

LEGISLATIVE BILL 920

Approved by the Governor April 11, 1984

Introduced by Morehead, 30

AN ACT relating to elections; to amend sections 10-702, 19-3019, 19-3051, 23-343.52, 32-221, 32-419, 32-499, 32-4,150, 32-4,153, 32-1306, 32-1308, 32-1309, 53-122, 79-547.01, and 79-605, Reissue Revised Statutes of Nebraska, 1943, and sections 10-703.01, 23-343.125, and 32-4,154, Revised Statutes Supplement, 1982; to adopt the Absentee Voters Act; to permit disabled and confined voters to vote on absentee ballots; to eliminate disabled and confined voters' ballots; to change provisions relating to voter registration; to harmonize provisions; to define an offense; to provide penalties; to provide an operative date; and to repeal the original sections, and also sections 32-801, 32-803.01, 32-806, 32-807.01, 32-808, 32-810, 32-813, 32-815.01 to 32-815.05, 32-818, 32-820 to 32-823, and 32-826, Reissue Revised Statutes of Nebraska, 1943, and sections 32-803, 32-812, 32-815, 32-819, and 32-1241, Revised Statutes Supplement, 1982.

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

Section 1. Sections 1 to 27 of this act shall be known and may be cited as the Absentee Voters Act.

Sec. 2. (1) Any election called pursuant to the laws of this state shall provide for absentee voting. Any qualified elector who meets the criteria established by this section, including persons confined by public order under the laws of this state or of the United States, shall be permitted to vote absentee at such election. Persons excluded from voting under section 32-1048 may not vote under the provisions of the Absentee Voters Act.

(2) A person shall be permitted to vote absentee for any one of the following reasons:

(a) The elector expects to be absent from his or her county at the time the election is to be held;

(b) The elector is physically unable to go to the polls;

(c) The elector will be unable to go to the polling place on the day of the election due to his or her hospitalization for medical or surgical treatment;

(d) The elector cannot attend the polls on the day of the election because of the tenets of his or her religion;

(e) The elector is legally blind; or

(f) The elector is a law enforcement official, an election official or employee, a firefighting official, or an emergency vehicle operator or attendant staff member who by reason of carrying out his or her official duties is on duty for a period in excess of twelve hours on the day the election is to be held.

Sec. 3. Any voter meeting the criteria of subdivision (2)(b) or (2)(e) of section 2 of this act who is not registered may register at any time during the regular registration period by sending a letter of request for registration forms to the county clerk or election commissioner of the county of his or her residence. Such request shall indicate the political party of the person requesting the registration forms. The letter of request may be sent by United States mail or by any person acting on behalf of the voter. Such voter may also register by completing the duplicate set of registration forms accompanying the absentee ballot. The registration forms received by such voter through the United States mail or through the voter's agent shall be completed and signed by the elector. Registration forms shall be returned under separate cover to the county clerk or election commissioner by the person's agent or by United States mail.

Sec. 4. When an application, from a person requesting an absentee ballot who is not registered, reaches the county clerk or election commissioner by mail or other means than by application in person, the county clerk or election commissioner shall mail to such applicant the registration forms and ballots as provided by section 32-221.

Sec. 5. Persons appearing at the office of the county clerk or election commissioner after the deadline for registering and prior to the election to vote absentee shall not be permitted to register with the absentee ballot.

Only those persons meeting the criteria of subdivision (2)(b) or (2)(e) of section 2 or of section 4 or 6 of this act shall be permitted to register by using the registration forms enclosed with the absentee ballot.

Sec. 6. If an absentee voter has no actual residence within a county, but is a resident of that county under the provisions of section 32-475, his or her residence address shall be deemed to be the office of the county clerk or election commissioner for purposes of Chapter 32 and the Absentee Voters Act. When, from information contained in the voter's application for an absentee ballot, it is apparent that the voter has no residence address within the county, the county clerk or election commissioner shall mail to the voter the requested ballot materials including a duplicate set of registration forms, enclosing with the material the following oath which the voter must swear to (or affirm)

before his or her ballot will be counted:

I,, do hereby swear (or affirm) that prior to my current absence from County, Nebraska, I resided within the State of Nebraska; that during such residency it was my intention to make my permanent residence in such county; that during my current absence from such county, I have not voted in any other county or state election as a resident of such other county or state; that I do not intend to make my present residence my permanent residence; that my current absence from such county is temporary and for a definite period of time; and that at the termination of that period I intend to return to County, Nebraska, and make it my permanent residence.

.....
(signature)

The duplicate registration forms shall be completed and returned under separate cover, not enclosed in the ballot envelope, to the county clerk or election commissioner. If the voter fails to complete the oath or affirmation and return it to the county clerk or election commissioner, his or her ballot shall not be counted.

Sec. 7. The county clerk or election commissioner shall publish in a newspaper of general circulation an application form to be used by voters in making application for an absentee ballot after ballots become available. The application shall be in such form as the Secretary of State shall prescribe.

Sec. 8. Any voter meeting one or more of the criteria of subsection (2) of section 2 of this act may, not more than ninety days before any election and not later than 4:00 p.m. on the Friday preceding such election, request an absentee ballot to be mailed to a specific address. Any such voter may, not more than ninety days before any election and not later than 12:00 noon on the day of such election, request an absentee ballot by appointing an agent to personally pick up the ballot at the office of the county clerk or election commissioner. A request for an absentee ballot shall be in writing to the county clerk or election commissioner in the county where the voter has established his or her home and show his or her voter's registration address, political party, telephone number if available, and voting precinct if known. The application must be signed by the voter, his or her spouse, parent, son, or daughter, or any other person acting as an agent for him or her. No candidate or any person serving on a committee for a candidate shall act as agent for any voter requesting a ballot pursuant to this section. The county clerk or election commissioner shall include duplicate registration forms with each set of ballots if the voter has not previously registered. The county clerk or election commissioner shall also include a notice that only those persons meeting the criteria of

subdivision (2)(b) or (2)(e) of section 2 or of section 4 or 6 of this act may use the enclosed forms to register. All other persons must register in the manner provided for other voters in Chapter 32.

