

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 736

Introduced by Schumacher, 22.

Read first time January 04, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-103, 32-202,
2 32-809, 32-813, 32-916, 32-936, 32-949, 32-950, 32-953,
3 32-954, 32-957, 32-1006, 32-1027, and 32-1030, Reissue
4 Revised Statutes of Nebraska, sections 32-101, 32-816,
5 32-915, and 32-1002, Revised Statutes Cumulative
6 Supplement, 2010, and section 32-947, Revised Statutes
7 Supplement, 2011; to require secret-ballot envelopes for
8 certain ballots; to change provisions relating to voting
9 and counting votes; to harmonize provisions; to provide
10 an operative date; and to repeal the original sections.

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

1 Section 1. Section 32-101, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 32-101 Sections 32-101 to 32-1551 and sections 3 and 4 of
4 this act shall be known and may be cited as the Election Act.

5 Sec. 2. Section 32-103, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 32-103 For purposes of the Election Act, the definitions
8 found in sections 32-104 to 32-120 and sections 3 and 4 of this act
9 shall be used.

10 Sec. 3. Return envelope means the envelope delivered to a
11 registered voter in which he or she places the secret-ballot envelope
12 and accompanying materials.

13 Sec. 4. Secret-ballot envelope means the envelope that is
14 provided to the voter by the election commissioner or county clerk,
15 that bears no characteristics which would identify the voter and into
16 which a registered voter may place his or her voted ballot before
17 placing it in the return envelope to return the ballot to the
18 election commissioner or county clerk.

19 Sec. 5. Section 32-202, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 32-202 In addition to any other duties prescribed by law,
22 the Secretary of State shall:

23 (1) Supervise the conduct of primary and general
24 elections in this state;

25 (2) Provide training for election commissioners, county

1 clerks, and other election officials in providing for registration of
2 voters and the conduct of elections;

3 (3) Enforce the Election Act;

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

6 (5) Provide periodic training for the agencies and their
7 agents and contractors in carrying out their duties under sections
8 32-308 to 32-310;

9 (6) Develop and print forms for use as required by
10 sections 32-308, 32-310, 32-320, 32-329, 32-947, 32-956, and 32-958;

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

13 (8) Require reporting to ensure compliance with sections
14 32-308 to 32-310;

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

17 (10) Develop and print a manual describing the
18 requirements of the initiative and referendum process and distribute
19 the manual to election commissioners and county clerks for
20 distribution to the public upon request;

21 (11) Develop and print pamphlets described in section
22 32-1405.01;

23 (12) Adopt and promulgate rules and regulations for
24 elections conducted under sections 32-952 to 32-959; ~~and~~

25 (13) Adopt and promulgate rules and regulations regarding

1 the procedure to remove secret-ballot envelopes from return envelopes
2 after verification of information on the return envelopes, remove
3 ballots from secret-ballot envelopes and return envelopes if a voter
4 did not use the secret-ballot envelope, and count the ballots in a
5 manner that does not impair the anonymity of the voter; and

6 ~~(13)~~-(14) Establish a free access system, such as a toll-
7 free telephone number or an Internet web site, that any voter who
8 casts a provisional ballot may access to discover whether the vote of
9 that voter was counted and, if the vote was not counted, the reason
10 that the vote was not counted. The Secretary of State shall establish
11 and maintain reasonable procedures necessary to protect the security,
12 confidentiality, and integrity of personal information collected,
13 stored, or otherwise used by the free access system. Access to
14 information about an individual provisional ballot shall be
15 restricted to the individual who cast the ballot.

16 Sec. 6. Section 32-809, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-809 (1) The form of the official ballot at the
19 statewide primary election shall be prescribed by the Secretary of
20 State. At the top of the ballot and over all else shall be printed in
21 boldface type the name of the political party, Official
22 Ballot, Primary Election 20.. . Each division containing the names of
23 the office and a list of candidates for such office shall be
24 separated from other groups by a bold line. The ballot shall list at-
25 large candidates and subdistrict candidates under appropriate

1 headings.

