

E AND R AMENDMENTS TO LB 646

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 32-230, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 32-230 (1) As provided in subsection (5) of this section,
6 the precinct committeeman and committeewoman of each political
7 party shall appoint a receiving board consisting of three judges
8 of election and two clerks of election except as provided in
9 subsection (3) of this section, ~~and a counting board if required~~
10 ~~pursuant to section 32-234 consisting of two judges of election~~
11 ~~and two clerks of election.~~ The chairperson of the county central
12 committee of each political party shall send the names of the
13 appointments to the county clerk no later than February 1 prior to
14 the primary election.

15 (2) If no names are submitted by the chairperson, the
16 county clerk shall appoint judges or clerks of election from the
17 appropriate political party. Judges and clerks of election may be
18 selected at random from a cross section of the population of the
19 county. All qualified citizens shall have the opportunity to be
20 considered for service. All qualified citizens shall fulfill their
21 obligation to serve as judges or clerks of election as prescribed
22 by the county clerk. No citizen shall be excluded from service as
23 a result of discrimination based upon race, color, religion, sex,

1 national origin, or economic status. No citizen shall be excluded
2 from service unless excused by reason of ill health or other good
3 and sufficient reason.

4 (3) In precincts in which electronic voting systems are
5 used, the receiving board shall have at least three members.

6 (4) The county clerk may allow persons serving on a
7 receiving board to serve for part of the time the polls are open
8 and appoint other persons to serve on the same receiving board for
9 the remainder of the time the polls are open.

10 (5) In each precinct at any one time, one judge and
11 one clerk of election shall be appointed from the political party
12 casting the highest number of votes in the county for Governor or
13 for President of the United States in the immediately preceding
14 general election, one judge and one clerk shall be appointed from
15 the political party casting the next highest number of votes in
16 the county for Governor or for President of the United States in
17 the immediately preceding general election, and one judge shall
18 be appointed from the political party casting the third highest
19 number of votes in the county for Governor or for President of
20 the United States in the immediately preceding general election.
21 If the political party casting the third highest number of votes
22 cast less than ten percent of the total vote cast in the county
23 at the immediately preceding general election, the political party
24 casting the highest number of votes at the immediately preceding
25 general election shall be entitled to two judges and one clerk. If
26 a counting board is required pursuant to section 32-234, one judge
27 and one clerk of election shall be appointed to be members of the

1 ~~counting board from the political party casting the highest number~~
2 ~~of votes for Governor or for President of the United States in the~~
3 ~~county in the immediately preceding general election and one judge~~
4 ~~and one clerk of election shall be appointed to be members of the~~
5 ~~counting board from the political party casting the next highest~~
6 ~~number of votes.~~

7 (6) The county clerk may appoint registered voters to
8 serve in case of a vacancy among any of the judges or clerks of
9 election or in addition to the judges and clerks in any precinct
10 when necessary to meet any situation that requires additional
11 judges and clerks. Such appointees may include registered voters
12 unaffiliated with any political party. Such appointees shall serve
13 at subsequent or special elections as determined by the county
14 clerk.

15 (7) The county clerk may appoint a person who is at
16 least sixteen years old but is not eligible to register to vote
17 as a clerk of election. Such clerk of election shall meet the
18 requirements of subsection (1) of section 32-231, except that
19 such clerk shall not be required to be a registered voter. No
20 more than one clerk of election appointed under this subsection
21 shall serve at any precinct. A clerk of election appointed under
22 this subsection shall be considered a registered voter who is not
23 affiliated with a political party for purposes of this section.

24 Sec. 2. Section 32-232, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 32-232 (1) Any clerk of election may perform the duties
27 of a judge of election, and any judge of election may perform the

1 duties of a clerk of election. The county clerk may excuse two
2 clerks of election from serving at any election, and the judges of
3 election shall perform such duties without additional compensation.

