

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 646

Introduced by Nelson, 6; Ashford, 20; Burling, 33; Carlson, 38;
Cornett, 45; Dubas, 34; Erdman, 47; Fischer, 43;
Friend, 10; Fulton, 29; Gay, 14; Nantkes, 46; Pahls,
31; Pankonin, 2; Pirsch, 4; Rogert, 16; Synowiecki,
7; White, 8

Read first time January 17, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend section 32-1049, Reissue
2 Revised Statutes of Nebraska, and section 32-1027,
3 Revised Statutes Cumulative Supplement, 2006; to change
4 provisions relating to counting ballots; and to repeal
5 the original sections.

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

1 Section 1. Section 32-1027, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 32-1027 (1) The election commissioner or county clerk
4 shall appoint two or more registered voters to the counting board
5 for early voting. One registered voter shall be appointed from the
6 political party casting the highest number of votes for Governor
7 or for President of the United States in the county in the
8 immediately preceding general election, and one registered voter
9 shall be appointed from the political party casting the next
10 highest vote for such office. The election commissioner or county
11 clerk may appoint additional registered voters to serve on the
12 counting board and may appoint registered voters to serve in case
13 of a vacancy among any of the members of the counting board. Such
14 appointees shall be balanced between the political parties and may
15 include registered voters unaffiliated with any political party.
16 The counting board may begin carrying out its duties ~~not earlier~~
17 ~~than the Thursday before the election and shall meet~~ as directed by
18 the election commissioner or county clerk.

19 (2) The counting board shall place all identification
20 envelopes in order and shall review each returned identification
21 envelope pursuant to verification procedures prescribed in
22 subsections (3) and (4) of this section.

23 (3) In its review, the counting board shall determine if:

24 (a) The voter has provided his or her name, residence
25 address, and signature on the voter identification envelope;

1 (b) The ballot has been received from the voter who
2 requested it and the residence address is the same address
3 provided on the voter's request for a ballot for early voting, by
4 comparing the information provided on the identification envelope
5 with information recorded in the record of early voters or the
6 voter's request;

7 (c) A completed and signed registration application has
8 been received from the voter by the deadline in section 32-302,
9 32-321, or 32-325 or by the close of the polls pursuant to section
10 32-945;

11 (d) An identification document has been received from the
12 voter not later than the close of the polls on election day if
13 required pursuant to section 32-318.01; and

14 (e) A completed and signed registration application and
15 oath has been received from the voter by the close of the polls on
16 election day if required pursuant to section 32-946.

17 (4) On the basis of its review, the counting board
18 shall determine whether the ballot shall be counted or rejected as
19 follows:

20 (a) A ballot received from a voter who was properly
21 registered on or prior to the deadline for registration pursuant
22 to section 32-302 or 32-321 shall be accepted for counting without
23 further review if:

24 (i) The name on the identification envelope appears to be
25 that of a registered voter to whom a ballot for early voting has

1 been issued or sent;

2 (ii) The residence address provided on the identification
3 envelope is the same residence address at which the voter is
4 registered or is in the same precinct and subdivision of a
5 precinct, if any; and

6 (iii) The identification envelope has been signed by the
7 voter;

8 (b) In the case of a ballot received from a voter who
9 was not properly registered prior to the deadline for registration
10 pursuant to section 32-302 or 32-321, the ballot shall be accepted
11 for counting if:

12 (i) A valid registration application completed and signed
13 by the voter has been received by the election commissioner or
14 county clerk prior to the close of the polls on election day;

15 (ii) The name on the identification envelope appears to
16 be that of the person who requested the ballot;

17 (iii) The residence address provided on the
18 identification envelope and on the registration application
19 is the same as the residence address as provided on the voter's
20 request for a ballot for early voting; and

21 (iv) The identification envelope has been signed by the
22 voter;

23 (c) In the case of a ballot received from a voter without
24 a residence address who requested a ballot pursuant to section
25 32-946, the ballot shall be accepted for counting if:

1 (i) The name on the identification envelope appears to be
2 that of a registered voter to whom a ballot has been sent;

3 (ii) A valid registration application completed and
4 signed by the voter, for whom the residence address is deemed
5 to be the address of the office of the election commissioner or
6 county clerk pursuant to section 32-946, has been received by the
7 election commissioner or county clerk prior to the close of the
8 polls on election day;

9 (iii) The oath required pursuant to section 32-946 has
10 been completed and signed by the voter and received by the election
11 commissioner or county clerk by the close of the polls on election
12 day; and

13 (iv) The identification envelope has been signed by the
14 voter; and

15 (d) In the case of a ballot received from a registered
16 voter required to present identification before voting pursuant to
17 section 32-318.01, the ballot shall be accepted for counting if:

18 (i) The name on the identification envelope appears to
19 be that of a registered voter to whom a ballot has been issued or
20 sent;

21 (ii) The residence address provided on the identification
22 envelope is the same address at which the voter is registered or is
23 in the same precinct and subdivision of a precinct, if any;

24 (iii) A copy of an identification document authorized in
25 section 32-318.01 has been received by the election commissioner or

1 county clerk prior to the close of the polls on election day; and

2 (iv) The identification envelope has been signed by the
3 voter.