2 (2) All proposals for constitutional amendments,
3 candidates for delegates to the national political party conventions,
4 and candidates on the nonpartisan ballot shall be submitted on a
5 ballot where bold lines separate one office or issue from another.
6 Proposals for constitutional amendments proposed by the Legislature
7 shall be placed on the ballot as provided in sections 49-201 to
8 49-211. Each candidate for delegate to the national political party
9 convention shall have his or her preference for the candidacy for the
10 office of President of the United States or the fact that he or she
11 is uncommitted shown on the ballot in parenthesis and indented on the
12 line immediately below the name of the candidate. All constitutional
13 amendments shall be placed on a separate ballot when a paper ballot
14 is used which requires the ballot after being voted to be folded
15 before being deposited in a ballot box. When an optical-scan ballot
16 is used which requires a ~~ballot envelope or secret-ballot envelope or~~
17 ballot sleeve in which the ballot after being voted is placed before
18 being deposited in a ballot box, constitutional amendments may be
19 printed on either side of the ballot and shall be separated from
20 other offices or issues by a bold line. Constitutional amendments so
21 arranged shall constitute a separate ballot.

22 (3) The statewide primary election ballot shall contain
23 the name of every candidate filing under sections 32-606, 32-611, and
24 32-613 and no other names. No name of a candidate for member of the
25 Legislature or an elective office described in Article IV, section 1,

1 of the Constitution of Nebraska shall appear on any ballot or any
2 series of ballots at any primary election more than once except for
3 the names of candidates for the office of delegate to a county,
4 state, or national political party convention. When two or more of
5 the last names of candidates for the same office at the primary
6 election are the same in spelling or sound, the official ballots may,
7 on the request of any such candidate, have his or her address printed
8 immediately below his or her name in capital and lowercase letters in
9 lightface type of the same size as the type in which the name of the
10 candidate is printed.

11 Sec. 7. Section 32-813, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 32-813 (1) The names of all candidates and all proposals
14 to be voted upon at the general election shall be arranged upon the
15 ballot in parts separated from each other by bold lines in the order
16 the offices and proposals are set forth in this section. If any
17 office is not subject to the upcoming election, the office shall be
18 omitted from the ballot and the remaining offices shall move up so
19 that the same relative order is preserved. The order of any offices
20 may be altered to allow for the best utilization of ballot space in
21 order to avoid printing a second ballot when one ballot would be
22 sufficient if an optical-scan ballot is used. All proposals on the
23 ballot shall remain separate from the offices, and the proposals
24 shall follow all offices on the ballot.

25 (2)(a) If the election is in a year in which a President

1 of the United States is to be elected, the names and spaces for
2 voting for candidates for President and Vice President shall be
3 entitled Presidential Ticket in boldface type.

4 (b) The names of candidates for President and Vice
5 President for each political party shall be grouped together, and
6 each group shall be enclosed with brackets with the political party
7 name next to the brackets and one square or oval opposite the names
8 in which the voter indicates his or her choice.

9 (c) The names of candidates for President and Vice
10 President who have successfully petitioned on the ballot for the
11 general election shall be grouped together with the candidates
12 appearing on the same petition being grouped together, and each group
13 shall be enclosed with brackets with the words "By Petition" next to
14 the brackets and one square or oval opposite the names in which the
15 voter indicates his or her choice.

16 (d) Beneath the names of the candidates for President and
17 Vice President certified by the officers of the national political
18 party conventions pursuant to section 32-712 and beneath the names of
19 all candidates for President and Vice President placed on the general
20 election ballot by petition, two write-in lines shall be provided in
21 which the voter may fill in the names of the candidates of his or her
22 choice. The lines shall be enclosed with brackets with one square or
23 oval opposite the names in which the voter indicates his or her
24 choice. The name appearing on the top line shall be considered to be
25 the candidate for President, and the name appearing on the second

1 line shall be considered to be the candidate for Vice President.

2 (3) The names and spaces for voting for candidates for
3 United States Senator if any are to be elected shall be entitled
4 United States Senatorial Ticket in boldface type.

5 (4) The names and spaces for voting for candidates for
6 Representatives in Congress shall be entitled Congressional Ticket in
7 boldface type. Above the candidates' names, the office shall be
8 designated For Representative in Congress District.