4 (2) The county clerk shall designate one of the members
5 of the receiving board as a messenger. The messenger shall receive
6 from the county clerk the ballots and other equipment necessary
7 for holding the election in the precinct for which he or she is
8 a judge or clerk and shall deliver them to the polling place in
9 his or her precinct at least one hour before the time provided by
10 section 32-908 for opening the polls. The messenger shall return
11 the ballots and other equipment to the county clerk as soon as
12 possible after the votes are counted. ~~In precincts which have a~~
13 ~~counting board,~~ a messenger shall be designated by the county clerk
14 ~~from the members of the counting board to return the ballots and~~
15 ~~equipment to the county clerk.~~

16 Sec. 3. Section 32-235, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-235 (1) The county clerk shall, by mail, notify judges
19 and clerks of election, district inspectors, members of counting
20 boards, and members of canvassing boards of their appointment. The
21 notice shall inform the appointee of his or her appointment and of
22 the date and time he or she is required to report to the office
23 of the county clerk or other designated location and the polling
24 place. The notice shall be mailed at least fifteen days prior to
25 each statewide primary and general election. The county clerk shall
26 order the members of the receiving board ~~and the members of the~~
27 ~~counting board~~ to appear at their respective polling place on the

1 day and at the hour specified in the notice of appointment.

2 (2) Each appointee shall, at the time fixed in the notice
3 of appointment, report to the office or other location to complete
4 any informational forms and receive training regarding his or her
5 duties. The training shall include instruction as required by the
6 Secretary of State and any other training deemed necessary by the
7 county clerk.

8 Sec. 4. Section 32-612, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 32-612 (1) A change of political party affiliation by a
11 registered voter so as to affiliate with the political party named
12 in the candidate filing form or in an affidavit as a write-in
13 candidate pursuant to section 32-615 after the first Friday in
14 December prior to the statewide primary election shall not be
15 effective to meet the requirements of section 32-610 or 32-611 or
16 subsection (4) of this section, except that any person may change
17 his or her political party affiliation after the first Friday
18 in December prior to the statewide primary election to become a
19 candidate of a new political party which has successfully completed
20 the petition process required by section 32-716.

21 (2) No registered voter, candidate, or proposed candidate
22 shall swear falsely as to political party affiliation or shall
23 swear that he or she affiliates with two or more political parties.
24 Any candidate who swears falsely as to political party affiliation
25 or swears that he or she affiliates with two or more political
26 parties shall not be the candidate of such party and shall not be
27 entitled to assume the office for which he or she filed even if he

1 or she receives a majority or plurality of the votes therefor at
2 the following general election.

3 (3) The name of a candidate shall not appear printed
4 on more than one political party ballot. A candidate who is a
5 registered voter of one political party shall not accept the
6 nomination of another political party.

7 (4) In order to count write-in votes on a political party
8 ballot in the primary election, the candidate who receives the
9 votes must be a registered voter of that political party unless the
10 political party allows candidates not affiliated with the party by
11 not adopting a rule under section 32-702.

12 Sec. 5. Section 32-808, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 32-808 (1) Ballots for early voting and applications
15 shall be ready for delivery to registered voters at least
16 thirty-five days prior to each statewide primary or general
17 election and at least fifteen days prior to all other elections.

18 (2) Notwithstanding subsection (1) of this section, upon
19 request for a ballot, a ballot for early voting shall be forwarded
20 to each voter meeting the criteria of section 32-939 at least
21 forty-five days prior to any election. The election commissioner
22 or county clerk shall not forward any ballot for early voting if
23 the election to which such ballot pertains has already been held.
24 If the ballot has not been printed in sufficient time to meet
25 the requirements of this subsection, the election commissioner or
26 county clerk shall issue a special ballot at least ~~fifty-seven~~
27 sixty days prior to an election to each voter meeting the criteria

1 of section 32-939 upon the written request by such voter requesting
2 the special ballot. A complete list of the nominated candidates
3 and issues to be voted upon by a voter meeting the criteria of
4 such section shall be included with the special ballot by the
5 election commissioner or county clerk. A notice shall be sent with
6 the primary election ballot stating that the voter must request a
7 general election ballot unless such voter has requested both the
8 primary and general election ballots. If the voter has requested
9 both ballots, a notice shall be sent with the primary election
10 ballot stating that the general election ballot will be sent to the
11 same address unless otherwise notified.

12 (3) For purposes of this section, a special ballot means
13 a ballot prescribed by the Secretary of State which contains
14 the titles of all offices being contested at such election and
15 permits the voter to vote by writing in the names of the specific
16 candidates or the decision on any issue.

17 (4) The election commissioner or county clerk shall
18 publish in a newspaper of general circulation in the county an
19 application form to be used by registered voters in making an
20 application for a ballot for early voting after the ballots become
21 available. The publication of the application shall not be required
22 if the election is held by mail pursuant to sections 32-952 to
23 32-959.

