

LEGISLATIVE BILL 1054

Approved by the Governor April 17, 2002

Introduced by Schimek, 27; Aguilar, 35; Brown, 6; Burling, 33; McDonald, 41;
Smith, 48; Synowiecki, 7; Vrtiska, 1

AN ACT relating to government; to amend sections 19-616, 29-112 to 29-113, 32-223, 32-227, 32-228, 32-230, 32-241, 32-624, 32-914, 32-1119, 32-1303, 32-1304, 83-187, and 83-1,118, Reissue Revised Statutes of Nebraska, sections 29-2264, 32-231, 32-233, 32-235, 32-236, 32-628, 32-916, 32-947, and 32-1002, Revised Statutes Supplement, 2000, and section 32-101, Revised Statutes Supplement, 2001; to provide for vacancies in office for unexcused absences from municipal meetings; to require written notice regarding civil rights for convicted felons; to change provisions relating to poll workers, candidate filing forms, recall petitions, absentee ballots, and recounting ballots; to provide for provisional ballots; to change and provide penalties; to harmonize provisions; and to repeal the original sections.

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

Section 1. In all cities of the first and second classes and villages regardless of the form of government, in addition to the events listed in section 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the city council or board of trustees shall exist if a member is absent from more than five consecutive regular meetings of the council or board unless the absences are excused by a majority vote of the remaining members.

Sec. 2. Section 19-616, Reissue Revised Statutes of Nebraska, is amended to read:

19-616. The annual compensation of the mayor and a council member in cities adopting sections 19-601 to 19-648 shall be payable quarterly in equal installments, and shall be fixed by the council. The emoluments of any appointive or elective officer shall not be increased or diminished during the term for which such officer was elected or appointed, except that when there are officers elected or appointed to the council, or a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members of such council, board, or commission may be increased or diminished at the beginning of the full term of any member thereof. No person who ~~shall have~~ has resigned or vacated any office shall be eligible to the same during the time for which such person was elected or appointed when, during the same time, the emoluments have been increased. For each absence from regular meetings of the council, unless authorized by a two-thirds vote of all members thereof, there shall be deducted a sum equal to two percent of such annual salary. ~~Absence from five consecutive regular meetings shall operate to vacate the seat of a member, unless the absence is excused by the council by resolution setting forth such excuse and entered upon the journal.~~

Sec. 3. Section 29-112, Reissue Revised Statutes of Nebraska, is amended to read:

29-112. Any person sentenced to be punished for any felony, when ~~the sentence shall not have been~~ is not reversed or annulled, shall be deemed is incompetent to be an elector or juror, or to hold any office of honor, trust, or profit within this state, unless such ~~convict shall receive person receives~~ convict person shall be restored to his such civil rights and privileges, PROVIDED, such as enumerated or limited by the Board of Pardons. The warrant of discharge shall not release such convict person from the costs of his conviction, unless otherwise ordered by the Board of Pardons.

Sec. 4. Section 29-112.01, Reissue Revised Statutes of Nebraska, is amended to read:

29-112.01. Any person ~~heretofore or hereafter~~ sentenced to be punished for any felony, when the sentence is other than confinement in a Department of Correctional Services adult correctional facility, shall be restored to such civil rights as enumerated or limited by the Board of Pardons upon receipt from the Board of Pardons of a warrant of discharge, which shall be issued by such board upon receiving from the sentencing court a certificate showing satisfaction of the judgment and sentence entered against such person.

Sec. 5. Section 29-113, Reissue Revised Statutes of Nebraska, is amended to read:

29-113. Any person who ~~shall have~~ has been actually imprisoned in the penitentiary of any other state or territory of ~~this Union~~ the United States under sentence for the commission of any crime which, by the laws of this state, is punishable by imprisonment in a Department of Correctional Services adult correctional facility shall be deemed incompetent to be an elector or juror or to hold any office of honor, trust, or profit within this state, unless such convict has received a general pardon from the Board of Pardons of the state in which he or she was imprisoned agreeable to the laws thereof.