9 (5) The names and spaces for voting for candidates for
10 the various state officers shall be entitled State Ticket in boldface
11 type. Each set of candidates shall be separated by lines across the
12 column, and above each set of candidates shall be designated the
13 office for which they are candidates, arranged in the order
14 prescribed by the Secretary of State. The candidates for Governor of
15 each political party receiving the highest number of votes in the
16 primary election shall be grouped together with their respective
17 candidates for Lieutenant Governor. Each group shall be enclosed with
18 brackets with the political party name next to the brackets and one
19 square or oval opposite the names in which the voter indicates his or
20 her choice for Governor and Lieutenant Governor jointly. The
21 candidates for Governor and Lieutenant Governor who have successfully
22 petitioned on the general election ballot shall be grouped together
23 with the candidates appearing on the same petition being grouped
24 together. Each group shall be enclosed with brackets with the words
25 "By Petition" next to the brackets and one square or oval opposite

1 the names in which the voter indicates his or her choice for Governor
2 and Lieutenant Governor jointly. Beneath the names of the candidates
3 for Governor nominated at a primary election by political party and
4 their respective candidates for Lieutenant Governor and beneath the
5 names of all candidates for Governor and Lieutenant Governor placed
6 on the general election ballot by petition, one write-in line shall
7 be provided in which the registered voter may fill in the name of the
8 candidate for Governor of his or her choice and one square or oval
9 opposite the line in which the voter indicates his or her choice for
10 Governor.

11 (6) The names and spaces for voting for nonpartisan
12 candidates shall be entitled Nonpartisan Ticket in boldface type. The
13 names of all nonpartisan candidates shall appear in the order listed
14 in this subsection, except that when using an optical-scan ballot,
15 the order of offices may be altered to allow for the best utilization
16 of ballot space to avoid printing a second ballot when one ballot
17 would be sufficient:

- 18 (a) Legislature;
- 19 (b) State Board of Education;
- 20 (c) Board of Regents of the University of Nebraska;
- 21 (d) Chief Justice of the Supreme Court;
- 22 (e) Judge of the Supreme Court;
- 23 (f) Judge of the Court of Appeals;
- 24 (g) Judge of the Nebraska Workers' Compensation Court;
- 25 (h) Judge of the District Court;

1 (i) Judge of the Separate Juvenile Court;

2 (j) Judge of the County Court; and

3 (k) County officers in the order prescribed by the
4 election commissioner or county clerk.

5 (7) The names and spaces for voting for the various
6 county offices and for measures submitted to the county vote only or
7 in only a part of the county shall be entitled County Ticket in
8 boldface type. If the election commissioner or county clerk deems it
9 advisable, the measures may be submitted on a separate ballot if
10 using a paper ballot or on either side of an optical-scan ballot if
11 the ballot is placed in a ~~ballot envelope or secret-ballot envelope~~
12 or ballot sleeve before being deposited in a ballot box.

13 (8) The candidates for office in the precinct only or in
14 the city or village only shall be printed on the ballot, except that
15 if the election commissioner or county clerk deems it advisable,
16 candidates for these offices may be submitted on a separate ballot if
17 using a paper ballot or on either side of an optical-scan ballot if
18 the ballot is placed in a ~~ballot envelope or secret-ballot envelope~~
19 or ballot sleeve before being deposited in a ballot box.

20 (9) All proposals submitted by initiative or referendum
21 and proposals for constitutional amendments shall be placed on a
22 separate ballot when a paper ballot is used which requires that the
23 ballot after being voted be folded before being deposited in a ballot
24 box. When an optical-scan ballot is used which requires a ~~ballot~~
25 envelope or secret-ballot envelope or ballot sleeve in which the

1 ballot after being voted is placed before being deposited in a ballot
2 box, initiative or referendum proposals and proposals for
3 constitutional amendments may be placed on either side of the ballot,
4 shall be separated by a bold line, and shall follow all other offices
5 placed on the same side of the ballot. Initiative or referendum
6 proposals and constitutional amendments so arranged shall constitute
7 a separate ballot. Proposals for constitutional amendments proposed
8 by the Legislature shall be placed on the ballot as provided in
9 sections 49-201 to 49-211.

10 Sec. 8. Section 32-816, Revised Statutes Cumulative
11 Supplement, 2010, is amended to read:

12 32-816 (1) A blank space shall be provided at the end of
13 each office division on the ballot for registered voters to fill in
14 the name of any person for whom they wish to vote and whose name is
15 not printed upon the ballot, except that at the primary election
16 there shall be no write-in space for delegates to the county
17 political party convention or delegates to the national political
18 party convention. A square or oval shall be printed opposite each
19 write-in space similar to the square or oval placed opposite other
20 candidates and issues on the ballot. The square or oval shall be
21 marked to vote for a write-in candidate whose name appears in the
22 write-in space provided.