4 (5) In opening the identification envelope or the return
5 envelope to determine if registration applications, oaths, or
6 identification documents have been enclosed by the voters from whom
7 they are required, the counting board shall make a good faith
8 effort to ensure that the ballot remains folded and that the
9 secrecy of the vote is preserved.

10 (6) The counting board may ~~not~~ ~~on the Thursday before the~~
11 ~~election,~~ open all identification envelopes which are approved, and
12 if the signature of the election commissioner or county clerk or
13 his or her employee is on the ballot, the ballot shall be unfolded,
14 flattened for purposes of using the optical scanner, and placed in
15 a sealed container for counting ~~on election day.~~ as directed by
16 the election commissioner or county clerk. At the discretion of the
17 election commissioner or county clerk, the counting board may begin
18 counting early ballots no earlier than twenty-four hours prior to
19 the opening of the polls on the day of the election.

20 (7) If an identification envelope is rejected, the
21 counting board shall not open the identification envelope. The
22 counting board shall write Rejected on the identification envelope
23 and the reason for the rejection. If the ballot is rejected after
24 opening the identification envelope because of the absence of the
25 official signature on the ballot, the ballot shall be reinserted

1 in the identification envelope which shall be resealed and marked
2 Rejected, no official signature. The counting board shall place
3 the rejected identification envelopes and ballots in a container
4 labeled Rejected Ballots and seal it.

5 (8) As soon as all ballots have been placed in the sealed
6 container and rejected identification envelopes or ballots have
7 been sealed in the Rejected Ballots container, the counting board
8 shall count the ballots the same as all other ballots and an
9 unofficial count shall be reported to the election commissioner or
10 county clerk. No results shall be released prior to the closing of
11 the polls on election day.

12 Sec. 2. Section 32-1049, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 32-1049 Any election commissioner or county clerk using
15 a vote counting device to count ballots in a centralized location
16 shall:

17 (1) Provide for the proper sealing of the containers and
18 the security of the ballots when transported from each polling
19 place to the centralized location and when removed from their
20 containers and delivered to the personnel who operate the vote
21 counting devices;

22 (2) Provide a process of counting which allows for the
23 ballots of each precinct to be placed in a sealed container and
24 placed in a secure location after the counting process has been
25 completed;

1 (3) Provide for a method of overseeing the ballots that
2 have been overvoted or damaged which does not involve judging voter
3 intent to assure that these ballots have not been or will not be
4 intentionally mismarked;

5 (4) Provide for a procedure for counting write-in votes
6 when such votes and names of write-in candidates are to be counted
7 and recorded;

8 (5) Provide for at least three independent tests to be
9 conducted before counting begins to verify the accuracy of the
10 counting process, which includes the computerized program installed
11 for counting various ballots by vote counting devices, by (a)
12 the election commissioner or county clerk, (b) the chief deputy
13 election commissioner or a registered voter with a different party
14 affiliation than that of the election commissioner or county clerk,
15 and (c) the person who installed the program in the vote counting
16 device or the person in charge of operating the device;

17 (6) Provide for storing and safeguarding the magnetic
18 tapes or computer chips of the vote counting devices for the
19 required period of time;

20 (7) Provide the appropriate security personnel or
21 measures necessary to safeguard the secrecy and security of the
22 counting process;

23 (8) ~~When deemed necessary by the election commissioner~~
24 ~~or county clerk, develop~~ Develop a procedure for picking up and
25 counting ballots during election day at the discretion of the

1 election commissioner or county clerk; and

2 (9) Submit a written plan to the Secretary of State
3 specifically outlining the procedures that will be followed on
4 election day to implement this section. The plan shall be submitted
5 no later than twenty-five days before the election and shall be
6 modified, as necessary, for each primary, general, or special
7 election.

8 Sec. 3. Original section 32-1049, Reissue Revised
9 Statutes of Nebraska, and section 32-1027, Revised Statutes
10 Cumulative Supplement, 2006, are repealed.