

## LEGISLATIVE BILL 98

Approved by the Governor March 22, 2005

Introduced by Schimek, 27; Cudaback, 36

AN ACT relating to elections; to amend sections 23-3557, 23-3575, 32-331, 32-558, 32-559, 32-807, 32-808, 32-936, 32-938 to 32-952, 32-958, 32-1027, 32-1030, 32-1031, 32-1032, 32-1502, 32-1539, 32-1544, 42-1207, and 53-122, Reissue Revised Statutes of Nebraska, and section 10-703.01, Revised Statutes Supplement, 2004; to provide for early voting; to delete references to absentee voting; to change provisions relating to special elections by mail; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 10-703.01, Revised Statutes Supplement, 2004, is amended to read:

10-703.01. In all special elections called for voting on the question of issuing bonds of the school district, the county clerk or election commissioner or, if the school district lies in more than one county, the county clerk or election commissioner in the county having the greatest number of electors entitled to vote on the question shall designate the polling places and appoint the election officials, who need not be the regular election officials, and otherwise conduct the election as provided under the Election Act except as otherwise specifically provided in this section. Any special election held under this section shall be subject to section 32-405. The school district shall designate the form of ballot and reimburse the county clerk or election official for the expenses of conducting the election as provided in sections 32-1201 to 32-1208. The school district officers shall give notice of the election at least twenty days prior to the election and cause the sample ballot to be published in a newspaper of general circulation in the school district one time not more than ten days nor less than three days prior to the election, and no notice of the election shall be required to be given by the county clerk or election commissioner. The notice of election shall state where ~~absentee~~ ballots for early voting may be obtained.

The ballots shall be counted by the county clerk or election commissioner conducting the election and two disinterested persons appointed by him or her. When the polls are closed, the receiving board shall deliver the ballots to the county clerk or election commissioner conducting the election who, with the two disinterested persons appointed by him or her, shall proceed to count the ballots.

~~Absentee ballots~~ Ballots for early voting shall be furnished to the county clerk or election commissioner and ready for distribution by the county clerk or election commissioner conducting the election not less than fifteen days prior to the election.

When a school district lies in more than one county, the county clerk or election commissioner in any other county containing part of such school district shall, upon request, certify its registration books for those precincts in which the school district is located to the county clerk or election commissioner conducting the election and shall immediately forward all requests for ~~absentee~~ ballots for early voting to the county clerk or election commissioner charged with the issuing of such ballots. Not less than five days prior to the election, the school district officers shall certify to the county clerk or election commissioner conducting the election a list of all registered voters of the school district in any other county or counties qualified to vote on the bond issue.

~~Absentee~~ All ballots cast at the election shall be counted by the same board. ~~as counted other ballots at the election.~~ When all the ballots have been counted, the returns of such election shall be turned over to the school board or board of education of the district in which the election was held for the purpose of making a canvass thereof.

The two disinterested persons appointed on the counting board shall receive wages at the minimum rate set in section 48-1203 for each hour of service rendered.

Sec. 2. Section 23-3557, Reissue Revised Statutes of Nebraska, is amended to read:

23-3557. In all elections at which the registered voters of hospital districts are voting on the question of issuing bonds of the district, the board of directors shall designate the polling places, prepare

the form of ballot, and appoint the election officials. ~~Absentee ballots~~ Ballots for early voting shall be issued by the secretary of the board of directors in the same manner as provided in the Election Act and returned to the secretary. ~~Absentee~~ All ballots cast at the election shall be counted by the same board. ~~as counted other ballots at the election.~~ When all the ballots have been counted, the returns of such election shall be turned over to the board of directors of the district in which the election was held for the purpose of making a canvass thereof.

Sec. 3. Section 23-3575, Reissue Revised Statutes of Nebraska, is amended to read:

23-3575. After determining the sufficiency of the petition presented under section 23-3573, the county board shall by resolution provide for the submission of the question of the merger of the districts at a general, primary, or special election. If a special election is called, the costs of such election shall be borne equally by the districts petitioning for the merger. If the question is submitted at a special election, the county clerk or election commissioner of each county having registered voters entitled to vote on the issue shall conduct the special election in such county and shall be responsible for designating the polling places and appointing the election officials, who need not be the regular election officials, and otherwise conducting the election within such county. The county board shall designate the form of ballot.