23 (2) The Secretary of State shall approve write-in space
24 for optical-scan ballots and electronic voting systems. Adequate
25 provision shall be made for write-in votes sufficient to allow one

1 write-in space for each office to be elected at any election except
2 offices for which write-in votes are specifically prohibited. The
3 write-in ballot shall clearly identify the office for which such
4 write-in vote is cast. The write-in space shall be a part of the
5 official ballot, may be on the secret-ballot envelope or a separate
6 piece of paper from the printed portion of the ballot, and shall
7 allow the voter adequate space to fill in the name of the candidate
8 for whom he or she desires to cast his or her ballot.

9 Sec. 9. Section 32-915, Revised Statutes Cumulative
10 Supplement, 2010, is amended to read:

11 32-915 (1) A person whose name does not appear on the
12 precinct list of registered voters at the polling place for the
13 precinct in which he or she resides, whose name appears on the
14 precinct list of registered voters at the polling place for the
15 precinct in which he or she resides at a different residence address
16 as described in section 32-914.02, or whose name appears with a
17 notation that he or she received a ballot for early voting may vote a
18 provisional ballot if he or she:

19 (a) Claims that he or she is a registered voter who has
20 continuously resided in the county in which the precinct is located
21 since registering to vote;

22 (b) Is not entitled to vote under section 32-914.01 or
23 32-914.02;

24 (c) Has not registered to vote or voted in any other
25 county since registering to vote in the county in which the precinct

1 is located;

2 (d) Has appeared to vote at the polling place for the
3 precinct to which the person would be assigned based on his or her
4 residence address; and

5 (e) Completes and signs a registration application before
6 voting.

7 (2) A voter whose name appears on the precinct list of
8 registered voters for the polling place with a notation that the
9 voter is required to present identification pursuant to section
10 32-318.01 but fails to present identification may vote a provisional
11 ballot if he or she completes and signs a registration application
12 before voting.

13 (3) Each person voting by provisional ballot shall
14 ~~enclose~~seal his or her ballot in an ~~a~~ secret-ballot envelope. The
15 voter shall place the secret-ballot envelope in a return envelope
16 marked Provisional Ballot and shall, by signing the certification on
17 the front of the envelope or a separate form attached to the
18 envelope, certify to the following facts:

19 (a) I am a registered voter in County;

20 (b) My name or address did not correctly appear on the
21 precinct list of registered voters;

22 (c) I registered to vote on or about this
23 date

24 (d) I registered to vote
25 in person at the election office or a voter

1 registration site,

2 by mail,

3 on a form through the Department of Motor Vehicles,

4 on a form through another state agency,

5 in some other way;

6 (e) I have not resided outside of this county or voted
7 outside of this county since registering to vote in this county;

8 (f) My current address is shown on the registration
9 application completed as a requirement for voting by provisional
10 ballot; and

11 (g) I am eligible to vote in this election and I have not
12 voted and will not vote in this election except by this ballot.

13 (4) The voter shall sign the certification under penalty
14 of election falsification. The following statements shall be on the
15 front of the envelope or on the attached form: By signing the front
16 of this envelope or the attached form you are certifying to the
17 information contained on this envelope or the attached form under
18 penalty of election falsification. Election falsification is a Class
19 IV felony and may be punished by up to five years imprisonment, a
20 fine of up to ten thousand dollars, or both.

21 (5) If the person's name does not appear on the precinct
22 list of registered voters for the polling place and the judge or
23 clerk of election determines that the person's residence address is
24 located in another precinct within the same county, the judge or
25 clerk of election shall direct the person to his or her correct

1 polling place to vote.

2 Sec. 10. Section 32-916, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 32-916 (1) Two judges of election or a precinct inspector
5 and a judge of election shall affix their initials to the official
6 ballots. The judge of election shall deliver a ballot to each
7 registered voter after complying with section 32-914.