Sec. 6. Section 29-2264, Revised Statutes Supplement, 2000, is amended to read:

29-2264. (1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period or is discharged from probation prior to the termination of the period of probation, the sentencing court shall issue an order releasing the offender from probation. Such order in all felony cases shall provide notice that the person's voting rights are not restored upon completion of probation. The order shall include information on restoring such civil rights through the pardon process, including application to and hearing by the Board of Pardons. ~~and such order shall in all felony cases restore the offender's civil rights.~~

(2) Whenever any person is convicted of a misdemeanor or felony and is placed on probation by the court or is sentenced to a fine only, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation and after payment of any fine, petition the sentencing court to set aside the conviction.

(3) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;

(b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(4) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. The order shall:

(a) Nullify the conviction; and

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction.

(5) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the misdemeanor or felony whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the misdemeanor or felony in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved;

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act; or

(g) Preclude use of the conviction as evidence of commission of the misdemeanor or felony for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1905 or 71-1908 to 71-1917 or a certificate issued under sections 79-806 to 79-816 should be denied, suspended, or revoked.

(6) ~~This~~ Except as otherwise provided for the notice in subsection (1) of this section, this section shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to June 11, 1993.

Sec. 7. Section 32-101, Revised Statutes Supplement, 2001, is amended to read:

32-101. Sections 32-101 to 32-1551 and section 20 of this act shall be known and may be cited as the Election Act.

Sec. 8. Section 32-223, Reissue Revised Statutes of Nebraska, is amended to read:

32-223. (1) For each precinct except as provided in subsection (2) of this section, the election commissioner shall appoint a precinct inspector and a receiving board to consist of at least two judges and two clerks of election. ~~to serve as a receiving board. The election commissioner shall also appoint one precinct inspector for each precinct.~~ The election commissioner may appoint district inspectors to aid the election commissioner in the performance of his or her duties and supervise a group of precincts on election day.

(2) In precincts in which voting machines or punch card voting systems are used, the receiving board shall have at least three members. When more than one voting machine is used, there shall be one additional member for each additional machine. When more than one punch card voting device is used, the election commissioner shall appoint additional members if necessary.

(3) The election commissioner may allow persons serving on a receiving board as judges and clerks of election and precinct inspectors to serve for part of the time the polls are open and appoint other judges and clerks of election and precinct inspectors to serve on the same receiving board for the remainder of the time the polls are open.

(4) On each receiving board at any one time, one judge and one clerk of election shall be registered voters of the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, and one judge and one clerk of election shall be registered voters of the political party casting the next highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, except that one judge or clerk of election may be a registered voter who is not affiliated with either of such parties. If a third judge is appointed, such judge shall be a registered voter of the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election. All precinct and district inspectors shall be divided between all political parties as nearly as practicable in proportion to the number of votes cast in such county at the immediately preceding general election for Governor or for President of the United States by the parties, respectively.

Sec. 9. Section 32-227, Reissue Revised Statutes of Nebraska, is amended to read:

32-227. The judges and clerks of election, precinct and district inspectors, and other temporary election workers shall receive wages at no less than the minimum rate set in section 48-1203 for each hour of service rendered. The election commissioner shall determine the rate of pay and may vary the rate based on the duties of each position. Each such election worker ~~except that no judge or clerk of a receiving board shall receive pay for more than fifteen hours of service in precincts having a separate counting board. Precinct and district inspectors shall be paid the wages at such minimum rate plus an additional sixty cents per hour for the hours they serve. Each judge, clerk, and inspector shall sign an affidavit stating the number of hours he or she has worked.~~

Sec. 10. Section 32-228, Reissue Revised Statutes of Nebraska, is amended to read:

32-228. (1) The election commissioner shall notify each person appointed as a judge or clerk of election, precinct inspector, ~~or~~ district inspector, member of a counting board, or member of a canvassing board of the appointment by letter. Such letter shall be mailed at least fifteen days prior to the required reporting date for each statewide primary and general election. Each appointee shall, at the time fixed in the notice of appointment, report to the office of the election commissioner or other designated location to complete any informational forms and receive instructions as to training regarding his or her duties. Such ~~The training shall include instruction as required by the Secretary of State and any other training deemed necessary by the election commissioner. Each appointee, if found qualified and unless excused by reason of ill health or other good and sufficient reason, shall serve as a judge or clerk of election or inspector for the term of his or her appointment. A violation of this section by an appointee is~~

(2) An appointee who fails to serve for such term, unless excused by reason of ill health or other good and sufficient reason, is guilty of a Class V misdemeanor. The election commissioner shall submit the names of appointees violating this section subsection to the local law enforcement agency for

citation pursuant to sections 32-1549 and 32-1550.