The county clerk or election commissioner for the county whose county board has received the petition and called the election shall be responsible for giving notice of the special election. Such notice shall be published at least twenty days prior to the election and shall be published, for each district, in a legal newspaper of general circulation in such district. The notice of election shall state where ~~absentee~~ ballots for early voting may be obtained pursuant to the Election Act.

In any such special election, the ballots shall be counted by the county clerks or election commissioners conducting the election and each such county clerk or election commissioner shall designate two disinterested persons to assist him or her with the counting of ballots. If the question is submitted at the statewide general election or primary election, the ballots shall be counted as provided in the ~~act~~ Election Act. When all of the ballots have been counted in each county, the returns of such election shall be canvassed by the county canvassing board.

All elections conducted pursuant to this section shall be conducted as provided under the ~~act~~ Election Act except as otherwise specifically provided for in this section.

Sec. 4. Section 32-331, Reissue Revised Statutes of Nebraska, is amended to read:

32-331. A registered voter may file an affidavit with the election commissioner or county clerk to have the information relating to his or her residence address and telephone number remain confidential. If the registered voter is a program participant under the Address Confidentiality Act, the affidavit shall state that fact. If the registered voter is not a program participant under the act, the affidavit shall state that the county court or district court has issued an order upon a showing of good cause that a life-threatening circumstance exists in relation to the voter or a member of his or her household. The registered voter shall vote ~~as an absentee voter~~ under sections 32-938 to 32-951 in elections held after the filing of the affidavit. To terminate the affidavit and withdraw the confidential designation, the registered voter shall notify the election commissioner or county clerk in writing. The registered voter shall provide a valid mailing address to be used in place of the residence address for election, research, and government purposes. If the registered voter is a program participant under the ~~act~~ Address Confidentiality Act, the mailing address shall be as provided in the act. The election commissioner or county clerk may use the mailing address or the word "confidential" or a similar designation in place of the residence address in producing any list, roster, or register required under the Election Act. Those records declared confidential under this section shall be kept in a separate file from the other registered voter information. A county, election commissioner, or county clerk shall be liable in an action for negligence as a result of the disclosure of the confidential information if there is a showing of gross negligence or willfulness.

Sec. 5. Section 32-558, Reissue Revised Statutes of Nebraska, is amended to read:

32-558. City, village, and school district ballots shall be prepared for each city, village, or school election. The election commissioner, county clerk, or city or village clerk may certify and deliver all ballots, including ~~absentee~~ ballots for early voting, across county lines

to the election commissioner, county clerk, or city or village clerk in the adjoining county. The election commissioner, county clerk, or city or village clerk shall certify the results and shall issue certificates of nomination or election to the successful candidates.

Sec. 6. Section 32-559, Reissue Revised Statutes of Nebraska, is amended to read:

32-559. Except as provided in section 77-3444, any issue to be submitted to the registered voters at a special election by a political subdivision shall be certified by the clerk of the political subdivision to the election commissioner or county clerk at least fifty days prior to the election. A special election may be held by mail as provided in sections 32-952 to 32-959. Any other special election under this section shall be subject to section 32-405.

In lieu of submitting the issue at a special election, any political subdivision may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the clerk of the political subdivision to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election. After the election commissioner or county clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the clerk of the political subdivision shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots and issue ~~absentee~~ ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of the ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots, ~~including absentee ballots,~~ shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the election commissioner or county clerk shall certify the election results to the governing body of the political subdivision. The canvass by the county canvassing board shall have the same force and effect as if made by the governing body of the political subdivision.

Sec. 7. Section 32-807, Reissue Revised Statutes of Nebraska, is amended to read:

32-807. The election commissioner, county clerk, or city or village clerk shall print and deliver to each precinct or district in the county, city, or village an approximate number of ballots based upon what would appear sufficient at the time the ballots are to be printed. Such totals shall take into consideration increases in registration, ~~absentee~~ early voting, annexations, changes in boundaries, spoiled ballots, and any other factor that may influence the total number of ballots needed. Additional ballots shall be printed to meet any contingency in order to provide a sufficient number of ballots for each precinct or district in the county, city, or village.