8 (2) After voting the ballot, the registered voter shall,
9 as directed by the judge of election, fold his or her ballot or place
10 the ballot in the ~~ballot envelope or secret-ballot envelope or ballot~~
11 sleeve so as to conceal the voting marks and to expose the initials
12 affixed on the ballot. The registered voter shall, without delay and
13 without exposing the voting marks upon the ballot, deliver the ballot
14 to the judge of election before leaving the enclosure in which the
15 voting booths are placed.

16 (3) The judge of election shall, without exposing the
17 voting marks on the ballot, approve the exposed initials upon the
18 ballot and deposit the ballot in the ballot box in the presence of
19 the registered voter. No judge of election shall deposit any ballot
20 in a ballot box unless the ballot has been identified as having the
21 appropriate initials. Any ballot not properly identified shall be
22 rejected in the presence of the voter, the judge of election shall
23 make a notation on the ballot Rejected, not properly identified, and
24 another ballot shall be issued to the voter and the voter shall then
25 be permitted to cast his or her ballot. If the ballot is in order,

1 the judge shall deposit the ballot in the ballot box in the presence
2 of the voter and the voter shall promptly leave the polling place.
3 The judges of election shall maintain the secrecy of the rejected
4 ballots and shall cause the rejected ballots to be made up in a
5 sealed packet. The judges of election shall endorse the packet with
6 the words Rejected Ballots and the designation of the precinct. The
7 judges of election shall sign the endorsement label and shall return
8 the packet to the election commissioner or county clerk with a
9 statement by the judges of election showing the number of ballots
10 rejected.

11 (4) Upon receiving a provisional ballot as provided in
12 section 32-915, the judge of election shall give the voter written
13 information that states that the voter may determine if his or her
14 vote was counted and, if not, the reason that the vote was not
15 counted by accessing the system created pursuant to section 32-202
16 and the judge of election shall ensure that the appropriate
17 information is on the outside of the return envelope in which the
18 secret-ballot envelope containing the ballot is enclosed or attached
19 to the return envelope, attach the statement required by section
20 32-915 if not contained on the return envelope, and place the entire
21 return envelope into the ballot box. Upon receiving a provisional
22 ballot as provided in section 32-915.01, the judge of election shall
23 comply with the requirements for a provisional ballot under this
24 subsection, except that a provisional ballot cast pursuant to section
25 32-915.01 shall be kept separate from the other ballots cast at the

1 election.

2 Sec. 11. Section 32-936, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 32-936 If satisfied that the application is proper and
5 that the applicant is qualified to vote under section 32-933, the
6 election commissioner or county clerk shall deliver to the applicant
7 a ballot for President and Vice President of the United States. After
8 voting the ballot, the voter shall securely seal the ballot in ~~an~~
9 secret-ballot envelope and place the secret-ballot envelope in a
10 return envelope furnished by the election commissioner or county
11 clerk. On the back of the return envelope shall be imprinted a
12 statement substantially as follows:

13 Certification of New (or Former) Resident Voter

14 I have qualified as a new (or former) resident voter in
15 this state or county. I have not applied nor do I intend to apply for
16 a ballot for early voting from the state, county in Nebraska, or
17 District of Columbia from which I have moved. I have not voted and I
18 will not vote otherwise than by this ballot.

19 The voter shall sign and date the certification upon the
20 return envelope. The election commissioner or county clerk shall keep
21 the return envelope in his or her office until delivered by him or
22 her to the counting board under section 32-1027.

23 Sec. 12. Section 32-947, Revised Statutes Supplement,
24 2011, is amended to read:

25 32-947 (1) Upon receipt of an application or other

1 request for a ballot to vote early, the election commissioner or
 2 county clerk shall determine whether the applicant is a registered
 3 voter and is entitled to vote as requested. If the election
 4 commissioner or county clerk determines that the applicant is a
 5 registered voter entitled to vote early and the application was
 6 received at or before 4 p.m. on the Wednesday preceding the election,
 7 the election commissioner or county clerk shall deliver a ballot to
 8 the applicant in person or by mail, postage paid. The election
 9 commissioner or county clerk or any employee of the election
 10 commissioner or county clerk shall write or cause to be affixed his
 11 or her customary signature or initials on the ballot.

12 (2) ~~An unsealed identification~~ A secret-ballot envelope
 13 and a return envelope shall be delivered with the ballot, and upon
 14 the back of the return envelope shall be printed a form substantially
 15 as follows:

16 VOTER'S OATH

17 I, the undersigned voter, declare that the enclosed
 18 ballot or ballots contained no voting marks of any kind when I
 19 received them, and I caused the ballot or ballots to be marked,
 20 enclosed in a secret-ballot envelope and the identification-return
 21 envelope, and sealed in such envelope- envelopes.