24 Sec. 6. Section 32-904, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 32-904 The election commissioner or county clerk shall
27 designate the polling places for each precinct at which the

1 registered voters of the precinct will cast their votes. Polling
2 places representing different precincts may be combined at a
3 single location when potential sites cannot be found, contracts for
4 utilizing polling sites cannot be obtained, or a potential site
5 is not accessible to handicapped persons. When combining polling
6 places at a single site for an election other than a special
7 election, the election commissioner or county clerk shall clearly
8 separate the polling places from each other and maintain separate
9 receiving ~~and counting~~ boards. When combining polling places at
10 a single site for a special election, the election commissioner
11 or county clerk may combine the polling places and receiving
12 ~~and counting~~ boards. Polling places shall not be changed between
13 the statewide primary and general elections unless the election
14 commissioner or county clerk has been authorized to make such
15 change by the Secretary of State. If changes are authorized, the
16 election commissioner or county clerk shall notify each state
17 and local candidate affected by the change. Notwithstanding any
18 other provision of the Election Act, the Secretary of State may
19 adopt and promulgate rules and regulations, with the consent of
20 the appropriate election commissioner or county clerk, for the
21 establishment of polling places which may be used for voting
22 pursuant to section 32-1041 for the twenty days preceding the day
23 of election. Such polling places shall be in addition to the office
24 of the election commissioner or county clerk and the polling places
25 otherwise established pursuant to this section.

26 Sec. 7. Section 32-906, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 32-906 (1) The election commissioner or county clerk
2 shall provide each polling place with ballot boxes, ballot box
3 locks and keys, and a sufficient number of voting booths furnished
4 with supplies and conveniences to enable each registered voter to
5 prepare his or her ballot for voting and to secretly mark his or
6 her ballot. One voting booth shall be provided for approximately
7 every one hundred registered voters in the precinct. The election
8 commissioner or county clerk may increase or decrease the number
9 of voting booths to accommodate the expected voter turnout of any
10 election other than a statewide election. ~~In precincts required to~~
11 ~~have a counting board pursuant to section 32-224 or 32-234, the~~
12 ~~county shall provide an enclosed compartment for the use of the~~
13 ~~counting board.~~

14 (2) When there is no structure within the precinct
15 suitable for use as a polling place, the election commissioner or
16 county clerk may designate a polling place outside the precinct
17 and convenient thereto which shall be provided with voting booths
18 furnished with supplies and conveniences ~~and, when utilized, an~~
19 ~~enclosed compartment for use of the counting board~~ as are other
20 polling places.

21 (3) Standards for polling places shall include any
22 applicable standards developed under sections 81-5,147 and
23 81-5,148.

24 Sec. 8. Section 32-909, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 32-909 Before any ballot is deposited in the ballot box,
27 the ballot box shall be publicly opened and exhibited and the

1 judges and clerks of election shall see that no ballot is in the
2 box. The ballot box shall then be locked and the key delivered to
3 one of the judges of election or, in counties having an election
4 commissioner, to the precinct inspector. ~~If paper ballots are being~~
5 ~~used that will be manually counted,~~ a ballot box containing such
6 ~~ballots shall not be opened again until opened by the counting~~
7 ~~board.~~ A ballot box which contains ballots that will be counted
8 using a scanner may be opened prior to the hour established by law
9 for the closing of the polls at the discretion of the election
10 commissioner or county clerk.

11 Sec. 9. Section 32-1001, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 32-1001 After the polls have closed, the precinct list of
14 registered voters and the precinct sign-in register shall be signed
15 by all members of the receiving board, the names of the registered
16 voters shall be counted, and the number shall be recorded where
17 designated on the list and the register. If a line is missed or a
18 name is voided, the receiving board shall subtract such omissions
19 or voids from the total before recording the total on the list
20 and the register. The receiving board shall certify to all matters
21 pertaining to casting of ballots and shall turn over the ballots,
22 ballot boxes, list of registered voters, and sign-in register to
23 ~~the counting board.~~ election commissioner or county clerk.

24 Sec. 10. Section 32-1002, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 32-1002 (1) As the ballots are removed from the ballot
27 box pursuant to sections ~~32-1011 to 32-1026,~~ 32-1012 to 32-1018,

1 the receiving board ~~or counting board~~ shall separate the envelopes
2 containing the provisional ballots from the rest of the ballots and
3 deliver them to the election commissioner or county clerk.