Sec. 8. Section 32-808, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Notwithstanding subsection (1) of this section, upon request for a ballot, ~~an absentee ballot~~ a ballot for early voting shall be forwarded to each voter meeting the criteria of section 32-939 at least forty-five days prior to any election. The election commissioner or county clerk shall not forward any ~~absentee ballot or special absentee ballot~~ ballot for early voting if the election to which such ballot pertains has already been held. If the ~~absentee~~ ballot has not been printed in sufficient time to meet the requirements of this subsection, the election commissioner or county clerk shall issue a special ~~absentee~~ ballot at least fifty-seven days prior to an election to each voter meeting the criteria of section 32-939 upon the written request by such voter requesting the special ~~absentee~~ ballot. A complete list of the nominated candidates and issues to be voted upon by a voter meeting the criteria of such section shall be included with the special ~~absentee~~ ballot by the election commissioner or county clerk. A notice shall be sent with the primary election ballot stating that the ~~absentee~~ voter must request a general election ballot unless such voter has requested both the primary and general election ballots. If the voter has requested both ballots, a notice shall be sent with the primary election ballot stating that the general election ballot

will be sent to the same address unless otherwise notified.

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

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

Sec. 9. Section 32-936, Reissue Revised Statutes of Nebraska, is amended to read:

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

Certification of New (or Former) Resident Voter

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

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

Sec. 10. Section 32-938, Reissue Revised Statutes of Nebraska, is amended to read:

32-938. (1) A registered voter shall be permitted to vote ~~absentee~~ early by requesting an absentee ballot a ballot for early voting pursuant to section 32-941 or 32-943.

(2) Any person excluded from voting under section 32-313 or 32-314 shall not be allowed to receive ~~an absentee ballot a~~ ballot for early voting. Any person who fails to register to vote by the voter registration deadline shall not be allowed to ~~receive an absentee ballot~~ vote except as provided in section 32-940 or 32-941.

Sec. 11. Section 32-939, Reissue Revised Statutes of Nebraska, is amended to read:

32-939. (1) The persons listed in this subsection who are residents of Nebraska but who reside outside the United States shall be allowed to simultaneously register to vote and make application for ~~absentee~~ ballots for all elections in a calendar year through the use of the Federal Post Card Application or a personal letter which includes the same information as appears on the Federal Post Card Application:

(a) Members of the armed forces of the United States and their spouses and dependents residing with them;

(b) Citizens temporarily residing outside of the United States and the District of Columbia; and

(c) Overseas citizens.

(2) An omission of required information, except the political party affiliation of the applicant, may prevent the processing of an application and mailing of ~~absentee~~ ballots. The request for ~~absentee~~ ballots and registration forms shall be sent to the election commissioner or county clerk of the county of the applicant's residence at any time in the same calendar year but prior to any election. If so requested, ~~absentee~~ ballots may be sent for all elections held in the county in that calendar year.

(3) Any person meeting the criteria in subsection (1) of this section may cast a ballot by the use of the Federal Write-In Absentee Ballot. The Federal Write-In Absentee Ballot may be used for all elections. If a person casting a ballot using the Federal Write-In Absentee Ballot is not a registered voter, the information submitted in the Federal Write-In Absentee Ballot transmission envelope shall be treated as a voter registration application.

(4) Any person meeting the criteria in subsection (1) of this section requesting ~~an absentee a~~ ballot under this section or the special ~~absentee~~ ballot described in section 32-808 may receive the ballot and the oath prescribed in subsection (2) of section 32-947 by facsimile but shall

return the cast ballot and completed oath by mail.

Sec. 12. Section 32-940, Reissue Revised Statutes of Nebraska, is amended to read:

32-940. Any person employed in federal service whose status has been terminated by discharge from the armed forces or by separation from employment outside the territorial limits of the United States who was unable to register to vote may register to vote after the voter registration deadline by completing the necessary voter registration forms in the office of the election commissioner or county clerk of the county of his or her residence no later than noon of the day before the election. After completing the voter registration forms, such person shall then be allowed to vote ~~an absentee ballot~~ in the election office.