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

24 (a) I,, am a registered voter
 25 in County;

1 (b) I reside in the State of Nebraska
2 at

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 I also understand that failure to sign below will
14 invalidate my ballot.

15 Signature

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

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

21 ~~(3) If the ballot and identification envelope will be~~
22 ~~returned by mail or by someone other than the voter, the~~ The election
23 commissioner or county clerk shall include a secret-ballot envelope
24 with the ballot ~~an identification and a return envelope.~~ Upon ~~upon~~
25 the face of ~~which the return envelope~~ shall be printed the official

1 title and post office address of the election commissioner or county
2 clerk.

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

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

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

20 (c) Written instructions directing the voter to submit a
21 copy of an identification document pursuant to section 32-318.01 if
22 the voter is required to present identification under such section
23 and advising the voter that failure to submit identification to the
24 election commissioner or county clerk by the close of the polls on
25 election day will result in the ballot not being counted.

1 (5) The election commissioner or county clerk ~~may~~ shall
2 enclose with the ballot materials a ~~separate~~ return envelope for the
3 voter's use in returning his or her ~~identification~~ secret-ballot
4 envelope containing the voted ballot, his or her registration
5 application, and any other materials that may be required. The return
6 envelope shall be of sufficient size that the secret-ballot envelope,
7 registration application, and other materials can be conveniently
8 placed within it.

9 Sec. 13. Section 32-949, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 32-949 (1) After a ballot for early voting is received by
12 a voter and before placing any marks thereon, the voter shall note
13 whether there are any voting marks on the ballot and whether there is
14 a signature or initials on the ballot in the space provided for the
15 election official's signature or initials. If there are any voting
16 marks or no signature or initials, the ballot shall be returned
17 immediately to the election commissioner or county clerk. If there
18 are no such marks, the voter shall cause the ballot to be marked. If
19 the ballot is voted in the office of the election commissioner or
20 county clerk, the registered voter shall return the ballot, secret-
21 ballot envelope, and ~~identification~~ return envelope to the election
22 commissioner or county clerk or an employee of the election
23 commissioner or county clerk who shall deposit the secret-ballot
24 envelope containing the ballot into a ballot box and place the
25 ~~identification~~ return envelope in a secure container.

1 (2) If the voter is mailing or otherwise delivering the
2 ballot to the election commissioner or county clerk, the voter shall:

3 (a) Place the marked ballot in the secret-ballot envelope
4 and place the secret-ballot envelope in the identification-return
5 envelope received for that purpose in such a manner that the
6 signature of the issuing officer on the ballot is visible;

7 (b) Complete and sign the voter's oath on the outside of
8 the identification-return envelope under the penalty of election
9 falsification;

10 (c) Enclose, ~~in the identification envelope or separately~~
11 in the return envelope, ~~if one has been provided,~~ his or her
12 completed registration application if one was provided pursuant to
13 section 32-945 or 32-946, a copy of his or her identification
14 document if such identification has been requested, and the oath
15 completed and signed by a voter without a residence address if
16 required pursuant to section 32-946;

17 (d) Ensure that the secret-ballot envelope and the
18 ~~identification envelope or return envelope is~~ are sealed; and

19 (e) Mail, deliver, or cause to be delivered the return
20 envelope containing the ~~ballots~~ secret-ballot envelope and ballot and
21 any required materials to the election commissioner or county clerk
22 from whom it was received.

23 (3) All postage costs related to returning ~~such~~ the
24 ballots and required materials, if any, to the election commissioner
25 or county clerk shall be paid by the applicant.

1 Sec. 14. Section 32-950, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-950 Ballots issued under section 32-948 which are
4 returned not later than the hour established for the closing of the
5 polls shall be accepted for review by the counting board for early
6 voting. Such ballots received by the election commissioner or county
7 clerk after the close of the polls on election day shall remain
8 sealed in the return envelope on which the election commissioner or
9 county clerk shall write Rejected, received on, and the date on which
10 the ballot was received. If such a ballot was received on election
11 day but after the close of the polls, the election commissioner or
12 county clerk shall also write on the return envelope the time at
13 which the ballot was received. Such rejected ballots shall be
14 segregated and stored in a sealed container designated for Rejected
15 Early Ballots.