Sec. 11. Section 32-230, Reissue Revised Statutes of Nebraska, is amended to read:

32-230. (1) As provided in subsection ~~(4)~~ (5) of this section, the precinct committeeman and committeewoman of each political party shall appoint a receiving board consisting of three judges of election and two clerks of election except as provided in subsection (3) of this section and a counting board if required pursuant to section 32-234 consisting of two judges of election and two clerks of election. The chairperson of the county central committee of each political party shall send the names of the appointments to the county clerk at least sixty days before no later than February 1 prior to the primary election.

(2) If no names are submitted by the chairperson, the county clerk shall appoint judges or clerks of election from the appropriate political party. Judges and clerks of election may be selected at random from a cross section of the population of the county. All qualified citizens shall have the opportunity to be considered for service. All qualified citizens shall fulfill their obligation to serve as judges or clerks of election as prescribed by the county clerk. No citizen shall be excluded from service as a result of discrimination based upon race, color, religion, sex, national origin, or economic status. No citizen shall be excluded from service unless excused by reason of ill health or other good and sufficient reason.

(3) In precincts in which voting machines or punch card voting systems are used, the receiving board shall have at least three members. When more than one voting machine is used, there shall be one additional member for each additional machine. When more than one punch card voting device is used, the county clerk shall appoint additional members if necessary.

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

(5) ~~In For~~ each precinct at any one time, one judge and one clerk of election shall be appointed from the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, one judge and one clerk shall be appointed from the political party casting the next highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, and one judge shall be appointed from the political party casting the third highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election. If the political party casting the third highest number of votes cast less than ten percent of the total vote cast in the county at the immediately preceding general election, the political party casting the highest number of votes at the immediately preceding general election shall be entitled to two judges and one clerk. If a counting board is required pursuant to section 32-234, one judge and one clerk of election shall be appointed to be members of the counting board from the political party casting the highest number of votes for Governor or for President of the United States in the county in the immediately preceding general election and one judge and one clerk of election shall be appointed to be members of the counting board from the political party casting the next highest number of votes.

~~(5)~~ (6) The county clerk may appoint registered voters to serve in case of a vacancy among any of the judges or clerks of election or in addition to the judges and clerks in any precinct when necessary to meet any situation that requires additional judges and clerks. Such appointees may include registered voters unaffiliated with any political party. Such appointees shall serve at subsequent or special elections as determined by the county clerk.

Sec. 12. Section 32-231, Revised Statutes Supplement, 2000, is amended to read:

32-231. (1) Each judge and clerk of election appointed pursuant to section 32-230 shall (a) be of good repute and character and able to read and write the English language, (b) reside in the precinct in which he or she is to serve unless necessity demands that personnel be appointed from another precinct, (c) be a registered voter, and (d) serve for a term of two years or until judges and clerks of election are appointed for the next primary election. No candidate at an election shall be eligible to serve as a judge or clerk of election at the same election other than a candidate for a delegate to a county, state, or national political party convention.

(2) The county clerk may appoint district inspectors to aid the county clerk in the performance of his or her duties and supervise a group of

precincts on election day. A district inspector shall meet the requirements for judges and clerks of election as provided in subsection (1) of this section, shall oversee the procedures of a group of polling places, and shall act as the personal agent and deputy of the county clerk. The district inspector shall ensure that the Election Act is uniformly enforced at the polling places assigned to him or her and perform tasks assigned by the county clerk. The district inspector may perform all of the duties required of a judge or clerk of election. ~~or a precinct inspector.~~

Sec. 13. Section 32-233, Revised Statutes Supplement, 2000, is amended to read:

32-233. Judges and clerks of election, district inspectors, messengers, and other temporary election workers shall receive wages at no less than the minimum rate set in section 48-1203 for each hour of service rendered. The county clerk shall determine the rate of pay and may vary the rate based on the duties of each position. Each such election worker, ~~except that in precincts having a counting board, no member of the receiving board shall receive pay for more than fifteen hours of service. District inspectors shall be paid the wages at such minimum rate plus an additional sixty cents per hour for the hours they serve.~~ Each judge or clerk of election and each district inspector shall sign an affidavit stating the number of hours he or she has worked. Each messenger appointed pursuant to section 32-232 shall receive five dollars plus mileage at the rate provided in section ~~§1-1176.~~