4 (2) Upon receipt of a provisional ballot, the election
5 commissioner or county clerk shall verify that the certificate on
6 the front of the envelope or the form attached to the envelope is
7 in proper form and that the certification has been signed by the
8 voter.

9 (3) The election commissioner or county clerk shall also
10 (a) verify that such person has not voted anywhere else in the
11 county or been issued ~~an absentee~~ a ballot for early voting, (b)
12 investigate whether any credible evidence exists that the person
13 was properly registered to vote in the county before the deadline
14 for registration for the election, (c) investigate whether any
15 information has been received pursuant to section 32-309, 32-310,
16 or 32-324 that the person has resided, registered, or voted in
17 any other county or state since registering to vote in the county,
18 and (d) upon determining that credible evidence exists that the
19 person was properly registered to vote in the county, make the
20 appropriate changes to the voter registration register by entering
21 the information contained in the registration application completed
22 by the voter at the time of voting a provisional ballot.

23 (4) A provisional ballot cast by a voter pursuant to
24 section 32-915 shall be counted if:

25 (a) Credible evidence exists that the voter was properly
26 registered in the county before the deadline for registration for
27 the election;

1 (b) The voter has resided in the county continuously
2 since registering to vote in the county;

3 (c) The voter has not voted anywhere else in the county
4 or has not otherwise voted early using a ballot for early voting;

5 (d) The voter has completed a registration application
6 prior to voting and:

7 (i) The residence address provided on the registration
8 application completed pursuant to subdivision (1)(e) of section
9 32-915 is located within the precinct in which the person voted;
10 and

11 (ii) If the voter is voting in a primary election,
12 the party affiliation provided on the registration application
13 completed prior to voting the provisional ballot is the same party
14 affiliation that appears on the voter's voter registration record
15 based on his or her previous registration application; and

16 (e) The certification on the front of the envelope or
17 form attached to the envelope is in the proper form and signed by
18 the voter.

19 (5) A provisional ballot cast by a voter pursuant to
20 section 32-915 shall not be counted if:

21 (a) The voter was not properly registered in the county
22 before the deadline for registration for the election;

23 (b) Information has been received pursuant to section
24 32-309, 32-310, or 32-324 that the voter has resided, registered,
25 or voted in any other county or state since registering to vote in
26 the county in which he or she cast the provisional ballot;

27 (c) Credible evidence exists that the voter has voted

1 elsewhere or has otherwise voted early;

2 (d) The voter failed to complete and sign a registration
3 application pursuant to subdivision (1)(e) of section 32-915;

4 (e) The residence address provided on the registration
5 application completed pursuant to subdivision (1)(e) of section
6 32-915 is in a different county or in a different precinct than the
7 county or precinct in which the voter voted;

8 (f) If the voter is voting in a primary election, the
9 party affiliation on the registration application completed prior
10 to voting the provisional ballot is different than the party
11 affiliation that appears on the voter's voter registration record
12 based on his or her previous registration application; or

13 (g) The voter failed to complete and sign the
14 certification on the envelope or form attached to the envelope
15 pursuant to subsection (3) of section 32-915.

16 (6) Upon determining that the voter's provisional ballot
17 is eligible to be counted, the election commissioner or county
18 clerk shall remove the ballot from the envelope without exposing
19 the marks on the ballot and shall place the ballot with the ballots
20 to be counted by the county canvassing board.

21 (7) The election commissioner or county clerk shall
22 notify the system administrator of the system created pursuant to
23 section 32-202 as to whether the ballot was counted and, if not,
24 the reason the ballot was not counted.

25 (8) The verification and investigation shall be completed
26 within seven days after the election.