Sec. 13. Section 32-941, Reissue Revised Statutes of Nebraska, is amended to read:

32-941. Any registered voter permitted to vote ~~absentee~~ early pursuant to section 32-938 may, not more than one hundred twenty days before any election and not later than 4 p.m. on the Wednesday preceding the election, request ~~an absentee~~ a ballot for the election to be mailed to a specific address. A registered voter shall request ~~an absentee~~ a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her home and shall indicate his or her address, political party, telephone number if available, and precinct if known. The registered voter may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter or his or her agent shall sign the request. A registered voter may use a facsimile machine for the submission of a request for ~~an absentee~~ a ballot. The election commissioner or county clerk shall include registration forms with the ballots if the person is not registered. Registration forms shall not be issued or mailed after the second Friday preceding the election. If the person is not registered to vote, the registration forms shall be returned not later than the closing of the polls on the day of the election. No ballot issued under this section shall be counted unless such registration forms are properly completed and processed.

Sec. 14. Section 32-942, Reissue Revised Statutes of Nebraska, is amended to read:

32-942. Any registered voter of this state who is about to be absent from the county of his or her residence on the day of any election but who is present in the county after ~~absentee~~ ballots are available may appear in person before the election commissioner or county clerk and obtain his or her ballot. The registered voter shall vote in the office of the election commissioner or county clerk or shall return the ballot to the office during regular business hours.

Sec. 15. Section 32-943, Reissue Revised Statutes of Nebraska, is amended to read:

32-943. (1) Any registered voter who is permitted to vote ~~absentee~~ early pursuant to section 32-938 may request ~~an absentee~~ a ballot by appointing an agent to personally pick up ~~an absentee~~ a ballot for such registered voter from the office of the election commissioner or county clerk. A registered voter shall request ~~an absentee~~ a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her home and shall indicate his or her address, telephone number if available, and precinct if known. The registered voter may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter or his or her agent shall sign the request.

(2) A candidate for office at such election and any person serving on a campaign committee for such a candidate shall not act as an agent for any registered voter requesting a ballot pursuant to this section unless such person is a member of the registered voter's family. No person shall act as agent for more than two registered voters in any election.

(3) The agent shall pick up the ballot before one hour prior to the closing of the polls on election day and deliver the ballot to the registered voter. The ballot shall be returned not later than the closing of the polls on the day of the election.

(4) The election commissioner or county clerk shall adopt procedures for the distribution of ~~absentee~~ ballots under this section.

Sec. 16. Section 32-944, Reissue Revised Statutes of Nebraska, is amended to read:

32-944. The election commissioner or county clerk may train registered voters to act on behalf of the election commissioner or county clerk in administering ~~the absentee~~ a ballot to residents of nursing homes or hospitals who have requested ~~absentee~~ ballots. ~~Absentee ballots~~ Ballots shall

be administered by two registered voters who are not affiliated with the same political party. The election commissioner or county clerk shall adopt procedures to carry out this section.

Sec. 17. Section 32-945, Reissue Revised Statutes of Nebraska, is amended to read:

32-945. When a request for ~~an absentee~~ a ballot from a person who is not registered to vote in the county reaches the election commissioner or county clerk by mail, by facsimile transmission, or by means other than by application in person on or prior to the second Friday preceding the election, the election commissioner or county clerk shall mail to the applicant the registration form with the ~~absentee~~ ballot. No ~~absentee~~ ballot shall be sent by mail to any person after the second Friday preceding the election if such person is not a registered voter. When an application for ~~an absentee~~ a ballot from a person who is registered in the county reaches the county clerk or election commissioner by mail, facsimile transmission, or other means than by application in person and the application indicates that the applicant has changed his or her residence within the county, the county clerk or election commissioner shall change the address on the applicant's voter registration and mail to such applicant an acknowledgment of change of registration and the ~~absentee~~ ballot as provided by section 32-947.