16 Sec. 15. Section 32-953, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-953 The election commissioner or county clerk shall
19 mail the official ballot to all registered voters of the political
20 subdivision at the addresses appearing on the voter registration
21 register on the same day. The ballots shall be mailed by
22 nonforwardable first-class mail not sooner than the twentieth day
23 before the date set for the election and not later than the tenth day
24 before the date set for the election. The election commissioner or
25 county clerk shall include with the ballot ~~an unsealed identification~~

1 a secret-ballot envelope and a return envelope meeting the
2 requirements of subsection (2) of section 32-947 and instructions
3 sufficient to describe the voting process.

4 Sec. 16. Section 32-954, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 32-954 Upon receipt of the official ballot, the
7 registered voter shall mark it, seal the ballot in the secret-ballot
8 envelope, seal the secret-ballot envelope in the identification
9 return envelope supplied with the ballot, sign the ~~identification~~
10 return envelope, and comply with the instructions provided with the
11 ballot. The voter may return the ballot to the election commissioner
12 or county clerk by mailing it or by personally delivering it to the
13 office of the election commissioner or county clerk. The deadline for
14 receipt of the ballot is 5 p.m. on the date set for the election. The
15 official ballot must be sealed in the secret-ballot envelope and
16 returned in the ~~identification-return~~ envelope. The registered voter
17 shall, by signing the return envelope, certify to the facts contained
18 on the return envelope. The election commissioner or county clerk
19 shall keep the ~~identification-return~~ envelopes received from
20 registered voters unopened in a fireproof safe or other suitable
21 location which is locked until delivered to the counting board.

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

24 32-957 An official ballot under section 32-953 shall be
25 counted only if it is returned in the ~~identification-return~~ envelope,

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

20 Sec. 18. Section 32-1002, Revised Statutes Cumulative
21 Supplement, 2010, is amended to read:

22 32-1002 (1) As the ballots are removed from the ballot
23 box pursuant to sections 32-1012 to 32-1018, the receiving board
24 shall separate the return envelopes containing the provisional
25 ballots from the rest of the ballots and deliver them to the election

1 commissioner or county clerk.

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

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

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

23 (a) Credible evidence exists that the voter was properly
24 registered in the county before the deadline for registration for the
25 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 as prescribed in subsection (6) of this section 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; and

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

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

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

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

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

1 (c) Credible evidence exists that the voter has voted
2 elsewhere or has otherwise voted early;

3 (d) The voter failed to complete and sign a registration
4 application pursuant to subsection (6) of this section and
5 subdivision (1)(e) of section 32-915;

6 (e) The residence address provided on the registration
7 application completed pursuant to subdivision (1)(e) of section
8 32-915 is in a different county or in a different precinct than the
9 county or precinct in which the voter voted;

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

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

18 (6) An error or omission of information on the
19 registration application or the certification required under section
20 32-915 shall not result in the provisional ballot not being counted
21 if:

22 (a)(i) The errant or omitted information is contained
23 elsewhere on the registration application or certification; or

24 (ii) The information is not necessary to determine the
25 eligibility of the voter to cast a ballot; and

1 (b) Both the registration application and the
2 certification are signed by the voter.

3 (7) Upon determining that the voter's provisional ballot
4 is eligible to be counted, the election commissioner or county clerk
5 shall remove the secret-ballot envelope from the return envelope and
6 open the secret-ballot envelope and remove the ballot from the
7 secret-ballot envelope, or remove the ballot from the return envelope
8 if the voter did not use the secret-ballot envelope, without exposing
9 the marks on the ballot and shall place the ballot with the ballots
10 to be counted by the county canvassing board in a manner that does
11 not impair the anonymity of the voter as prescribed by the Secretary
12 of State.

13 (8) The election commissioner or county clerk shall
14 notify the system administrator of the system created pursuant to
15 section 32-202 as to whether the ballot was counted and, if not, the
16 reason the ballot was not counted.

17 (9) The verification and investigation shall be completed
18 within seven days after the election.

