

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 838**

FINAL READING

Introduced by Karpisek, 32.

Read first time January 10, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-202,  
2 32-953, 32-954, and 32-957, Reissue Revised Statutes of  
3 Nebraska, and section 32-947, Revised Statutes Cumulative  
4 Supplement, 2006; to change provisions relating to  
5 identification envelopes for early voting and voting by  
6 mail; to eliminate the requirement of a secrecy envelope  
7 for elections held by mail; to harmonize provisions;  
8 to provide an operative date; to repeal the original  
9 sections; and to outright repeal section 32-955, Reissue  
10 Revised Statutes of Nebraska.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 32-202, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           32-202 In addition to any other duties prescribed by law,  
4 the Secretary of State shall:

5           (1) Supervise the conduct of primary and general  
6 elections in this state;

7           (2) Provide training for election commissioners, county  
8 clerks, and other election officials in providing for registration  
9 of voters and the conduct of elections;

10          (3) Enforce the Election Act;

11          (4) With the assistance and advice of the Attorney  
12 General, make uniform interpretations of the act;

13          (5) Provide periodic training for the agencies and their  
14 agents and contractors in carrying out their duties under sections  
15 32-308 to 32-310;

16          (6) Develop and print forms for use as required by  
17 sections 32-308, 32-310, 32-320, 32-329, ~~32-955~~, 32-947, 32-956,  
18 and 32-958;

19          (7) Contract with the Department of Administrative  
20 Services for storage and distribution of the forms;

21          (8) Require reporting to ensure compliance with sections  
22 32-308 to 32-310;

23          (9) Prepare and transmit reports as required by the  
24 National Voter Registration Act of 1993, 42 U.S.C. 1973gg et seq.;

25          (10) Develop and print a manual describing the

1 requirements of the initiative and referendum process and  
2 distribute the manual to election commissioners and county clerks  
3 for distribution to the public upon request;

4 (11) Develop and print pamphlets described in section  
5 32-1405.01;

6 (12) Adopt and promulgate rules and regulations for  
7 elections conducted under sections 32-952 to 32-959; and

8 (13) Establish a free access system, such as a toll-free  
9 telephone number or an Internet web site, that any voter who casts  
10 a provisional ballot may access to discover whether the vote of  
11 that voter was counted and, if the vote was not counted, the  
12 reason that the vote was not counted. The Secretary of State  
13 shall establish and maintain reasonable procedures necessary to  
14 protect the security, confidentiality, and integrity of personal  
15 information collected, stored, or otherwise used by the free access  
16 system. Access to information about an individual provisional  
17 ballot shall be restricted to the individual who cast the ballot.

18 Sec. 2. Section 32-947, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 32-947 (1) Upon receipt of an application or other  
21 request for a ballot to vote early, the election commissioner or  
22 county clerk shall determine whether the applicant is a registered  
23 voter and is entitled to vote as requested. If the election  
24 commissioner or county clerk determines that the applicant is a  
25 registered voter entitled to vote early and the application was

1 received at or before 4 p.m. on the Wednesday preceding the  
 2 election, the election commissioner or county clerk shall deliver  
 3 a ballot to the applicant in person or by mail, postage paid.  
 4 The election commissioner or county clerk or any employee of  
 5 the election commissioner or county clerk shall write his or her  
 6 customary signature or initials on the ballot.

7 (2) An unsealed identification envelope shall be  
 8 delivered with the ballot, and upon the back of the envelope shall  
 9 be printed a form substantially as follows:

10 VOTER'S OATH

11 I, the undersigned voter, declare that the enclosed  
 12 ballot or ballots contained no voting marks of any kind when  
 13 I received them, and I caused the ballot or ballots to be  
 14 marked, enclosed in the identification envelope, and sealed in such  
 15 envelope.

16 My voting residence in Nebraska is ....., (street  
 17 and number or rural route and number) of ....., (city,  
 18 village, or township) Nebraska. I am a registered voter of the  
 19 State of Nebraska.

20 I hereby declare, under penalty of election  
 21 falsification, that the statements above are true to the  
 22 best of my knowledge.

23 To the best of my knowledge and belief, I declare under  
 24 penalty of election falsification that:

25 (a) I am a registered voter in ..... County;

1           (b) I reside in the State of Nebraska at the address  
2 printed below;

3           (c) I have voted the enclosed ballot and am returning it  
4 in compliance with Nebraska law; and

5           (d) I have not voted and will not vote in this election  
6 except by this ballot.

7           ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE  
8 INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION  
9 FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE  
10 STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS  
11 IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN  
12 THOUSAND DOLLARS, OR BOTH.

13           .....  
14           ~~(here follows space for signature of registered voter)~~

15           I also understand that failure to complete the  
16 information below will invalidate my ballot.

17           Signature .....  
18           Printed Name .....  
19           Residence Address .....

20           The primary election ballot, if any, within this envelope  
21 is a primary election ballot of the ..... party.

22           Ballots contained in this envelope are for the .....  
23 (primary, general, or special) election to be held on the ..... day  
24 of ..... 20.. .