Sec. 9. (1) Upon receipt by the election official of an application for an absentee ballot, the official, if he or she finds that the applicant is a qualified elector and is entitled to vote an absentee ballot as applied for in the application, shall deliver to the applicant in person or by mail, postage paid, a proper absentee ballot. The official shall deliver or mail with the ballot an unsealed identification envelope upon the face of which shall be printed a form substantially as follows:

ABSENTEE VOTER'S IDENTIFICATION

I, the undersigned voter, declare under penalty of election falsification that the enclosed ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in such envelope.

My voting residence in Nebraska is: (street and number or rural route and number) of (city, village, or township) Nebraska. I am a qualified elector of the State of Nebraska.

(Applicant must check the true statement concerning his or her absence.)

.... I shall be absent from the county at the time of the election.

.... I am physically unable to go to the polls.

.... I will be unable to go to the polling place on the day of the election because of hospitalization.

.... I cannot attend the polls on the day of the election because of the tenets of my religion.

.... I am legally blind.

.... I am a law enforcement official, an election official or employee, a firefighting official, or an emergency vehicle operator or attendant staff member and I will be carrying out my official duties for a period in excess of twelve hours on the day of the election.

The primary election ballot, if any, within this envelope is a primary election ballot of the party.

Ballots contained herein are for the (general, special, or primary) election to be held on the day of, 19....

I hereby declare, under penalty of election falsification, that the statements above are true, as I verily believe.

.....
signature of voter

THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED

TEN THOUSAND DOLLARS, OR BOTH.

(2) Before any absent voter is issued a ballot, the county clerk, election commissioner, or any employee working in his or her office shall first write his or her name in full on the back of such ballot. No ballot shall be counted by the absent voters' counting board or canvassing board unless the ballot is identified by a signature as set out in this section.

(3) The election official shall mail with the ballot and the unsealed identification envelope an unsealed return envelope upon the face of which shall be printed the official title and post office address of such official. The return envelope shall be of such size that the identification envelope can be conveniently placed within it for returning such identification envelope to the official.

Sec. 10. (1) Upon issuing an absentee ballot, the county clerk or election commissioner shall enter the voter's name, address, and voting precinct in the list of absent voters book, which book shall be open to the public upon completion of the election.

(2) The county clerk or election commissioner shall make an entry in the absent voter's registration record showing the date of the election and the number of the person voting as shown in the absent list of voters book.

Sec. 11. When an absentee ballot is received by the elector, he or she shall, before placing any marks thereon, note whether there are any voting marks on the ballot. In the event there are any voting marks, the ballot shall be returned immediately to the election official. If there are no such marks the elector shall cause the ballot to be marked, folded in such manner that the stub thereon and the endorsements and signature of the issuing election official on the back thereof are visible, and placed and sealed within the identification envelope received from the election official for that purpose. When there are two or more ballots to be voted at the same election, the ballots shall be separately folded when placed in the identification envelope. The elector shall complete and sign the statement of voter on the outside of the identification envelope under penalty of election falsification.

The elector shall then mail the identification envelope in the return envelope to the official from whom it was received, postage paid, or he or she may personally deliver it, or may have it delivered by his or her spouse, child, parent, brother, sister, aunt, uncle, nephew, niece, or agent. No person shall act as agent for more than two voters for any one election.

Sec. 12. All absentee ballots which are returned not later than the hour established for the closing of the polls shall be accepted for approval by the

absent voters' counting board.

When an absentee ballot is returned by United States mail, it shall be accepted for approval by the absent voters' counting board if it is in the physical possession of the county clerk or election commissioner not later than 10:00 a.m. on the second day following election day.

Sec. 13. Upon receipt of the return envelopes of the absent voters voting in any primary or general election, the county clerk or election commissioner shall keep the same unopened in a fireproof safe or other suitable location which shall be locked. All ballots returned not later than election day shall be counted by the absent voters' counting board as prescribed in section 14 of this act.

Sec. 14. In each county, the county clerk or election commissioner shall appoint a counting board of two or more persons of opposing political parties to be known as the absent voters' counting board. The county clerk or election commissioner, as he or she deems necessary, may appoint additional persons of the same number of each political party to augment such counting board.

The counting board shall first meet as directed by the county clerk or election commissioner for the purpose of placing all absent voter identification envelopes in order for counting on election day. The board shall compare the voter's name on the identification envelope with the name on the voter registration. If the name on the identification envelope appears to be that of the voter whose name is on the voter registration record and if it appears that the applicant is a qualified voter, such ballot identification envelope shall be accepted for opening without further questioning on election day.

The absent voters' counting board shall commence its duties on election day at the time ordered by the county clerk or election commissioner and, without any further check of the identification envelopes, except those received on election day which must be approved prior to opening, shall open the envelopes. If the ballot has the written signature of the county clerk, election commissioner, or any employee thereof, it shall be placed without unfolding into a ballot box.

