

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1062**

Introduced by Karpisek, 32.

Read first time January 22, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-1119  
2 and 32-1121, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to recounts; and to repeal the  
4 original sections.

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

1           Section 1. Section 32-1119, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           32-1119 (1) If it appears as evidenced by the abstract  
4 of votes that any candidate failed to be nominated or elected by  
5 a margin of (a) one percent or less of the votes received by  
6 the candidate who received the highest number of votes for the  
7 office at an election in which more than five hundred total votes  
8 were cast or (b) two percent or less of the votes received by  
9 the candidate who received the highest number of votes for the  
10 office at an election in which five hundred or less total votes  
11 were cast, then such candidate shall be entitled to a recount.  
12 Any losing candidate may waive his or her right to a recount by  
13 filing a written statement with the Secretary of State, election  
14 commissioner, or county clerk with whom he or she made his or her  
15 filing. All expenses of a recount under this section shall be paid  
16 by those political subdivisions involved in the recount.

17           (2) Recounts shall be made by the county canvassing  
18 board which officiated in making the official county canvass of  
19 the election returns. If any member of the county canvassing  
20 board cannot participate in the recount, another person shall be  
21 appointed by the election commissioner or county clerk to take the  
22 member's place.

23           (3) Recounts for candidates who filed with the Secretary  
24 of State shall be made on the fifth Wednesday after the election  
25 and shall commence at 9 a.m. The Secretary of State shall inform

1 each election commissioner or county clerk of the names of the  
2 candidates for which the board of state canvassers deems a recount  
3 to be necessary.

4 (4) The election commissioner or county clerk shall be  
5 responsible for recounting the ballots for those candidates for  
6 whom the county canvassing board deems a recount to be necessary.  
7 The recount shall be made as soon as possible after the adjournment  
8 of the county canvassing board, except that if a recount is  
9 required under subsection (3) of this section, the recounts may be  
10 conducted concurrently.

11 (5) The Secretary of State, election commissioner, or  
12 county clerk shall notify all candidates whose ballots will be  
13 recounted of the time, date, and place of the recount. Candidates  
14 whose ballots will be recounted may be present or be represented by  
15 an agent appointed by the candidate.

16 (6) ~~The~~ Except as otherwise provided in subsection (7) of  
17 this section, the procedures for the recounting of ballots shall  
18 be the same as those used for the counting of ballots on election  
19 day. The recount shall be conducted at the county courthouse,  
20 except that if vote counting devices are used for the counting  
21 or recounting, such counting or recounting may be accomplished at  
22 the site of the devices. Counties counting ballots by using a  
23 vote counting device shall first recount the ballots by use of the  
24 device. If substantial changes are found, the ballots shall then  
25 be counted using such device in any precinct which might reflect a

1 substantial change.

2 (7) If a losing candidate submits a written request for a  
3 recount at his or her expense under section 32-1121 and indicates  
4 that he or she wants a manual recount, the procedures for the  
5 recounting of ballots shall be specified by the Secretary of State  
6 to ensure uniformity of standards by all individuals involved in  
7 handling the ballots to be reviewed. The procedures shall include  
8 the location of the recount and the standards for reviewing the  
9 ballots to determine the number of valid votes pursuant to section  
10 32-901.

11 Sec. 2. Section 32-1121, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 32-1121 If any candidate failed to be nominated or  
14 elected by more than the margin provided in section 32-1119, the  
15 losing candidate may submit a certified written request for a  
16 recount at his or her expense. The request shall be filed with  
17 the filing officer with whom the candidate filed for election  
18 not later than the tenth day after the county canvassing board  
19 or the board of state canvassers convenes. The recount shall be  
20 conducted as provided in section 32-1119 using the procedures used  
21 for the counting of ballots on election day or by way of a manual  
22 recount at the option of the losing candidate. Prior to conducting  
23 the recount, the cost of the recount shall be determined by the  
24 election commissioner or county clerk and the requesting candidate  
25 shall be so notified. The candidate requesting the recount shall

1 pay the estimated cost of the recount before the recount is  
2 scheduled to be conducted. If the recount involves more than one  
3 county, the election commissioner or county clerk shall certify the  
4 cost to the Secretary of State. The Secretary of State shall then  
5 notify the candidate of the determined cost, and the cost shall be  
6 paid before any recount is scheduled to be conducted. The candidate  
7 shall pay the cost on demand to the county treasurer of each county  
8 involved, and such sums shall be placed in the county general fund  
9 to help defray the cost of the recount. If the actual expense is  
10 less than the determined cost, the candidate may file a claim with  
11 the county board for overpayment of the recount. If the recount  
12 determines the candidate to be the winner, all costs which he or  
13 she paid shall be refunded. Refunds shall be made from the county  
14 general fund.

15           Sec. 3. Original sections 32-1119 and 32-1121, Reissue  
16 Revised Statutes of Nebraska, are repealed.