

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 410

Introduced by Karpisek, 32; Council, 11; Nordquist, 7.

Read first time January 16, 2009

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 procedures for the recounting of ballots required
17 under subsection (1) of this section shall be the same as those
18 used for the counting of ballots on election day. The recount shall
19 be conducted at the county courthouse, except that if vote counting
20 devices are used for the counting or recounting, such counting
21 or recounting may be accomplished at the site of the devices.
22 Counties counting ballots by using a vote counting device shall
23 first recount the ballots by use of the device. If substantial
24 changes are found, the ballots shall then be counted using such
25 device in any precinct which might reflect a substantial change.

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

3 32-1121 ~~If any Any candidate who failed to be nominated~~
4 or elected by more than the margin provided in section 32-1119,
5 the losing candidate may submit a certified written request for a
6 manual recount at his or her expense. The request shall be filed
7 with the filing officer with whom the candidate filed for election
8 not later than the tenth day after the county canvassing board
9 or the board of state canvassers convenes. The recount shall be
10 conducted as provided in section 32-1119. ~~manually by the county~~
11 ~~canvassing board. The requesting candidate may provide the filing~~
12 ~~officer with a discretionary list of up to ten election precincts~~
13 ~~to be recounted first and may waive the balance of the recount~~
14 ~~after these precincts have been recounted. Prior to conducting the~~
15 ~~recount for a county or for a listed precinct, the cost of the~~
16 ~~recount shall be determined for both the county and the listed~~
17 ~~precinct by the election commissioner or county clerk and the~~
18 ~~requesting candidate shall be so notified. The candidate requesting~~
19 ~~the recount shall pay the estimated determined cost of the recount~~
20 ~~before the recount is scheduled to be conducted for a county or for~~
21 ~~a listed precinct. If the recount involves more than one county,~~
22 ~~the election commissioner or county clerk shall certify the cost to~~
23 ~~the Secretary of State. The Secretary of State shall then notify~~
24 ~~the candidate of the determined cost for each county and for listed~~
25 ~~precincts, and the determined cost shall be paid before any a~~

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1 recount is scheduled to be conducted for the county or for listed
2 precincts. The candidate shall pay the cost on demand to the county
3 treasurer of each county involved, and such sums shall be placed in
4 the county general fund to help defray the cost of the recount. If
5 the actual expense is less than the determined cost, the candidate
6 may file a claim with the county board for overpayment of the
7 recount. If the recount determines the candidate to be the winner,
8 all costs which he or she paid shall be refunded. Refunds shall be
9 made from the county general fund.

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