Sec. 15. (1) If it appears to the absent voters' counting board (a) that an absent voter's ballot has not been issued to the voter whose name appears on the identification envelope, (b) that the signature on such envelope is not that of the voter on the corresponding application, (c) that the vote is fraudulent, or (d) that the ballot was received by the county clerk or election commissioner after the opening of the ballot box, the board shall reject the vote. In such cases the board shall not open the identification envelope or, if the rejection is

after the opening thereof and because of the absence of the election official's endorsement of the ballot, the board shall return the ballot to such envelope and seal it.

(2) As soon as all ballots have been placed in the ballot box and unopened and rejected identification envelopes or ballots have been disposed of as provided in section 17 of this act, the ballots shall be counted the same as all other ballots and an unofficial count released to the county clerk or election commissioner.

Sec. 16. At 1:00 p.m. on the second day after any election, the county clerk or election commissioner and not less than two nor more than ten electors of different political parties of the county chosen by him or her shall constitute a county canvassing board which shall follow the procedures of sections 14 and 15 of this act for the counting of the remaining absentee voters' ballots received in his or her office not later than 10:00 a.m. on the second day after the election, and count and make returns of the votes cast in the same manner as other votes are counted and recorded. The county clerk or election commissioner shall release the returns upon completion of the counting of the ballots.

Sec. 17. All applications, identification envelopes, voted ballots, and rejected ballots shall be placed in the absent voters' ballots-cast sack which shall be sealed and kept until such time as election materials may be destroyed as provided in section 32-499.

Sec. 18. At least forty-eight hours prior to the sitting of the canvassing board as an absent voters' counting board, the county clerk or election commissioner shall post in a conspicuous place in his or her office a notice stating the day and hour when the canvassing board will sit as a counting board.

Sec. 19. After completion of action pursuant to section 16 of this act, the canvassing board shall proceed with the official canvass of the votes cast on election day. If, in the process of canvassing the votes for any candidate or measure in any election precinct or ward, the county clerk, election commissioner, or canvassing board determines that there is an obvious error in the certification of the votes, the error shall be corrected. The county canvassing board may open the ballots-cast sacks and recount the ballots of any candidate or any measure which appear to be in error. If the canvassing board finds and corrects any such error, it shall make the correction entry in the list of voters book number one and two and official summary of votes cast number one and two and attach a letter of explanation to each book where the correction was made. The letter shall be signed by all canvassing board members.

When it has been determined that the returns in all precincts are correct, the canvassing board shall enter the same in a permanent ledger which shall be

preserved by the county clerk or election commissioner for the period of time specified by the State Records Administrator pursuant to sections 84-1201 to 84-1220, after which time it may be transferred to the State Archives, Nebraska State Historical Society, for permanent preservation.

Any recesses or adjournments of such canvassing board shall be to a fixed time and publicly announced, and such board shall not act except at such times as shall have been so included in the public notice or announced and the board shall meet continuously thereafter. When a recess is called for overnight, all ballots that have not been counted and all other supplies shall be locked in a fireproof safe or other suitable location under lock and key until such board reconvenes.

Sec. 20. Any qualified elector of this state who is about to be absent from the county of his or her residence on the day of any election, but who is present after ballots are available, may appear in person before the county clerk or election commissioner, as issuing officer, and obtain his or her ballot and may vote it before leaving home in like manner as an absent voter, pursuant to the Absentee Voters Act.

Sec. 21. Notwithstanding any other provisions of law to the contrary, any qualified voter who, because of unforeseen and unavoidable circumstances, shall be absent from the county where such voter resides on the day of any election and shall not have had sufficient time to make application for an absentee ballot may authorize his or her agent to personally pick up a ballot for such absent voter from the office of the county clerk or election commissioner. The agent shall deliver the ballot to the absent voter and return the ballot not later than 8:00 p.m. on the day of the election. The request for such absentee ballot shall be in writing by the agent. The county clerk or election commissioner shall adopt procedures for the distribution of absentee ballots under this section.

Sec. 22. Absentee voters' ballots, applications, and all other supplies shall be provided in like manner as other election supplies and furnished without cost to the voter and shall be ready for delivery to absent voters not less than thirty-five days prior to each statewide primary or general election and not less than fifteen days prior to all other elections except as otherwise provided by law.

Sec. 23. A person shall be guilty of election falsification if, either orally or in writing, on oath lawfully administered or in a statement made under penalty of election falsification, he or she purposely states a falsehood (1) as to a material matter relating to an election in a proceeding before a court, tribunal, or public official or (2) in a matter in relation to which an oath or statement under penalty of election falsification

is authorized by law, including a statement required for verifying or filing an absent voter registration application or form or voting on an absentee ballot.

Any person committing election falsification shall be guilty of a Class IV felony.

Sec. 24. (1) Whoever impersonates another or makes a false representation in order to obtain an absentee ballot, (2) whoever knowingly connives to help a person to vote an absentee ballot illegally, (3) whoever, being a member, officer, or employee of any absent voters' counting board or canvassing board, destroys, steals, marks, or mutilates any absentee ballot or aids or abets another to do so after the same has been voted, (4) whoever delays in delivering such ballot to the proper officials of election with a view to preventing the ballots from arriving in time to be counted, (5) whoever in any manner aids or attempts to aid any person to vote an absentee ballot unlawfully, or (6) whoever hinders or attempts to hinder a duly qualified elector from voting any absentee ballot or hinders or attempts to hinder any official from delivering or counting any absentee ballot shall be guilty of a Class IV felony.