Sec. 14. Section 32-235, Revised Statutes Supplement, 2000, is amended to read:

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

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

Sec. 15. Section 32-236, Revised Statutes Supplement, 2000, is amended to read:

32-236. Each judge and clerk of election appointed pursuant to subsection ~~(4)~~ (5) of section 32-230 and each district inspector appointed pursuant to subsection (2) of section 32-231 shall serve at all elections, except city and village elections, held in the county or precinct during his or her two-year term unless excused. A violation of this section by an appointee is a Class V misdemeanor. The county clerk shall submit the names of appointees violating this section to the local law enforcement agency for citation pursuant to sections 32-1549 and 32-1550.

Sec. 16. Section 32-241, Reissue Revised Statutes of Nebraska, is amended to read:

32-241. (1) Any person who is appointed in any county to serve as a judge or clerk of election or precinct or district inspector shall not be subject to discharge from employment, loss of pay, loss of overtime pay, loss of sick leave, loss of vacation time, the threat of any such action, or any other form of penalty as a result of his or her absence from employment due to such service if he or she gives reasonable notice to his or her employer of such appointment. Reasonable notice shall be waived for those persons appointed as judges or clerks of election on the day of election to fill vacancies. Any such person shall be excused upon request from any shift work, without loss of pay, for the hours he or she is required to serve and, if he or she is required to serve eight hours or more, for eight hours prior to and eight hours following the hours ~~those days~~ he or she is required to serve.

(2) No employer shall subject an employee serving as a judge or clerk of election or precinct or district inspector to coercion, discharge from employment, loss of pay, loss of overtime pay, loss of sick leave, loss of vacation time, the threat of any such action, or any other form of penalty on account of his or her absence from employment by reason of such service, except that an employer may reduce the pay of an employee for each hour of work missed by an amount equal to the hourly compensation other than expenses paid to the employee by the county for such service.

(3) A violation of this section is a Class V misdemeanor. The

election commissioner or county clerk shall submit the names of persons violating this section to the local law enforcement agency for citation pursuant to sections 32-1549 and 32-1550.

(4) The election commissioner or county clerk shall not provide a list of judges or clerks of election or precinct or district inspectors to any committee or to any person until the election has been completed.

Sec. 17. Section 32-624, Reissue Revised Statutes of Nebraska, is amended to read:

32-624. All A candidate filing forms form which appear appears to conform with sections 32-606 and 32-607 shall be deemed to be valid unless objections are made in writing within ~~twenty days after the filing of the same.~~ No objection shall be duly made more than five seven days after the filing deadline. If an objection is made, notice shall be mailed to all candidates who may be affected thereby. Any political party committee may institute actions in court based upon fraud or crime resorted to in connection with the candidate filing forms or the acceptance of a nomination. No county committee shall have the authority to bring such action as to candidates for congressional or state office or as to candidates to be elected from legislative districts composed of more than one county. A state political party committee may institute actions to determine the legality of any candidate for a state or congressional office or for any district office if the district composes more than one county. Objections to the use of the name of a political party may also be made and passed upon in the same manner as objections to a candidate filing form or other acceptance of nomination.

The filing officer with whom the candidate filing form was filed shall determine the validity of such objection, and his or her decision shall be final unless an order is made in the matter by a judge of the county court, district court, Court of Appeals, or Supreme Court on or before the fifty-fifth day preceding the election. Such order may be made summarily upon application of any political party committee or other interested party and upon such notice as the court or judge may require. The decision of the Secretary of State or the order of the judge shall be binding on all filing officers.

Sec. 18. Section 32-628, Revised Statutes Supplement, 2000, is amended to read:

32-628. (1) All petitions prepared or filed pursuant to the Election Act or any petition which requires the election commissioner or county clerk to verify signatures by utilizing the voter registration register shall provide a space at least two and one-half inches long for written signatures, a space at least two inches long for printed names, and sufficient space for date of birth and street name and number, city or village, and zip code. Lines on each petition shall not be less than one-fourth inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petitions shall provide for no more than twenty signatures per page.