Sec. 18. Section 32-946, Reissue Revised Statutes of Nebraska, is amended to read:

32-946. When a registered voter applying for ~~an absentee~~ a ballot has no residence address within the county, the election commissioner or county clerk shall mail to the registered voter at the address designated by the voter the requested ballot materials, including a set of registration forms, no later than the voter registration deadline and shall enclose with the material the following oath which the voter must swear to before his or her ballot will be counted:

I, ....., do hereby swear that prior to my current absence from ..... County, Nebraska, I resided within the State of Nebraska, that during such residency it was my intention to make my permanent residence in such county, that during my current absence from such county I have not voted in an election in any other jurisdiction as a resident of such other jurisdiction, that I do not intend to make my present residence my permanent residence, that my current absence from such county is temporary and for a definite period of time, and that at the termination of that period I intend to return to ..... County, Nebraska, and make it my permanent residence.

The election commissioner or county clerk shall make a good faith effort to maintain the secrecy of the ballot upon receiving the materials. If the registered voter fails to complete the oath and return it to the election commissioner or county clerk prior to the closing of the polls on election day, his or her ballot shall not be counted. The residence address of the registered voter shall be deemed to be the office of the election commissioner or county clerk of the county of such voter's prior residence for purposes of the Election Act.

Sec. 19. Section 32-947, Reissue Revised Statutes of Nebraska, is amended to read:

32-947. (1) Upon receipt of an application or other request for ~~an absentee~~ a ballot to vote early, the election commissioner or county clerk shall determine (a) whether the applicant is a registered voter and is entitled to vote ~~an absentee ballot as applied for or~~ as requested and (b) whether the applicant registered to vote by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county. If the election commissioner or county clerk determines that the voter meets the requirements of subdivision (a) of this subsection, the election commissioner or county clerk shall deliver a ballot to the applicant in person or by mail, postage paid. ~~an absentee ballot~~. 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. If the election commissioner or county clerk determines that the applicant also matches the description in subdivision (b) of this subsection, the election commissioner or county clerk shall include with the ballot written instructions directing the applicant to submit with the ballot a copy of a photographic identification which is then current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is then current and that shows the name and address of the voter.

(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**

VOTER'S OATH

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 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. 20. Section 32-948, Reissue Revised Statutes of Nebraska, is amended to read:

32-948. Upon issuing an absentee ballot a ballot to vote early, the election commissioner or county clerk shall enter the voter's name, address, and precinct in the absentee voters book make a record of such issuance as prescribed by the Secretary of State. Applications for absentee such ballots shall be open to public inspection prior to the election. The absentee voters book record of early voters and all applications for absentee such ballots shall be open to public inspection upon completion of the election. The election commissioner or county clerk shall make an entry in the absentee voter's registration record showing the date of the election and the number of the registered voter voting as shown in the absentee voters book record of early voters.

Sec. 21. Section 32-949, Reissue Revised Statutes of Nebraska, is amended to read:

32-949. When an absentee ballot a ballot for early voting is received by a registered voter, he or she shall, before placing any marks thereon, note whether there are any voting marks on the ballot. If there are any voting marks, the ballot shall be returned immediately to the election commissioner or county clerk. If there are no such marks, the registered voter shall cause the ballot to be marked. If the absentee ballot is voted in the office of the election commissioner or county clerk, the registered voter shall return the absentee ballot and identification envelope to the election commissioner or county clerk or an employee of the election commissioner or county clerk who shall deposit the ballot into a ballot box and place the identification envelope in a secure container. If the registered voter is mailing or otherwise delivering the ballot to the election commissioner or county clerk, the registered voter shall fold the marked ballot in such manner that the signature of the issuing officer on the ballot is visible and shall place and seal the ballot in the identification envelope received for that purpose. The registered voter shall complete and sign the absentee voter's identification oath on the outside of the identification envelope under the penalty of election falsification. The registered voter shall then mail, deliver, or cause to be delivered the identification envelope in the return envelope to the election commissioner or county clerk from whom it was received. All postage costs related to returning absentee such ballots to the election commissioner or county clerk shall be paid by the applicant.