Sec. 25. The Absentee Voters Act shall apply to all elections of every kind held in the state, and in case of municipal elections, the words county clerk or election commissioner and county as used in such act shall be construed to apply to municipal clerk and municipality respectively. The word ballot as used in the Absentee Voters Act shall be held to include the plural where there are two or more separate ballots to be voted at the same election.

Sec. 26. If any county clerk, election commissioner, municipal clerk, or other election officer refuses to perform any of the duties prescribed in the Absentee Voters Act, or willfully violates any of the provisions of such act, he or she shall be guilty of a Class III misdemeanor.

Sec. 27. The Absentee Voters Act shall be deemed to provide a method of voting in addition to the method provided by law for voting in person, and the general laws as to elections are hereby declared to apply to the method of voting provided for by the Absentee Voters Act, so far as such general laws are not inconsistent with such act.

Sec. 28. That section 10-702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-702. The question of issuing bonds may be submitted to the electors of a school district at a special election or such question may be voted on at an election held in conjunction with the statewide primary or statewide general election. No bonds shall be issued until the question has been submitted to the qualified electors of the district, and a majority of all the qualified electors voting on the question shall have voted in favor

of issuing the same, at an election called for the purpose, upon notice given by the officers of the district at least twenty days prior to such election. If the election for issuing bonds is held as a special election, the procedures provided in section 10-703.01 shall be followed. The question of bond issues in such districts, when defeated, shall not, except in case of fire or other disaster or in the case of a newly created district, be resubmitted in substance for a period of six months from and after the date of such election.

When the question of issuing bonds is to be submitted at a statewide primary or statewide general election as ordered by a resolution of a majority of the members of the board of education, such order shall be made in writing and filed with the county clerk or election commissioner not less than fifty days prior to the statewide primary or statewide general election. The order calling for the school bond election shall be filed with the county clerk or election commissioner in the county having the greatest number of electors entitled to vote on the question. The county clerk or election commissioner receiving such order shall conduct the school bond election for the school district.

The election notices, the issuing of the official ballots on election day, the issuing of the official ~~absent and disabled veterans absentee~~ ballots, and the counting and canvassing of the same shall be conducted by the county clerk or election commissioner as provided in Chapter 32.

A special notice of the election shall be published by the board of education in a newspaper or newspapers of general circulation within the district stating the day of the election, the hours during which the polls will be open, and any other information deemed necessary in informing the public of the bond issue. The notice shall be made at least twenty days prior to the election.

If the question of submitting bonds for the school district is voted upon in one or more counties and the ballots have been certified across county lines, the election boards in the counties where the ballots are cast shall count the ballots on election day the same as all other ballots are counted and seal the same in their ballots-cast sack along with other ballots.

The canvassing boards in each county shall canvass the returns in the same manner as other returns are canvassed.

The county clerk or election commissioner in any adjoining county voting on the bond issue shall certify the returns to the county clerk or election commissioner of the county having the greatest number of electors entitled to vote on the question of issuing bonds.

The county clerk or election commissioner in

such county shall enter the total returns from any adjoining county or counties to the total votes recorded in his or her official book of votes cast and shall certify the returns to the board of education for which such bond election was held.

Sec. 29. That section 10-703.01, Revised Statutes Supplement, 1982, be amended to read as follows:
 10-703.01. In all special elections called for voting on the question of issuing bonds of the district, the county clerk or election commissioner or, if the school district lies in more than one county, the county clerk or election commissioner in the county having the greatest number of electors entitled to vote on the question, shall designate the polling places and appoint the election officials, who need not be the regular election officials, and otherwise conduct the election as provided under Chapter 32, except as otherwise specifically provided in this section. The school district shall designate the form of ballot and reimburse the county clerk or election official for the expenses of conducting the election. The school district officers shall give notice of the election at least twenty days prior to the election and cause the sample ballot to be published in a newspaper of general circulation in the school district one time not more than ten days nor less than three days prior to the election, and no notice of the election shall be required to be given by the county clerk or election commissioner. The notice of election shall state where ~~absent and disabled voters~~ absentee ballots may be obtained. The ballots shall be counted by the county clerk or election commissioner conducting the election and two disinterested persons appointed by him or her. When the polls are closed the election board shall deliver the ballots to the county clerk or election commissioner conducting the election who, with the two disinterested persons appointed by him or her, shall proceed to count the ballots. ~~Absent and disabled voters~~ Absentee ballots shall be furnished to the county clerk or election commissioner and ready for distribution by the county clerk or election commissioner conducting the election not less than fifteen days prior to the election as set out in section ~~32-819~~ 22 of this act and returned as provided in ~~section 32-812~~ the Absentee Voters Act. When a school district lies in more than one county, the county clerk or election commissioner in any other county containing part of such school district shall upon request certify its registration books for those precincts in which the school district is located to the county clerk or election commissioner conducting the election and shall immediately forward all requests for ~~absent and disabled voters~~ absentee ballots to the county clerk or election commissioner charged with the issuing of ~~absent and disabled voters~~ such ballots. Not less than five days prior to the election the school district officers shall

certify to the county clerk or election commissioner conducting the election a list of all registered electors of the school district in any other county or counties qualified to vote on the bond issue. ~~Absent and disabled voters~~ Absentee ballots cast at the election shall be counted by the same board as counted the other ballots at the election. ~~and in the same manner as absent and disabled voters ballots are counted.~~ When all the ballots have been counted, the returns of such election shall be turned over to the school board or board of education of the district in which the election was held, for the purpose of making a canvass thereof. The two disinterested persons appointed on the counting board shall receive three dollars and thirty cents per hour for each hour of service rendered.

