

LEGISLATIVE BILL 302

Approved by the Governor February 5, 1972

Introduced by Ramey C. Whitney, 44th District; George Syas, 13th District; William H. Hasebroock, 18th District

AN ACT for submission to the electors of an amendment to Article IV, sections 10, 11, 12, and 16, and the repeal of Article III, section 23, and Article IV, sections 18 and 21, of the Constitution of Nebraska, relating to the executive; to transfer provisions respecting vacancies in office from the legislative to the executive article; to change provisions for removing officers and for filling vacancies in office; to provide for succession to the office of Governor; to provide for the submission of the proposed amendment to the electors at the general election in November, 1972; to provide for the manner of submission and form of ballot; and to provide the effective date thereof.

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

Section 1. That at the general election in November, 1972, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to Articles III and IV, of the Constitution of Nebraska, which is hereby proposed by the Legislature:

"Article IV, Sec. 10. The ~~governor~~ Governor shall ~~nominate-and-by-and appoint~~ with the advice--and consent-of-the-senate;-(expressed-by-a--majority--of--all senators-elected;-voting-by-yaes-and-nays;)--appoint--all ~~officers approval of a majority of the Legislature, all persons~~ whose offices are established by the constitution; Constitution, or which may be created by law, and whose appointment; or election is not otherwise by law or herein provided for; and no such officer person shall be appointed or elected by the legislature- Legislature. The Governor shall have power to remove, for cause and after a public hearing, any person whom he may appoint for a term except officers provided for in Article V of the Constitution, and he may declare his office vacant, and fill the same as herein provided as in other cases of vacancy. The Governor shall have power to remove any other person whom he appoints at any time and for any reason.

Article IV, Sec. 11. In case of a vacancy during the recess of the legislature, in any office which is not elective, except officers provided for in Article V of this Constitution, the Governor shall make a temporary appointment until the next meeting of the legislature, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the legislature, a majority of all the legislators elected concurring by voting yeas and nays, shall hold his office during the remainder of the term; and until his successor shall be appointed and qualified. No person after being rejected by the legislature shall be again nominated for the same office at the same session, unless at request of the legislature, or be appointed to the same office during the recess of the legislature. If any elected state office created by this Constitution, except offices provided for in Article V of this Constitution or the office of Lieutenant Governor, shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill that office by appointment, and the appointee shall hold the office until his successor shall be elected and qualified in such manner as may be provided by law.

Article IV, Sec. 12. The governor shall have power to remove any officer, whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office, and he may declare his office vacant, and fill the same as herein provided in other cases of vacancy. If any nonelective state office, except offices provided for in Article V of this Constitution, shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill that office by appointment. If the legislature is in session, such appointment shall be subject to the approval of a majority of the members of the legislature. If the legislature is not in session, the Governor shall make a temporary appointment until the next session of the legislature, at which time a majority of the members of the legislature shall have the right to approve or disapprove the appointment. All appointees shall hold their office until their successors shall be appointed and qualified. No person after being rejected by the legislature shall be again nominated for the same office at the same session, unless at request of the legislature, or be appointed to the same office during the recess or adjournment of the legislature.

Article IV. Sec. 16. In case of the death, impeachment and notice thereof to the accused, failure to qualify, resignation, absence from the state, or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon

the Lieutenant-Governor: In case of the conviction of the Governor on impeachment, his removal from office, his resignation or his death, the Lieutenant Governor, the Speaker of the Legislature and such other persons designated by law shall in that order be Governor for the remainder of the Governor's term.

In case of the death of the Governor-elect, the Lieutenant Governor-elect, the Speaker of the Legislature and such other persons designated by law shall become Governor in that order at the commencement of the Governor-elect's term.

If the Governor or the person in line of succession to serve as Governor is absent from the state, or suffering under an inability, the powers and duties of the office of Governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases as provided by law. After January 1, 1975, the Lieutenant Governor shall serve on all boards and commissions in lieu of the Governor whenever so designated by the Governor, shall perform such duties as may be delegated him by the Governor, and shall devote his full time to the duties of his office.

That Article III, section 23 of the Constitution of Nebraska is repealed.

That Article IV, sections 18 and 21 of the Constitution of Nebraska are repealed."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by Article XVI, section 1, of the Constitution of Nebraska. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"Constitutional amendment transferring provisions respecting vacancies in office from the legislative to the executive article, changing provisions for removing officers and for filling vacancies in office, providing for succession to the office of Governor, and repealing Article III, section 23, and Article IV, sections 18 and 21 of the Constitution of Nebraska.

For
Against"

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which

time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.