(2) For the purpose of preventing fraud, deception, and misrepresentation, every sheet of every petition containing signatures shall have upon it, above the signatures, the statements contained in this subsection, except that a petition for recall of an elected official shall also have the additional information specified in subsection (2) of section 32-1304. The statements shall be printed in boldface type in substantially the following form:

WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not, at the time of signing or circulating the petition, a registered voter and qualified to sign or circulate the petition except as provided for initiative and referendum petitions shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

(3) Every sheet of a petition which contains signatures shall have upon it, below the signatures, an affidavit as provided in this subsection, except that the affidavit for a petition for recall of an elected official shall also include the additional language specified in subsection (3) of section 32-1304. The affidavit shall be in substantially the following form:

STATE OF NEBRASKA)
) ss.
COUNTY OF)
....., (name of circulator) being first duly sworn,
deposes and says that he or she is the circulator of this petition containing

..... signatures, that he or she is a registered voter of the State of Nebraska, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

.....
Circulator

.....
Address

Subscribed and sworn to before me, a notary public, this day of 20.... at, Nebraska.

.....
Notary Public

(4) Each sheet of a petition shall have upon its face and in plain view of persons who sign the petition a statement in letters not smaller than sixteen-point type in red print on the petition. If the petition is circulated by a paid circulator, the statement shall be as follows: This petition is circulated by a paid circulator. If the petition is circulated by a circulator who is not being paid, the statement shall be as follows: This petition is circulated by a volunteer circulator.

Sec. 19. Section 32-914, Reissue Revised Statutes of Nebraska, is amended to read:

32-914. Official ballots shall be used at all elections. No person shall receive a ballot or be entitled to vote unless and until he or she is registered as a voter except as provided in section 32-914.01, 32-914.02, 32-915, or 32-936 or section 20 of this act. Except as otherwise specifically provided, no ballot shall be handed to any registered voter at any election until (1) he or she announces his or her name and address to the clerk of election, (2) the clerk has found that he or she is a registered voter at the address as shown by the precinct list of registered voters unless otherwise entitled to vote in the precinct under section 32-328, 32-914.01, 32-914.02, or 32-915 or section 20 of this act, (3) the clerk has instructed the registered voter to personally write his or her name in the precinct sign-in register on the appropriate line which follows the last signature of any previous voter, and (4) the clerk has listed on the precinct list of registered voters the corresponding line number and name of the registered voter.

Sec. 20. If a person is registered to vote but his or her name does not appear in the voter registration register and he or she is not entitled to vote under section 32-914.01 or 32-914.02, the person shall be entitled to vote upon completing a voter registration form at the polling place. The person shall enclose his or her ballot in an envelope marked Provisional Ballot and shall, by signing the front of the envelope or a separate form attached to the envelope, certify to the following facts:

(1) I am a registered voter in County;

(2) I registered to vote on approximately (write the approximate date you registered to vote);

(3) I registered to vote in person at the election office or a voter registration site, by mail, on a form through the Department of Motor Vehicles, on a form through another state agency, in some other way (check one); and

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

The certification shall be signed under penalty of election falsification. The following statements shall be on the front of the envelope or on the attached form: By signing the front of this envelope or the attached form you are certifying to the information contained on this envelope or the attached form under penalty of election falsification. Election falsification is a Class IV felony and may be punished by up to five years imprisonment, a fine of up to ten thousand dollars, or both.

Sec. 21. Section 32-916, Revised Statutes Supplement, 2000, is amended to read:

32-916. (1) Two judges of election or a precinct or district inspector and a judge of election shall affix their initials to the official ballots and ballot jackets if any. Before issuing any punch card ballot, the card shall be stamped with a rubber stamp designating that the ballot card is

an official ballot and the county in which the card is to be used. The stamp shall be placed on the portion of the ballot card which carries the ballot position numbers and on the stub which is to be reviewed by a judge of election. The stamp shall be furnished to each receiving board by the election commissioner or county clerk. The judge of election shall deliver a ballot to each registered voter after complying with section 32-914.

(2) After voting the ballot, the registered voter shall, as directed by the judge of election, fold his or her ballot or place the ballot in the ballot envelope, jacket, or sleeve so as to conceal the voting marks and to expose the initials affixed on the ballot. The registered voter shall, without delay and without exposing the voting marks upon the ballot, deliver the ballot to the judge of election before leaving the enclosure in which the voting booths or compartments are placed.