Sec. 30. That section 19-3019, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3019. All official ballots, including ~~absent, sick, and disabled electors'~~ absentee ballots, prepared by the municipal clerk, shall be prepared and printed as nearly as possible in conformity with sections 32-419, 32-426, 32-428, 32-433, and ~~32-819~~ section 22 of this act. All official ballots for any question or proposition submitted to the vote of the electors shall be prepared and printed as nearly as possible in conformity with section 32-709.

Sec. 31. That section 19-3051, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3051. The municipal clerk shall prepare and have printed, at the cost of the municipality, all ballots, forms, and supplies that may be necessary to be used to enable ~~absent, disabled, or confined~~ electors to so cast their ballots, and shall adapt as nearly as possible all forms therefor that were prepared by the Secretary of State of the State of Nebraska for the preceding state election. The ballots furnished to such electors shall be prepared and printed as other official ballots and shall be made available not less than fifteen days prior to the election as provided in section ~~32-819~~ 22 of this act. Voters who ~~will be absent from the city or village, disabled, meet one or more of the requirements specified in subsection (2) of section 2 of this act or confined on election day~~ may vote an ~~absentee, disabled, or confined voters'~~ ballot as provided by ~~section 32-803, 32-807-01, or 32-1241~~ the Absentee Voters Act, except that the ballots will not be available until fifteen days prior to the election as provided in section ~~32-819~~ 22 of this act. All ~~absent, disabled, and confined voters'~~ absentee ballots which have been returned shall be counted on election day as provided in ~~Chapter 32, article 8~~ the Absentee Voters Act, and the canvass board shall count all ~~absentee absent, disabled, and confined voters voters'~~ absentee ballots returned not later than the second day after the election.

Sec. 32. That section 23-343.52, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-343.52. In all elections at which hospital districts are voting on the question of issuing bonds of the district, the board of directors shall designate the polling places, prepare the form of ballot, and appoint the election officials. Absent and disabled voters' ballots shall be issued by the secretary of the board of directors in the same manner as provided in Chapter 32, article 8 the Absentee Voters Act, and returned to the secretary. Absentee Absent and disabled voters' ballots cast at the election shall be counted by the same board as counted the other ballots at the election, and in the same manner as absent and disabled voters' ballots are counted. When all the ballots have been counted, the returns of such election shall be turned over to the board of directors of the district in which the election was held for the purpose of making a canvass thereof.

Sec. 33. That section 23-343.125, Revised Statutes Supplement, 1982, be amended to read as follows:

23-343.125. After determining the sufficiency of the petition, the county board shall by resolution provide for the submission of the question of the merger of the districts at a general, primary, or special election. If a special election is called the costs of such election shall be borne equally by the districts petitioning for the merger. If the question is submitted at a special election, the county clerk or election commissioner of each county having electors entitled to vote on the issue shall conduct the special election in such county and shall be responsible for designating the polling places and appointing the election officials, who need not be the regular election officials, and otherwise conducting the election within such county. The county board shall designate the form of ballot. The county clerk for the county whose county board has received the petition and called the election shall be responsible for giving notice of the special election. Such notice shall be published at least twenty days prior to the election and shall be published, for each district, in a legal newspaper of general circulation in such district. The notice of election shall state where absentee absent, disabled, and confined voters' ballots may be obtained pursuant to Chapter 32, articles 8 and 12 the Absentee Voters Act. In any such special election, the ballots shall be counted by the county clerks or election commissioners conducting the election and each such county clerk or election commissioner shall designate two disinterested persons to assist him or her with the counting of ballots. If the question is submitted at the general election or primary election, the ballots shall be counted as provided by law for such elections. When all of the ballots have been

counted in each county, the returns of such election shall be canvassed by the county canvassing board. All elections conducted pursuant to this section shall be conducted as provided under Chapter 32, except as otherwise specifically provided for in this section.

Sec. 34. That section 32-221, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-221. The election commissioner or deputy commissioner, acting for him or her, or county clerk shall receive the application for registration of all voters as shall personally apply for registration at the office of the election commissioner or county clerk or other places designated for registration, who then are, or, on the day of election next following the day of making such application, will be entitled to vote. Any elector, absent from the county of his or her residence, who may qualify to vote may register by mail during the regular registration period. Certain electors ~~Any elector~~ absent from the county may be registered with the absent voter's ballot by filling in the required information on the two registration forms accompanying the absentee ~~absent voter's~~ ballot as provided in section 6 of this act, and ~~subscribing to such registration under oath as provided in section 32-813.~~ Such registration and ~~absent voter's ballot shall be mailed under separate cover to the~~ The election commissioner or ~~to~~ the county clerk, who shall preserve such registrations with the other registration records.

Sec. 35. That section 32-419, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-419. All official ballots prepared under the provisions of Chapter 32, except ~~absent, sick and disabled voters'~~ absentee ballots, shall be (1) be white in color, except that the city council of cities and board of trustees of villages are authorized to designate a distinctive color of ballots, other than those provided in sections 32-434 and 49-208, in any ordinance calling a special election and submitting questions and propositions of a purely local municipal nature to the electors of such municipality, (2) be not less than four inches nor more than eleven inches wide, (3) be of good quality of newsprint, and (4) have all matter thereon ~~shall be~~ printed in black ink. The ballot shall be made up in columns, not more than three in number, in which the names of all candidates and measures or proposals shall be printed on lines eighteen ems wide including the square in front of the line. The square shall be not less than twenty point in size. The type shall be not less than nine point nor larger than eleven point. The names of the candidates shall be set in black face type, caps and lower case letters, and the party designation in light face type, caps and lower case letters. Around the entire outside edge of the ballot shall be left a blank margin not less than one half inch

wide. The columns shall be separated by a space three ems wide and in the center of such space shall be two heavy perpendicular continuous lines running the length of the columns.