27 Sec. 11. Section 32-1004, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-1004 If a ballot has been overvoted for any office,
3 the ballot shall be rejected for that office only. No overvoted
4 ballot shall be judged for voter intent by any member of the
5 counting board or any official involved in the counting process.
6 ~~The counting board in counties which count ballots manually shall~~
7 ~~make the following notation on the rejected ballots: Rejected for~~
8 ~~the office of _____, overvoted.~~

9 Sec. 12. Section 32-1010, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 32-1010 Ballots ~~may~~ shall be counted ~~(1)~~ or compiled at
12 a centralized location as provided in sections ~~32-1011~~ 32-1012 to
13 32-1018. The receiving board shall deliver the ballot box and other
14 election materials to the centralized location as directed by the
15 election commissioner or county clerk. ~~or (2) in the precinct by~~
16 ~~the receiving board which becomes the counting board after the~~
17 ~~polls are closed or by a counting board that is separate from the~~
18 ~~receiving board as provided in sections 32-1019 to 32-1026. Each~~
19 ~~counting board shall complete its duties and certify to all matters~~
20 ~~pertaining to the counting of votes.~~

21 Sec. 13. Section 32-1027, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 32-1027 (1) The election commissioner or county clerk
24 shall appoint two or more registered voters to the counting board
25 for early voting. One registered voter shall be appointed from the
26 political party casting the highest number of votes for Governor
27 or for President of the United States in the county in the

1 immediately preceding general election, and one registered voter
2 shall be appointed from the political party casting the next
3 highest vote for such office. The election commissioner or county
4 clerk may appoint additional registered voters to serve on the
5 counting board and may appoint registered voters to serve in case
6 of a vacancy among any of the members of the counting board. Such
7 appointees shall be balanced between the political parties and may
8 include registered voters unaffiliated with any political party.
9 The counting board may begin carrying out its duties not earlier
10 than the ~~Thursday~~ second Monday before the election and shall meet
11 as directed by the election commissioner or county clerk.

12 (2) The counting board shall place all identification
13 envelopes in order and shall review each returned identification
14 envelope pursuant to verification procedures prescribed in
15 subsections (3) and (4) of this section.

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

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

19 (b) The ballot has been received from the voter who
20 requested it and the residence address is the same address
21 provided on the voter's request for a ballot for early voting, by
22 comparing the information provided on the identification envelope
23 with information recorded in the record of early voters or the
24 voter's request;

25 (c) A completed and signed registration application has
26 been received from the voter by the deadline in section 32-302,
27 32-321, or 32-325 or by the close of the polls pursuant to section

1 32-945;

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

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

8 (4) On the basis of its review, the counting board
9 shall determine whether the ballot shall be counted or rejected as
10 follows:

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

15 (i) The name on the identification envelope appears to be
16 that of a registered voter to whom a ballot for early voting has
17 been issued or sent;

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

22 (iii) The identification envelope has been signed by the
23 voter;

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

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

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

6 (iii) The residence address provided on the
7 identification envelope and on the registration application
8 is the same as the residence address as provided on the voter's
9 request for a ballot for early voting; and

10 (iv) The identification envelope has been signed by the
11 voter;

12 (c) In the case of a ballot received from a voter without
13 a residence address who requested a ballot pursuant to section
14 32-946, the ballot shall be accepted for counting if:

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

17 (ii) A valid registration application completed and
18 signed by the voter, for whom the residence address is deemed
19 to be the address of the office of the election commissioner or
20 county clerk pursuant to section 32-946, has been received by the
21 election commissioner or county clerk prior to the close of the
22 polls on election day;

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

27 (iv) The identification envelope has been signed by the

1 voter; and

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

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

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

11 (iii) A copy of an identification document authorized in
12 section 32-318.01 has been received by the election commissioner or
13 county clerk prior to the close of the polls on election day; and

14 (iv) The identification envelope has been signed by the
15 voter.

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

22 (6) The counting board may, on the ~~Thursday~~ second Monday
23 before the election, open all identification envelopes which are
24 approved, and if the signature of the election commissioner or
25 county clerk or his or her employee is on the ballot, the ballot
26 shall be unfolded, flattened for purposes of using the optical
27 scanner, and placed in a sealed container for counting ~~on election~~

1 ~~day~~, as directed by the election commissioner or county clerk. At
2 the discretion of the election commissioner or county clerk, the
3 counting board may begin counting early ballots no earlier than
4 twenty-four hours prior to the opening of the polls on the day of
5 the election.

6 (7) If an identification envelope is rejected, the
7 counting board shall not open the identification envelope. The
8 counting board shall write Rejected on the identification envelope
9 and the reason for the rejection. If the ballot is rejected after
10 opening the identification envelope because of the absence of the
11 official signature on the ballot, the ballot shall be reinserted
12 in the identification envelope which shall be resealed and marked
13 Rejected, no official signature. The counting board shall place
14 the rejected identification envelopes and ballots in a container
15 labeled Rejected Ballots and seal it.