Sec. 22. Section 32-950, Reissue Revised Statutes of Nebraska, is amended to read:

32-950. Absentee ballots Ballots issued under section 32-948 which are returned not later than the hour established for the closing of the polls shall be accepted for approval by the absentee ballots counting board for early voting.

Sec. 23. Section 32-951, Reissue Revised Statutes of Nebraska, is amended to read:

32-951. No person shall (1) impersonate or make a false representation in order to obtain an absentee ballot a ballot for early voting, (2) knowingly connive to help a person to vote an absentee such a ballot illegally, (3) destroy, steal, mark, or mutilate any absentee such a ballot after the same has been voted or aid or abet another to do so, (4) delay in delivering an absentee such a ballot to the election commissioner or county clerk to prevent the ballot from arriving in time to be counted, (5) in any manner aid or attempt to aid any person to vote an absentee such a ballot unlawfully, (6) hinder or attempt to hinder a registered voter from voting any absentee such a ballot, or (7) hinder or attempt to hinder any official from delivering or counting any absentee such a ballot.

Sec. 24. Section 32-952, Reissue Revised Statutes of Nebraska, is amended to read:

32-952. ~~A political subdivision may, by resolution of the governing body of the subdivision or by ordinance in the case of a city or village, adopted by two-thirds of the members of the governing body, hold a~~ If a political subdivision decides to place an issue on the ballot at a special election, the election commissioner or county clerk may conduct the special election by mail as provided in section 32-953 or conduct the special election as otherwise authorized in the Election Act. In making a determination as to whether to conduct the election by mail, the election commissioner or county clerk shall consider whether all of ~~under~~ the following conditions are met:

(1) All registered voters of the political subdivision are eligible to vote on the issue or issues submitted to the voters;

(2) Only registered voters of the political subdivision are eligible to vote on the issue or issues submitted to the voters;

(3) Only issues and not candidates are submitted to the registered voters;

(4) A review has been conducted of the costs and the expected voter turnout which may result from holding the election by mail;

~~(4)~~ (5) The governing body of the political subdivision determines election commissioner or county clerk has determined a date for the election which is not the same date as another election in which the registered voters of the political subdivision are eligible to vote;

~~(5)~~ (6) The clerk of the political subdivision certifies will certify the issue or issues to the election commissioner or county clerk at least fifty days prior to the date of the election; and

~~(6)~~ (7) The Secretary of State has approved a written plan for the conduct of the election, including a written timetable for the conduct of the election, submitted by the election commissioner or county clerk. who would be responsible for conducting the election. The written plan shall include provisions for the notice of election to be published and for the application for absentee ballots for early voting notwithstanding other statutory provisions regarding the content and publication of a notice of election or the application for absentee ballots for early voting.

Sec. 25. Section 32-958, Reissue Revised Statutes of Nebraska, is amended to read:

32-958. The election commissioner or county clerk shall supervise the procedures for handling and canvassing the ballots to ensure the safety and confidentiality of all ballots properly cast. The election commissioner or county clerk shall file with the Secretary of State and the county board an election report. The Secretary of State shall develop a uniform election report form which requires information, including, but not limited to, an evaluation of the verification process including the number of ballots rejected and the reasons for the rejection, the process for handling and canvassing ballots, and the cost of the election conducted by mail. The election commissioner or county clerk shall appoint a counting board for the election in the same manner as the absentee ballots counting board for early voting and ballots shall be counted and canvassed in the same manner as much as possible.

Sec. 26. Section 32-1027, Reissue Revised Statutes of Nebraska, is amended to read:

32-1027. (1) The election commissioner or county clerk shall appoint two or more registered voters to the absentee ballots counting board for early voting. One registered voter shall be appointed 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 registered voter shall be appointed from the political party casting the next highest vote for such office. The election commissioner or county clerk may appoint additional registered voters to serve on the absentee ballots counting board and may appoint registered voters to serve in case of a vacancy among any of the members of the absentee ballots counting board. Such

appointees shall be balanced between the political parties and may include registered voters unaffiliated with any political party. The ~~absentee ballots~~ counting board shall meet as directed by the election commissioner or county clerk.