Sec. 36. That section 32-499, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-499. Upon the completion of the canvass all books shall again be sealed, and together with all applications, election supplies, absentee ballots, and the sealed packages of precinct ballots still unopened, shall be deposited in the office of the county clerk or election commissioner, where they shall be safely kept for not less than fifty days. The ~~7~~ and the county clerk or election commissioner shall not allow the same such items to be inspected, unless in case of contested elections, or the same items become necessary to be used in evidence in the courts, and then only by the person and in the manner provided by law, at the end of which time the same shall be destroyed under the personal supervision of the county clerk or election commissioner. ~~The 7~~ Provided, the county clerk or election commissioner shall keep on permanent file one copy each of the official, nonpolitical, constitutional amendment, and initiative and referendum ballots, as used for ~~absentee absent and disabled~~ voting, and all election notices. In all counties the list of voters book number two and official summary of votes cast number two from each precinct, ward, or township shall be safely kept by the county clerk or election commissioner, and it shall be subject to the inspection of any elector who may wish to examine the same after the primary or general election shall have been held. Such books from each precinct, ward, or township may be destroyed six months after the date of primary or general elections.

Sec. 37. That section 32-4,150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-4,150. A separate municipal and a separate school district ballot shall be prepared for each municipal or school district election. The form of such ballot, whether partisan or nonpartisan, shall be prescribed by the Secretary of State consistent with the form of other ballots. The provisions of law applicable to ballots generally shall apply to such ballots. Such separate ballots shall be furnished only to registered voters of the municipality or district and precinct, or as provided in section 79-427. As they may deem necessary to carry out the elections as provided in Chapter 32, or as provided in this act, the county clerk, city clerk, or election commissioner, shall have the authority to certify and deliver all ballots including absentee ~~or disabled~~ ballots across county lines to the appropriate election officials in the adjoining county. Such ballots shall be voted, counted, and canvassed in the manner provided by law and the results thereof certified to the proper election

official.

Sec. 38. That section 32-4,153, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-4,153. In lieu of submitting a matter or issue at a separate special municipal election, any city of the first or second class or any village may submit such matter or issue at a statewide general or primary election, except ; Provided, that no such matter or issue shall be submitted at a statewide election unless the matter or issue to be submitted has been certified by the municipal clerk to the county clerk or election commissioner at least fifty days prior to the election. Any such city or village shall by resolution call the election and designate the matter or issue to be submitted and the municipal clerk shall certify the matter or issue to be submitted to the county clerk or election commissioner. After the county clerk or election commissioner has received the certification of the matter or issue to be submitted, he or she shall be responsible for all matters relating to the submission of the matter or issue to the voters, except ; Provided, that the municipal clerk shall be responsible for the publication or posting of any required special notice of the submission of such matter or issue other than the notice required to be given of the statewide election issues. The county clerk or election commissioner shall prepare the ballots, and issue absent and disabled voters' ballots, and the election officials conducting the statewide election shall also conduct the submission of the municipal matter or issue, including the receiving and counting of the ballots on the municipal matter or issue. The election returns shall be made to the county clerk or election commissioner. The municipal ballots, including absentee absent and disabled voters' ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots shall be counted and canvassed. Upon completion of the canvass of the vote by the county canvassing board the county clerk or election commissioner shall certify the election results to the governing body of the city or village. The canvass by the county canvassing board shall have the same force and effect as if made by the governing body of the city or village.

The city or village shall reimburse the county clerk or election commissioner for the cost of printing the municipal ballots and any other cost of submitting the municipal matter or issue above that cost which would have been incurred had the municipal matter or issue not been submitted at the statewide election.

Sec. 39. That section 32-4,154, Revised Statutes Supplement, 1982, be amended to read as follows:

32-4,154. In lieu of submitting a matter or issue at a separate special municipal election, any city or village may submit such matter or issue at a scheduled county election or may request the county to conduct a

special election for the submission of such matter or issue. The matter or issue shall be submitted at the county election if the matter or issue to be submitted has been certified by the municipal clerk to the county clerk or election commissioner at least fifty days prior to the election date. Any such city or village shall by resolution call the election and designate the matter or issue to be submitted and the municipal clerk shall certify the matter or issue to be submitted to the county clerk or election commissioner. After the county clerk or election commissioner has received the certification of the matter or issue to be submitted, he or she shall be responsible for all matters relating to the submission of the matter or issue to the voters, except that the municipal clerk shall be responsible for the publication or posting of any required special notice of the submission of such matter or issue other than the notice required to be given of the county election issues. The county clerk or election commissioner shall prepare the ballots and issue absentee absent and disabled veterans¹ ballots, and the election officials conducting the election shall also conduct the submission of the municipal matter or issue, including the receiving and counting of the ballots on the municipal matter or issue. The election returns shall be made to the county clerk or election commissioner. The municipal ballots, including absentee absent and disabled veterans¹ ballots, shall be counted and canvassed at the same time and in the same manner as the other ballots shall be counted and canvassed. Upon completion of the canvass of the vote by the county canvassing board, the county clerk or election commissioner shall certify the election results to the governing body of the city or village. The canvass by the county canvassing board shall have the same force and effect as if made by the governing body of the city or village.

The city or village shall reimburse the county clerk or election commissioner for (1) the entire cost of the election if a special election was held and only municipal matters or issues were presented or (2) the cost of printing the municipal ballots and any other cost of submitting the municipal matter or issue above that cost which would have been incurred had the municipal matter or issue not been submitted at a scheduled county election.