(3) The judge of election shall, without exposing the voting marks on the ballot, approve the exposed initials upon the ballot and deposit the ballot in the ballot box in the presence of the registered voter. When punch card ballots are used, the judge of election shall inspect the official initials on the ballot jacket and the official stamp on the stub of the official ballot card which is inside the ballot jacket and shall remove the stub before depositing the ballot in the ballot box. No judge of election shall deposit any ballot in a ballot box unless the ballot has been identified as having the appropriate initials. No judge of election shall deposit any ballot jacket in any ballot box unless the ballot jacket is properly identified. Any ballot or ballot jacket not properly identified shall be rejected in the presence of the voter, the judge of election shall make a notation on the ballot and the ballot jacket Rejected, not properly identified, and another ballot shall be issued to the voter and the voter shall then be permitted to cast his or her ballot. If the ballot and ballot jacket are in order, the judge shall deposit the ballot and ballot jacket in the ballot box in the presence of the voter and the voter shall promptly leave the polling place. The judges of election shall maintain the secrecy of the rejected ballots and shall cause the rejected ballots to be made up in a sealed packet. The judges of election shall endorse the packet with the words Rejected Ballots and the designation of the precinct. The judges of election shall sign the endorsement label and shall return the packet to the election commissioner or county clerk with a statement by the judges of election showing the number of ballots rejected.

(4) Upon receiving a conditional ballot as provided in section 32-915 or a provisional ballot as provided in section 20 of this act, the judge of election shall copy the information from the change of address form onto the envelope in which the ballot is enclosed or attach the form to the envelope, attach the statement required by section 32-915 or section 20 of this act if not contained on the envelope, and place the entire envelope into the ballot box.

Sec. 22. Section 32-947, Revised Statutes Supplement, 2000, is amended to read:

32-947. (1) Upon receipt of an application or other request for an absentee ballot, the election commissioner or county clerk shall deliver to the applicant in person or by mail, postage paid, an absentee ballot if he or she finds that the applicant is a registered voter and is entitled to vote an absentee ballot as applied for or requested. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write his or her customary signature on the absentee ballot.

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

ABSENTEE VOTER'S IDENTIFICATION

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

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

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

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

~~I request absentee general election ballots be sent to me yes~~
~~.... no.~~

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

THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

.....
(Signature of Voter)

(3) If the absentee ballot and identification envelope are delivered by mail or picked up at the office to be returned by mail, the election commissioner or county clerk shall include with the ballot an identification envelope upon the face of which shall be printed the official title and post office address of the election commissioner or county clerk. The election commissioner or county clerk shall include written instructions on marking and returning the absentee ballot, including notice that failure to sign the identification envelope and include his or her address on the identification envelope will result in the ballot not being counted.

Sec. 23. Section 32-1002, Revised Statutes Supplement, 2000, is amended to read:

32-1002. (1) As the ballots are removed from the ballot box pursuant to sections 32-1011 to 32-1026, the receiving board or counting board shall separate the envelopes containing the conditional and provisional ballots from the rest of the ballots and deliver them to the election commissioner or county clerk.

(2) Upon receipt of a conditional ballot, the election commissioner or county clerk shall copy the information from the envelope containing the conditional ballot, verify that it is in proper form and that such person has not voted anywhere else in the county, and make the appropriate changes to the voter registration register. The verification shall be completed within ~~fifteen~~ ten days after the election. Upon verifying the form, the election commissioner or county clerk shall remove the ballot from the envelope without exposing the marks on the ballot and shall place the ballot with the ballots to be counted by the county canvassing board.

(3) Upon receipt of a provisional ballot, the election commissioner or county clerk shall copy the information from the envelope containing the provisional ballot, verify that it is in proper form and that such person has not voted anywhere else in the county, and make the appropriate changes to the voter registration register. The election commissioner or county clerk shall investigate whether any credible evidence exists that the person was properly registered to vote before the election. The verification and investigation shall be completed within ten days after the election. Upon verifying the form and the existence of credible evidence that the person was properly registered to vote before the election, the election commissioner or county clerk shall remove the ballot from the envelope without exposing the marks on the ballot and shall place the ballot with the ballots to be counted by the county canvassing board.

