name of the applicant, if applicable.

RESIDENCE--the name and number of the street, avenue, or other location of the dwelling where the applicant resides if there is a number. If the registrant resides in a hotel, apartment, tenement house, or institution, such additional information shall be included as will give the exact location of such registrant's place of residence. If the registrant lives in an incorporated or unincorporated area not identified by the use of roads, road names, or house numbers, the registrant shall state the section, township, and range of his or her residence and the corporate name of the school district as

described in section 79-405 in which he or she is located.

POSTAL ADDRESS--the address at which the applicant receives mail if different from the residence address.

ADDRESS OF LAST REGISTRATION--the name and number of the street, avenue, or other location of the dwelling from which the applicant last registered.

TELEPHONE NUMBERS (optional)--the telephone number of the applicant at work and at home. At the request of the applicant, a designation shall be made that the telephone number is an unlisted number, and such designation shall preclude the listing of the applicant's telephone number on any list of voter registrations.

DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER--if the applicant has a Nebraska driver's license, the license number, if the applicant does not have a Nebraska driver's license, the last four digits of the applicant's social security number, and if the applicant does not have a Nebraska driver's license or a social security number, a unique identifying number assigned under this section.

DATE OF APPLICATION FOR REGISTRATION--the month, day, and year when applicant presented himself or herself for registration.

PLACE OF BIRTH (optional)--show the state, country, kingdom, empire, or dominion where the applicant was born.

DATE OF BIRTH--show the date of the applicant's birth. The applicant shall be at least eighteen years of age or attain eighteen years of age on or before the first Tuesday after the first Monday in November to have the right to register and vote in any election in the present calendar year.

REGISTRATION TAKEN BY--show the signature of the deputy registrar taking the application, if applicable.

PARTY AFFILIATION--show the party affiliation of the applicant as Democrat, Republican, Nonpartisan, or Other (Note: If you wish to vote in both partisan and nonpartisan primary elections for state and local offices, you must indicate a political party affiliation on the registration form. If you register without a political party affiliation (independent), you will receive only the nonpartisan ballots for state and local offices at primary elections. If you register without a political party affiliation, you may vote in partisan primary elections for congressional offices.)

Immediately following the spaces for inserting information as provided in this section, the following statement shall be printed:

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(1) I am at least eighteen years of age or I will be eighteen years of age prior to the first Tuesday following the first Monday of November of this year;

~~(2) I am a citizen of the United States;~~

~~(3) I live in the State of Nebraska at the address provided above;~~

~~(4) (2) I have not been convicted of a felony or, if convicted, my civil rights have been restored; and~~

~~(5) (3) I have not been officially found to be non compos mentis (mentally incompetent).~~

Any registrant who signs this form knowing that any of the information in the form is false shall be guilty of a Class IV felony under section 32-1502 of the statutes of Nebraska. The penalty for a Class IV felony is up to five years imprisonment, a fine of up to ten thousand dollars, or both.

APPLICANT'S SIGNATURE--require the applicant to affix his or her signature to the form.

If an applicant for voter registration does not have a Nebraska driver's license or a social security number, the Secretary of State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. When the computerized voter registration list is in effect and the list assigns unique identifying numbers to registrants, the number assigned under this section shall be the unique identifying number assigned under the list.

Sec. 8. Section 32-329, Revised Statutes Supplement, 2002, is amended to read:

32-329. (1) The Secretary of State with the assistance of the election commissioners and county clerks shall perform list maintenance with respect to the computerized statewide voter registration list on a regular basis. The list maintenance shall be conducted in a manner that ensures that:

(a) The name of each registered voter appears in the computerized list;

(b) Only voters who are not registered or who are not eligible to vote are removed from the computerized list; and

(c) Duplicate names are eliminated from the computerized list.

(2) The election commissioner or county clerk shall verify the voter registration register by using (a) the National Change of Address program of the United States Postal Service and a confirmation notice pursuant to subsection ~~(2)~~ (3) of this section or (b) the biennial mailing of a nonforwardable notice to each registered voter. The Secretary of State shall provide biennial training for the election commissioners and county clerks responsible for maintaining voter registration lists. No name shall be removed from the voter registration register for the sole reason that such person has not voted for any length of time.

~~(2)~~ (3) When an election commissioner or county clerk receives information from the National Change of Address program of the United States Postal Service that a registered voter has moved from the address at which he or she is registered to vote, the election commissioner or county clerk shall immediately update the voter registration register and mail a confirmation notice by forwardable first-class mail. If a nonforwardable notice under subdivision ~~(1)(b)~~ (2)(b) of this section is returned as undeliverable, the election commissioner or county clerk shall mail a confirmation notice by forwardable first-class mail. The confirmation notice shall include a confirmation letter and a preaddressed, postage-paid confirmation card. The confirmation letter shall contain statements substantially as follows:

(a) The election commissioner or county clerk has received information that you have moved to a different residence address from that appearing on the voter registration register;

(b) If you have not moved or you have moved to a new residence within this county, you should return the enclosed confirmation card by the regular registration deadline prescribed in section 32-302. If you fail to return the card by the deadline, you will be required to affirm or confirm your address prior to being allowed to vote. If you are required to affirm or confirm your address, it may result in a delay at your polling place; and

(c) If you have moved out of the county, you must reregister to be eligible to vote. This can be accomplished by mail or in person. For further information, contact your local election commissioner or county clerk.

~~(3)~~ (4) The election commissioner or county clerk shall maintain for a period of not less than two years a record of each confirmation letter indicating the date it was mailed and the person to whom it was mailed.

~~(4)~~ (5) If information from the National Change of Address or the nonforwardable notice under subdivision ~~(1)(b)~~ (2)(b) of this section indicates that the voter has moved outside the jurisdiction and the election commissioner or county clerk receives no response to the confirmation letter and the voter does not offer to vote at any election held prior to and including the second statewide federal general election following the mailing of the confirmation notice, the voter's registration shall be canceled and his or her name shall be deleted from the voter registration register.

Sec. 9. The Corporation Cash Fund is created. Transfers from the fund to the Election Administration Fund may be made at the direction of the Legislature. On or before May 1, 2003, the State Treasurer shall transfer two hundred sixty thousand dollars from the Corporation Cash Fund to the Election Administration Fund. Any money in the Corporation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. Section 67-293, Reissue Revised Statutes of Nebraska, is amended to read:

67-293. The filing fee for all filings pursuant to the Nebraska Uniform Limited Partnership Act, including amendments and name reservation, shall be ten dollars plus the recording fees set forth in subdivision (4) of section 33-101, except that the filing fee for filing a certificate of limited partnership pursuant to section 67-240 and for filing an application for registration as a foreign limited partnership pursuant to section 67-281 shall be two hundred dollars plus such recording fees. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act. The fees for filings pursuant to the act shall be paid to the Secretary of State and by him or her remitted to the State Treasurer. The State Treasurer shall credit fifty percent of such fees to the General Fund and fifty percent of such fees to the Corporation Cash Fund. ~~which is hereby created. Any money in the Corporation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any money in the Uniform Limited Partnership Cash Fund on January 1, 1995, shall be transferred to the Corporation Cash Fund on such date.~~

Sec. 11. Original sections 32-221, 32-308, 32-312, and 67-293, Reissue Revised Statutes of Nebraska, and sections 32-223, 32-230, 32-231,

32-301, and 32-329, Revised Statutes Supplement, 2002, are repealed.

Sec. 12. Since an emergency exists, this act takes effect when passed and approved according to law.