Sec. 40. That section 32-1306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1306. (1) The applicant, upon receiving the ballot for President and Vice President, shall mark forthwith the ballot in the presence of the county clerk or election commissioner, as the case may be, but in such manner that the official cannot know how the ballot is marked. He or she shall then fold the ballot in the election official's presence so as to conceal the markings, and deposit and seal it in an envelope furnished

by the election official.

(2) The voter shall enclose the envelope containing the ballot in a carrier envelope which shall be securely sealed. The carrier envelope shall have imprinted upon its back, a statement substantially as follows:

Certification of New Resident Voter

I have qualified as a new resident voter in this state, county, township, precinct, or ward and I have not applied nor do I intend to apply for an absentee voter's ballot from the state or county in Nebraska from which I have removed and I have not voted and I will not vote otherwise than by this ballot.

Dated:

(Signature of Voter)

Witness

(Election Officer)

The voter shall sign the certification upon the enclosure envelope as set forth above, and shall then deliver the sealed carrier to the county clerk or election commissioner, as the case may be, who shall keep the carrier envelope in his or her office until delivered by him or her to the absent, disabled, and confined voters counting board.

Sec. 41. That section 32-1308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1308. The county clerk or election commissioner shall record the new or former resident voter's name in the list of voters book with a notation designating him or her as a new or former resident voting for President and Vice President only. All former residents shall be considered as absentee voters and shall follow the provisions of section 32-803 Absentee Voters Act.

Sec. 42. That section 32-1309, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1309. The vote of any new or former resident may be challenged for cause. The absent, disabled, and confined voters' counting board has all the powers and authority conferred upon it by law in respect to hearing and determining the legality of challenged votes.

Sec. 43. That section 53-122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-122. The commission may issue licenses for the sale of alcoholic liquors, except beer, by the drink, subject to all the terms and conditions of this act, in all cities and villages in this state and outside of cities and villages as provided in subdivision (5)G. of section 53-124 and section 53-127, except in those cases where it shall affirmatively appear that the issuance thereof will render null and void prior conveyances of land thereto for public uses and purposes by purchase, gift, or devise under

the conditions and in the manner hereinafter provided. If a sufficient petition shall be signed by the electors of any such city or village of such number as shall equal twenty per cent of the votes cast at the last general election held therein, which shall request that the question of licensing the sale of alcoholic liquors, except beer, therein by the drink be submitted to the electors thereof, at a special election to be called for that purpose, as hereinafter provided, and shall be presented to the municipal clerk thereof, the municipal clerk shall cause to be published one time in a legal newspaper published in or of general circulation in such city or village a notice of a special election to be held not less than ten days nor more than twenty days from the date of such publication. The notice shall state therein the proposition to be submitted to the electors at such special election. The question of licensing the sale of such alcoholic liquors either by the drink or in the original package, or both by the drink and in the original package, as the case may be, may also be submitted at any general municipal election, except as otherwise provided in section 53-121, in any city or village in this state subject to the following conditions or procedure: Upon the filing with the municipal clerk of such city or village of a petition signed by electors of such city or village of such number as shall equal twenty per cent of the votes cast at the last general election held therein, such proposition or propositions shall be submitted. Each sheet of each petition shall contain not more than thirty signatures of electors with their personal signatures, addresses, and the date of signatures, all in their own handwriting. The signature shall be the same as it appears upon the registration records. At the top of each sheet shall be stated the proposition or propositions to be submitted and the date of the general municipal election at which it is proposed to be submitted. No signature on such petition shall be valid unless appended to the petition within the last ninety days prior to the date of filing the petition with the municipal clerk of the city or village. At the bottom of each sheet of such petition shall be the affidavit of the person who circulated same, stating that the signatures to the petition were made in his or her presence, that he or she has reasonable cause to believe that they are qualified electors of the particular city or village, and that they are the persons they represent themselves to be. Such petition shall be filed thirty days prior to the day of the general municipal election at which the proposition is to be submitted, and during such thirty-day period no signature shall be withdrawn and no signature shall be added. Whoever signs any proposal or petition contemplated under this section, knowing that he or she is not a qualified elector in the place where such proposal or petition is made, or who aids or abets any

other person in doing any of the acts mentioned, or whoever bribes, gives, or pays any money or thing of value to any person directly or indirectly, to induce him or her to sign such proposal or petition, shall be guilty of a Class III misdemeanor.

Upon the ballot either at the special election hereinbefore provided or at any general municipal election, the proposition or propositions shall be stated as follows:

Shall the sale of alcoholic liquors except beer by the drink be licensed in (here insert the name of the city or village)?

.... For license to sell by drink.

.... Against license to sell by drink.

Shall the sale of alcoholic liquors except beer by the package be licensed in (here insert the name of the city or village)?

.... For license to sell by the package.

.... Against license to sell by the package.

The provisions of the statutes of this state relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition or propositions under the provisions of this act; and a majority vote of those voting on the question shall be mandatory upon the commission.

An election may not be held in the same city or village under the provisions of this section more often than once each two years.

The provisions of subdivision (5)H. or (9) of section 53-124, shall not be subject to the provisions of this section.

If the question is to be submitted at a statewide primary or general election, such petitions shall be filed with the municipal clerk not less than sixty days prior to the election. The provisions for the required number of signers and the form of petition shall be the same as for a special election. The city clerk shall verify the signatures on the petitions with the voters' ~~voters~~ registration in the office of the county clerk or election commissioner. During the ten-day period while the petitions are being checked, no signatures shall be withdrawn and no signatures shall be added.