Sec. 24. Section 32-1119, Reissue Revised Statutes of Nebraska, is amended to read:

32-1119. (1) If it appears as evidenced by the abstract of votes that any candidate failed to be nominated or elected by a margin of (a) one percent or less of the votes received by the candidate who received the highest number of votes for the office at an election in which more than five hundred total votes were cast or (b) two percent or less of the votes received by the candidate who received the highest number of votes for the office at an election in which five hundred or less total votes were cast, then such candidate shall be entitled to a recount. Any losing candidate may waive his or her right to a recount by filing a written statement with the Secretary of State, election commissioner, or county clerk with whom he or she made his or her filing. All expenses of a recount under this section shall be paid by those political subdivisions involved in the recount.

(2) Recounts shall be made by the county canvassing board which officiated in making the official county canvass of the election returns. If any member of the county canvassing board cannot participate in the recount, another person shall be appointed by the election commissioner or county clerk to take the member's place.

(3) Recounts for candidates who filed with the Secretary of State shall be made on the fifth Wednesday after the election and shall commence at 9 a.m. The Secretary of State shall inform each election commissioner or county clerk of the names of the candidates for which the board of state canvassers deems a recount to be necessary.

(4) The election commissioner or county clerk shall be responsible for recounting the ballots for those candidates for whom the county canvassing board deems a recount to be necessary. The recount shall be made as soon as possible after the adjournment of the county canvassing board, except that if a recount is required under subsection (3) of this section, the recounts may be conducted concurrently.

(5) The Secretary of State, election commissioner, or county clerk shall notify all candidates whose ballots will be recounted of the time, date, and place of the recount. Candidates whose ballots will be recounted may be present or be represented by an agent appointed by the candidate.

(6) The procedures for the recounting of ballots shall be the same as those used for the counting of ballots on election day. The recount shall be conducted at the county courthouse, except that if vote counting devices are used for the counting or recounting, such counting or recounting may be accomplished at the site of the devices. Counties counting ballots by using a vote counting device shall first recount the ballots by use of the device. If substantial changes are found, the ballots shall then be ~~manually~~ counted using such device in any precinct which might reflect a substantial change.

Sec. 25. Section 32-1303, Reissue Revised Statutes of Nebraska, is amended to read:

32-1303. (1) A petition demanding that the question of removing an elected official or member of a governing body listed in section 32-1302 be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent of the total vote cast for that office in the last general election, except that (a) for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least thirty-five percent of the number of votes cast for the person receiving the most votes for such office in the last general election, (b) for a member of a board of a Class I school district, the petition shall be signed by registered voters of the school district equal in number to at least twenty-five percent of the total number of registered voters residing in the district on the date that the recall petitions are first checked out from the filing clerk by the principal circulator, and (c) for a member of a governing body of a village, the petition shall be signed by registered voters equal in number to at least forty-five percent of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of sections 32-629 and 32-630. Each circulator of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of sixty words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of sixty words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within twenty days after the official receives the copy of the affidavit. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty days from the date of issuing the petitions.

(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to registered voters residing in the district who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of sections 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.

Sec. 26. Section 32-1304, Reissue Revised Statutes of Nebraska, is amended to read:

32-1304. (1) The Secretary of State shall design the uniform

petition papers to be distributed by all filing clerks and shall keep a sufficient number of such blank petition papers on file for distribution to any filing clerk requesting recall petitions. The petition papers shall as nearly as possible conform to the requirements of section 32-628.

(2) Each In addition to the requirements specified in section 32-628, for the purpose of preventing fraud, deception, and misrepresentation, every sheet of each petition paper presented to a registered voter for his or her signature shall indicate clearly at the top (a) have upon it, above the lines for signatures, (a) a statement that the signatories must be registered voters qualified by residence to vote for the office in question and support the holding of a recall election, (b) and (b) in letters not smaller than sixteen-point type in red print (i) the name and office of the individual sought to be recalled, and (c) a general statement of (ii) the reason or reasons for which recall is sought, (iii) the defense statement, if any, submitted by the official, and (iv) the name of the principal circulator or circulators of the recall petition. The decision of a county attorney to prosecute or not to prosecute any individual shall not be stated on a petition as a reason for recall.

