

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 659

Introduced by Andersen, 49; Clements, 2; Holdcroft, 36; Meyer, 17;
Sanders, 45; Sorrentino, 39.

Read first time January 22, 2025

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Election Act; to amend sections 32-101
2 and 32-1049, Revised Statutes Cumulative Supplement, 2024; to change
3 provisions relating to vote counting devices; to provide for
4 watchers and observers; to provide duties; to harmonize provisions;
5 and to repeal the original sections.

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

1 **Section 1.** Section 32-101, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 32-101 Sections 32-101 to 32-1552 and section 2 of this act shall be
4 known and may be cited as the Election Act.

5 **Sec. 2.** (1) An election commissioner or county clerk using a vote
6 counting device to count ballots shall conduct at least three independent
7 tests before counting begins to verify the accuracy of the counting
8 process, which includes the computerized program installed for counting
9 various ballots by vote counting device. The test shall be conducted by:

10 (a) The election commissioner or county clerk;

11 (b) The chief deputy election commissioner or a registered voter
12 with a different party affiliation than that of the election commissioner
13 or county clerk; and

14 (c) The person who installed the program in the vote counting device
15 or the person in charge of operating the device.

16 (2) Watchers may be appointed to be present and observe the tests.
17 Each political party shall be entitled to one watcher appointed and
18 supplied with credentials by the county central committee of such
19 political party. All other persons shall be excluded, except for
20 observers authorized by the election commissioner or county clerk.
21 Watchers and observers shall comply with the requirements for watchers
22 and observers under section 32-1525. Watchers and observers cannot be
23 excluded from the testing location unless the election commissioner or
24 county clerk provides an unobstructed view of the testing by use of
25 closed-circuit television or similar device.

26 (3) Prior to any statewide primary or general election, the election
27 commissioner or county clerk shall certify the date the testing was
28 completed to the Secretary of State. The Secretary of State shall post
29 the certification on the Secretary of State's website.

30 **Sec. 3.** Section 32-1049, Revised Statutes Cumulative Supplement,
31 2024, is amended to read:

1 32-1049 Any election commissioner or county clerk using a vote
2 counting device to count ballots in a centralized location shall:

3 (1) Provide for the proper sealing of the containers and the
4 security of the ballots when transported from each polling place to the
5 centralized location and when removed from their containers and delivered
6 to the personnel who operate the vote counting devices;

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

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

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

16 (5) Provide the Secretary of State with the anticipated date by
17 which the testing required pursuant to section 2 of this act will be
18 completed; for at least three independent tests to be conducted before
19 counting begins to verify the accuracy of the counting process, which
20 includes the computerized program installed for counting various ballots
21 by vote counting devices, by (a) the election commissioner or county
22 clerk, (b) the chief deputy election commissioner or a registered voter
23 with a different party affiliation than that of the election commissioner
24 or county clerk, and (c) the person who installed the program in the vote
25 counting device or the person in charge of operating the device;

26 (6) Provide for storing and safeguarding the magnetic tapes or
27 computer chips of the vote counting devices for the required period of
28 time;

29 (7) Provide the appropriate security personnel or measures necessary
30 to safeguard the secrecy and security of the counting process;

31 (8) Develop a procedure for picking up and counting ballots during

1 election day at the discretion of the election commissioner or county
2 clerk. No report or tabulation of vote totals for such ballots shall be
3 produced or generated prior to one hour before the closing of the polls;

4 (9) Develop a procedure for picking up and transporting ballots from
5 a secure ballot drop-box to the office of the election commissioner or
6 county clerk; and

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

12 **Sec. 4.** Original sections 32-101 and 32-1049, Revised Statutes
13 Cumulative Supplement, 2024, are repealed.