If the city clerk finds the petitions to be valid, he or she shall, not less than fifty days prior to the statewide primary or general election, give notice in writing to the county clerk or election commissioner that the question is to be submitted at the time of the statewide primary or general election. The election notices, issuing of the official ballots on election day,

issuing of the official ~~absentee absent disabled veterans~~ ballots, and the counting and canvassing of the same shall be conducted by the county clerk or election commissioner as provided in Chapter 32, and the official results certified to the city clerk.

Sec. 44. That section 79-547.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-547.01. Any member of a school board or board of education of a Class II, III, IV, V, or VI school district may be subject to recall. The procedure to accomplish the removal by recall of any incumbent of such office shall be as follows:

(1) A petition shall be presented signed by the registered voters of the district equal in number to at least twenty-five per cent of the total number of votes cast for the board member receiving the highest number of votes at the preceding school election or in a Class V district the petition shall be signed by registered voters of the district equal in number to at least twenty-five per cent of the total number of votes cast within the particular district in which such member was elected.

(2) The petition shall contain a general statement of the grounds for which the removal is sought, the name of the incumbent whose removal is sought, the name of the candidate proposed to succeed him or her, the date each person signed his or her name to the petition, and the residence address of each signer. The petition shall be filed with the county clerk or election commissioner. Within fifteen days from the date of filing a petition for recall, the county clerk or election commissioner in the county in which the majority of school age children reside shall compare the signatures with the voter registration records in each county in which petitions were circulated. No signature shall be counted if it was signed to the petition more than forty-five days prior to the date on which the petition was filed. The county clerk or election commissioner shall attach to such petition or petitions a certificate showing the result of such examination and submit the same to the school board or board of education in which the recall election is to be conducted.

(3) If there are sufficient signatures, the board of education shall, without delay, order and fix a date for holding an election, which date shall be not less than thirty days nor more than sixty days from the date on which the county clerk or election commissioner's certificate is received by the board of education. No candidate's name, other than the name of the incumbent and the name of the candidate named in the recall petition, shall appear on the ballot for such office, but a blank line shall appear thereon on which a name may be written. Not less than twenty days prior to the election, public notice shall be given by the board, stating the time and

place of holding the recall election, the name of the incumbent sought to be removed, and the name of the candidate opposing the incumbent.

(4) The county clerk or election commissioner along with the board shall establish the polling places. If polling places are consolidated, the board shall include in the notice of election the notice of the consolidation of precincts and the place for holding the election. The notice of election shall be published once in at least one legal newspaper of general circulation within the district. The county clerk or election commissioner shall issue all ~~absentee absent, disabled, and confined~~ voters' ballots. The receiving board shall consist of three or more persons appointed by the county clerk or election commissioner and the receiving board shall count all ballots after the polls are closed, including the ~~absentee absent, disabled, and confined voters voters'~~ ballots. The ballots shall be printed in the same manner as for a general election and the names shall not be rotated. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. In case of a tie vote in the recall of Class II, III, IV, V, or VI school district board members, the office shall be declared vacant and shall be filled as provided by law. The candidate elected shall take office upon receipt of the certificate of election. If the party receiving the highest number of votes should fail to qualify and give bond as provided by law within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled as provided for the filling of vacancies. If the incumbent receives the highest number of votes cast at such election, he or she shall continue in office.

The district in which the recall election is being held shall pay for the cost of the election, including all supplies, notices, election boards, and all other charges pertaining to the election. Upon completion of the recall election, the county clerk or election commissioner shall return all supplies to the board of education, which supplies shall be kept for at least fifty days.

Sec. 45. That section 79-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-605. Any member of a Class I school board may be subject to recall following the procedures provided in section 79-547.01. The petitions for the recall of a member of a Class I school district shall be signed by registered voters of the district equal in number to at least twenty-five per cent of the total number of registered voters residing in the district. The county clerk or election commissioner, along with two registered voters of the school district, shall verify the voter registration records to ascertain the number of registered

voters residing within the district on the day the first petition or petitions were filed. A notarized affidavit stating the number of registered voters residing within the boundaries of the school district shall be signed by those making the examination and filed with the school board, which affidavit shall become part of the minutes of the board when establishing a recall election date.

All procedures for notice of election, the issuing of ~~absentee absent, disabled, and confined~~ voters' ballots, the counting of ballots, the payment of costs, and the retention of supplies as provided for the recall of school board members in a Class II, III, IV, V, or VI school district shall be applicable to elections under this section.

In case of a tie vote in the recall of Class I school district board members, the office shall be declared vacant and the remaining member or members shall appoint a person to fill the vacancy for the unexpired term.

Sec. 46. This act shall become operative on January 1, 1985.

Sec. 47. That original sections 10-702, 19-3019, 19-3051, 23-343.52, 32-221, 32-419, 32-499, 32-4,150, 32-4,153, 32-1306, 32-1308, 32-1309, 53-122, 79-547.01, and 79-605, Reissue Revised Statutes of Nebraska, 1943, and sections 10-703.01, 23-343.125, and 32-4,154, Revised Statutes Supplement, 1982, and also sections 32-801, 32-803.01, 32-806, 32-807.01, 32-808, 32-810, 32-813, 32-815.01 to 32-815.05, 32-818, 32-820 to 32-823, and 32-826, Reissue Revised Statutes of Nebraska, 1943, and sections 32-803, 32-812, 32-815, 32-819, and 32-1241, Revised Statutes Supplement, 1982, are repealed.