19 Sec. 19. Section 32-1006, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 32-1006 If a vote is cast for a candidate whose name is
22 printed on the ballot and a name is filled in on the line provided
23 for that purpose for the same office, the ballot shall be rejected
24 for the office involved. The counting board shall make the following
25 notation on the ballot card and on the ~~ballot~~-secret-ballot envelope

1 if any: Rejected for the office of, overvoted, and the
2 counting board shall immediately duplicate the overvoted ballot
3 omitting the overvoted portion of the ballot and number the original
4 ballot, ~~ballot-secret-ballot~~ envelope if any, and duplicate ballot
5 with the same identifying number. The identifying number shall be
6 assigned in numerical order, and the original ballot shall remain in
7 the ~~ballot-secret-ballot~~ envelope if any.

8 Sec. 20. Section 32-1027, Reissue Revised Statutes of
9 Nebraska, is amended to read:

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

1 (2) The counting board shall place all ~~identification~~
2 return envelopes in order and shall review each ~~returned~~
3 ~~identification-return envelope~~ pursuant to verification procedures
4 prescribed in subsections (3) and (4) of this section.

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

6 (a) The voter has provided his or her name, residence
7 address, and signature on the ~~voter identification-return envelope~~;

8 (b) The ballot has been received from the voter who
9 requested it and the residence address is the same address provided
10 on the voter's request for a ballot for early voting, by comparing
11 the information provided on the ~~identification-return envelope~~ with
12 information recorded in the record of early voters or the voter's
13 request;

14 (c) A completed and signed registration application has
15 been received from the voter by the deadline in section 32-302,
16 32-321, or 32-325 or by the close of the polls pursuant to section
17 32-945;

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

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

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

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

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

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

12 (iii) The ~~identification~~return envelope has been signed
13 by the voter;

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

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

21 (ii) The name on the ~~identification~~return envelope
22 appears to be that of the person who requested the ballot;

23 (iii) The residence address provided on the
24 ~~identification~~return envelope and on the registration application is
25 the same as the residence address as provided on the voter's request

1 for a ballot for early voting; and

2 (iv) The ~~identification~~-return envelope has been signed
3 by the voter;

4 (c) In the case of a ballot received from a voter without
5 a residence address who requested a ballot pursuant to section
6 32-946, the ballot shall be accepted for counting if:

7 (i) The name on the ~~identification~~-return envelope
8 appears to be that of a registered voter to whom a ballot has been
9 sent;

10 (ii) A valid registration application completed and
11 signed by the voter, for whom the residence address is deemed to be
12 the address of the office of the election commissioner or county
13 clerk pursuant to section 32-946, has been received by the election
14 commissioner or county clerk prior to the close of the polls on
15 election day;

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

20 (iv) The ~~identification~~-return envelope has been signed
21 by the voter; and

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

25 (i) The name on the ~~identification~~-return envelope

1 appears to be that of a registered voter to whom a ballot has been
2 issued or sent;

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

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

9 (iv) The ~~identification~~ return envelope has been signed
10 by the voter.

11 (5) In opening the ~~identification envelope or the return~~
12 envelope to determine if registration applications, oaths, or
13 identification documents have been enclosed by the voters from whom
14 they are required, the counting board shall make a good faith effort
15 to ensure that the ballot remains ~~folded~~ in the secret-ballot
16 envelope until the processing is complete and that the secrecy of the
17 vote is preserved, or if the voter did not use a secret-ballot
18 envelope, that the ballot is handled in a manner that does not impair
19 the anonymity of the voter, as prescribed by the Secretary of State.

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

1 counting 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 the
5 election.

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

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

24 Sec. 21. Section 32-1030, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 32-1030 All ~~identification~~ return envelopes, secret-
2 ballot envelopes, voted ballots, and rejected ballots and the
3 Rejected Ballots container shall be placed in the container for early
4 voting materials, and the container shall be sealed.

5 Sec. 22. This act becomes operative on January 1, 2013.

6 Sec. 23. Original sections 32-103, 32-202, 32-809,
7 32-813, 32-916, 32-936, 32-949, 32-950, 32-953, 32-954, 32-957,
8 32-1006, 32-1027, and 32-1030, Reissue Revised Statutes of Nebraska,
9 sections 32-101, 32-816, 32-915, and 32-1002, Revised Statutes
10 Cumulative Supplement, 2010, and section 32-947, Revised Statutes
11 Supplement, 2011, are repealed.