16 (8) As soon as all ballots have been placed in the sealed
17 container and rejected identification envelopes or ballots have
18 been sealed in the Rejected Ballots container, the counting board
19 shall count the ballots the same as all other ballots and an
20 unofficial count shall be reported to the election commissioner or
21 county clerk. No results shall be released prior to the closing of
22 the polls on election day.

23 Sec. 14. Section 32-1041, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 32-1041 The election commissioner or county clerk may use
26 ~~paper ballots,~~ optical-scan ballots, or voting systems approved by
27 the Secretary of State to allow registered voters to cast their

1 votes at any election. ~~Paper ballots may be used in combination~~
2 ~~with other methods of casting ballots.~~ The election commissioner
3 or county clerk may use vote counting devices and voting systems
4 approved by the Secretary of State for tabulating the votes cast
5 at any election. Vote counting devices shall include electronic
6 counting devices such as optical scanners. Any new voting or
7 counting system shall be approved by the Secretary of State prior
8 to use by an election commissioner or county clerk. Notwithstanding
9 any other provision of the Election Act, the Secretary of State may
10 adopt and promulgate rules and regulations to establish different
11 procedures and locations for voting and counting votes pursuant to
12 the use of any new voting or counting system. The procedures shall
13 be designed to preserve the safety and confidentiality of each
14 vote cast and the secrecy and security of the counting process, to
15 establish security provisions for the prevention of fraud, and to
16 ensure that the election is conducted in a fair manner.

17 Sec. 15. Section 32-1049, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 32-1049 Any election commissioner or county clerk using
20 a vote counting device to count ballots in a centralized location
21 shall:

22 (1) Provide for the proper sealing of the containers and
23 the security of the ballots when transported from each polling
24 place to the centralized location and when removed from their
25 containers and delivered to the personnel who operate the vote
26 counting devices;

27 (2) Provide a process of counting which allows for the

1 ballots of each precinct to be placed in a sealed container and
2 placed in a secure location after the counting process has been
3 completed;

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

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

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

20 (6) Provide for storing and safeguarding the magnetic
21 tapes or computer chips of the vote counting devices for the
22 required period of time;

23 (7) Provide the appropriate security personnel or
24 measures necessary to safeguard the secrecy and security of the
25 counting process;

26 (8) ~~When deemed necessary by the election commissioner~~
27 ~~or county clerk, develop~~ Develop a procedure for picking up and

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

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

11 Sec. 16. Original sections 32-230, 32-232, 32-235,
12 32-612, 32-906, 32-1001, 32-1004, 32-1010, and 32-1049, Reissue
13 Revised Statutes of Nebraska, and sections 32-808, 32-904,
14 32-909, 32-1002, 32-1027, and 32-1041, Revised Statutes Cumulative
15 Supplement, 2006, are repealed.

16 Sec. 17. The following sections are outright repealed:
17 Sections 32-224, 32-234, 32-1011, 32-1019, 32-1020, 32-1021,
18 32-1022, 32-1023, 32-1024, and 32-1025, Reissue Revised Statutes
19 of Nebraska, and section 32-1026, Reissue Revised Statutes of
20 Nebraska, as amended by section 3, Legislative Bill 44, One
21 Hundredth Legislature, First Session, 2007.

22 2. On page 1, strike beginning with "section" in line 1
23 through line 5 and insert "sections 32-230, 32-232, 32-235, 32-612,
24 32-906, 32-1001, 32-1004, 32-1010, and 32-1049, Reissue Revised
25 Statutes of Nebraska, and sections 32-808, 32-904, 32-909, 32-1002,
26 32-1027, and 32-1041, Revised Statutes Cumulative Supplement,
27 2006; to change provisions relating to changing political parties

1 and issuing ballots for early voting; to change and eliminate
2 provisions relating to the use and counting of ballots; to
3 harmonize provisions; to repeal the original sections; and to
4 outright repeal sections 32-224, 32-234, 32-1011, 32-1019, 32-1020,
5 32-1021, 32-1022, 32-1023, 32-1024, and 32-1025, Reissue Revised
6 Statutes of Nebraska, and section 32-1026, Reissue Revised Statutes
7 of Nebraska, as amended by section 3, Legislative Bill 44, One
8 Hundredth Legislature, First Session, 2007."