(3) Every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, below the lines for signatures, an affidavit as required in subsection (3) of section 32-628 which also includes language substantially as follows: "and that the affiant stated to each signer, before the signer affixed his or her signature to the petition, the following: (a) The name and office of the individual sought to be recalled, (b) the reason or reasons for which recall is sought as printed on the petition, (c) the defense statement, if any, submitted by the official as printed on the petition, and (d) the name of the principal circulator or circulators of the recall petition."

(4) Each petition paper shall contain a statement entitled Instructions to Petition Circulators prepared by the Secretary of State to assist circulators in understanding the provisions governing the petition process established by sections 32-1301 to 32-1309. The instructions shall include the following statements:

(a) No one shall circulate this petition paper in an attempt to gather signatures unless he or she is registered to vote and qualified by his or her place of residence to vote for the office in question on the date of the issuance of the initial petition papers.

(b) No one circulating this petition paper in an attempt to gather signatures shall sign the circulator's affidavit unless each person who signed the petition paper did so in the presence of the circulator.

(c) No one circulating this petition paper in an attempt to gather signatures shall allow a person to sign the petition until the circulator has stated to the person (i) the object of the petition as printed on the petition, (ii) the name and office of the individual sought to be recalled, (iii) the reason or reasons for which recall is sought as printed on the petition, (iv) the defense statement, if any, submitted by the official as printed on the petition, and (v) the name of the principal circulator or circulators of the recall petition.

Sec. 27. Section 83-187, Reissue Revised Statutes of Nebraska, is amended to read:

83-187. (1) When a person committed to the Department of Correctional Services department is released from a facility, either on parole or upon final discharge, he the person shall be returned any personal possessions taken from him upon his confinement, and the chief executive officer of the facility shall furnish him the person with a written notice as required in section 83-1,118, clothing appropriate for the season of the year, a transportation ticket to the place where he or she will reside, if within the continental limits of the United States or if not, the state may purchase transportation to the nearest United States border en route to his such residence, and such sum of money as may be prescribed by the regulations of the Department of Correctional Services department to enable him the person to meet his or her immediate needs. If at the time of his release he the person is too ill or feeble or otherwise unable to use public means of transportation, the chief executive officer may make special arrangements for his transportation to the place where he the person will reside.

(2) At the time of his release, he the person shall also be paid his or her earnings and any accrued interest thereon set aside in the wage fund. Such earnings and interest shall be paid either in a lump sum or otherwise as determined by the chief executive officer to be in the best interest of the person. No less than one-third of such fund shall be paid upon release, and the entire fund shall be paid within six months of the person's release.

(3) The Department of Correctional Services department shall send a

copy of the release or discharge to the court which committed the person and also to the sheriff of the county in which the court is located and, when such county contains a city of the metropolitan class, to the police department of such city.

Sec. 28. Section 83-1,118, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,118. (1) If in the opinion of the board a parolee does not require guidance or supervision, the board may dispense with and terminate such supervision.

(2) The board may discharge a parolee from parole at any time if such discharge is compatible with the protection of the public and is in the best interest of the parolee.

(3) The board shall discharge a parolee from parole when the time served in the custody of the department and the time served on parole equal the maximum term less good time.

(4) The department shall discharge a committed offender from the custody of the department when the time served in the facility equals the maximum term less good time.

(5) ~~Whenever any committed offender has completed the lawful requirements of the sentence, the director shall issue a certificate of discharge to the offender, and the certificate shall restore the civil rights of the offender~~ Upon completion of the lawful requirements of the sentence, the department shall provide the parolee or committed offender with a written notice regarding his or her civil rights. The notice shall inform the parolee or committed offender that voting rights are not restored upon completion of the sentence. The notice shall also include information on restoring such civil rights through the pardon process, including application to and hearing by the Board of Pardons.

Sec. 29. Original sections 19-616, 29-112 to 29-113, 32-223, 32-227, 32-228, 32-230, 32-241, 32-624, 32-914, 32-1119, 32-1303, 32-1304, 83-187, and 83-1,118, Reissue Revised Statutes of Nebraska, sections 29-2264, 32-231, 32-233, 32-235, 32-236, 32-628, 32-916, 32-947, and 32-1002, Revised Statutes Supplement, 2000, and section 32-101, Revised Statutes Supplement, 2001, are repealed.