25           (3) If the ballot and identification envelope will be

1 returned by mail or by someone other than the voter, the election  
2 commissioner or county clerk shall include with the ballot an  
3 identification envelope upon the face of which shall be printed the  
4 official title and post office address of the election commissioner  
5 or county clerk.

6 (4) The election commissioner or county clerk shall also  
7 enclose with the ballot materials:

8 (a) A registration application, if the election  
9 commissioner or county clerk has determined that the applicant  
10 is not a registered voter pursuant to section 32-945, with  
11 instructions that failure to return the completed and signed  
12 application indicating the residence address as it appears on the  
13 voter's request for a ballot to the election commissioner or county  
14 clerk by the close of the polls on election day will result in the  
15 ballot not being counted;

16 (b) A registration application and the oath pursuant to  
17 section 32-946, if the voter is without a residence address, with  
18 instructions that the residence address of the voter shall be  
19 deemed that of the office of the election commissioner or county  
20 clerk of the county of the voter's prior residence and that failure  
21 to return the completed and signed application and oath to the  
22 election commissioner or county clerk by the close of the polls on  
23 election day will result in the ballot not being counted; or

24 (c) Written instructions directing the voter to submit a  
25 copy of an identification document pursuant to section 32-318.01 if

1 the voter is required to present identification under such section  
2 and advising the voter that failure to submit identification to the  
3 election commissioner or county clerk by the close of the polls on  
4 election day will result in the ballot not being counted.

5 (5) The election commissioner or county clerk may enclose  
6 with the ballot materials a separate return envelope for the  
7 voter's use in returning his or her identification envelope  
8 containing the voted ballot, registration application, and other  
9 materials that may be required.

10 Sec. 3. Section 32-953, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 32-953 The election commissioner or county clerk shall  
13 mail the official ballot to all registered voters of the political  
14 subdivision at the addresses appearing on the voter registration  
15 register on the same day. The ballots shall be mailed by  
16 nonforwardable first-class mail not sooner than the twentieth  
17 day before the date set for the election and not later than the  
18 tenth day before the date set for the election. The election  
19 commissioner or county clerk shall include with the ballot a  
20 ~~secrecy envelope, a return~~ an unsealed identification envelope,  
21 meeting the requirements of subsection (2) of section 32-947 and  
22 instructions sufficient to describe the voting process.

23 Sec. 4. Section 32-954, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 32-954 Upon receipt of the official ballot, the

1 registered voter shall mark it, seal the ballot in the ~~secrecy~~  
2 ~~envelope~~, ~~sign the return~~ identification envelope supplied with  
3 the ballot, sign the identification envelope, and comply with the  
4 instructions provided with the ballot. The voter may return the  
5 ballot to the election commissioner or county clerk by mailing  
6 it or by personally delivering it to the office of the election  
7 commissioner or county clerk. The deadline for receipt of the  
8 ballot is 5 p.m. on the date set for the election. The official  
9 ballot must be returned in the ~~return~~ identification envelope.  
10 The registered voter shall, by signing the envelope, certify to  
11 the facts contained on the envelope. The election commissioner  
12 or county clerk shall keep the ~~return~~ identification envelopes  
13 received from registered voters unopened in a fireproof safe or  
14 other suitable location which is locked until delivered to the  
15 counting board.

16           Sec. 5. Section 32-957, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           32-957 An official ballot under section 32-953 shall be  
19 counted only if it is returned ~~in the sealed secrecy envelope~~  
20 ~~which is~~ in the ~~return~~ identification envelope, the envelope is  
21 signed by the voter to whom it was issued, and the signature  
22 is verified by the election commissioner or county clerk. The  
23 election commissioner or county clerk shall verify the signature on  
24 each ~~return~~ identification envelope received in his or her office  
25 with the signature appearing on the voter registration records. If

1 the election commissioner or county clerk is unable to verify a  
2 signature, the election commissioner or county clerk shall contact  
3 the voter within two days after determining that he or she is  
4 unable to verify the signature to ascertain whether the voter cast  
5 a ballot. The election commissioner or county clerk may request  
6 that the registered voter sign and submit a current signature card  
7 pursuant to section 32-318. The election commissioner or county  
8 clerk may begin verifying the signatures as the envelopes are  
9 received in his or her office. If the election commissioner or  
10 county clerk determines that a voter has voted more than once, no  
11 ballot cast by that voter in that election shall be counted. The  
12 election commissioner or county clerk shall not make public any  
13 record or list of registered voters who have returned their ballots  
14 until the election has been certified by the canvassing board.

15           Sec. 6. This act becomes operative on January 1, 2009.

16           Sec. 7. Original sections 32-202, 32-953, 32-954, and  
17 32-957, Reissue Revised Statutes of Nebraska, and section 32-947,  
18 Revised Statutes Cumulative Supplement, 2006, are repealed.

19           Sec. 8. The following section is outright repealed:  
20 Section 32-955, Reissue Revised Statutes of Nebraska.