(2) The ~~absentee ballots~~ counting board shall place all ~~absentee voter~~ identification envelopes in order for counting. The ~~absentee ballots~~ counting board shall compare the voter's name on the identification envelope with the name on the ~~absentee voter's book~~ record of early voters or with the application for an ~~absentee~~ the ballot. If the name on the identification envelope appears to be that of a registered voter to whom an ~~absentee~~ such a ballot has been issued, the identification envelope shall be accepted for opening without further questioning. In counties using optical scanners, the ~~absentee ballots~~ counting board may, on the Thursday before the election, check the names on the identification envelopes received and open all identification envelopes which are approved, and if the signature of the election commissioner or county clerk or his or her employee is on the ballot, the ballot shall be unfolded, flattened for purposes of using the optical scanner, and placed in a sealed container for counting on election day. In other counties, the ~~absentee ballots~~ counting board may, on the Thursday before the election, check the names on the identification envelopes received prior to election day. If an identification envelope is accepted for counting, the identification envelope shall be placed in a sealed container for counting on election day. The ~~absentee ballots~~ counting board shall convene on election day to begin counting ~~absentee~~ ballots previously accepted. On election day, all identification envelopes which have been received and approved on or before election day shall be opened, and if the signature of the election commissioner or county clerk or his or her employee is on the ballot, the ballot shall be placed without unfolding into a ballot box.

(3) The ~~absentee ballots~~ counting board shall reject an ~~absentee voter~~ identification envelope if the signature of the registered voter is missing or if the name and address on the identification envelope do not match the registered voter's voter registration. If an identification envelope is rejected, the ~~absentee ballots~~ counting board shall not open the identification envelope. If the ballot is rejected after opening the identification envelope because of the absence of the official signature on the ballot, the ballot shall be marked Rejected, no official signature. The ~~absentee ballots~~ counting board shall place the rejected identification envelopes and ballots in a container labeled Rejected ~~Absentee~~ Ballots and seal it.

(4) As soon as all ballots have been placed in the ballot box and rejected identification envelopes or ballots have been sealed in the Rejected ~~Absentee~~ Ballots container, the ~~absentee ballots~~ counting board shall count the ~~absentee~~ ballots the same as all other ballots and an unofficial count shall be released to the election commissioner or county clerk. No results shall be released prior to the closing of the polls on election day.

Sec. 27. Section 32-1030, Reissue Revised Statutes of Nebraska, is amended to read:

32-1030. All ~~absentee voter~~ identification envelopes, voted ballots, and rejected ballots and the Rejected ~~Absentee~~ Ballots container shall be placed in the ~~absentee voters ballots-cast~~ container for early voting materials, and the ~~absentee voters ballots-cast~~ container shall be sealed.

Sec. 28. Section 32-1031, Reissue Revised Statutes of Nebraska, is amended to read:

32-1031. (1) After counting the ~~absentee~~ ballots under section 32-1027, the county canvassing board shall proceed with the official canvass of votes cast on election day. If in the process of canvassing the votes for any candidate or measure in any precinct the election commissioner or county clerk or the canvassing board determines that there is an obvious error in the certification of the votes, the error shall be corrected. The county canvassing board may open the ballots-cast container and recount the ballots for any candidate or any measure which appears to be in error. If the county canvassing board finds and corrects any such error, it shall make the correction entry in the precinct sign-in register, the precinct list of registered voters, and the official summary or summaries of votes cast and shall attach a letter of explanation to each book where the correction was made. The letter shall be signed by all members of the county canvassing board.

(2) When it has been determined that the returns in all precincts are correct, the county canvassing board shall enter the same in a permanent ledger. The permanent ledger shall be preserved by the election commissioner or county clerk for the period of time specified by the State Records

Administrator pursuant to the Records Management Act, and then it may be transferred to the State Archives of the Nebraska State Historical Society for permanent preservation.

(3) Any recesses or adjournments of the county canvassing board shall be to a fixed time and publicly announced. When a recess is called, all ballots that have not been counted and all other supplies shall be placed in a fireproof safe or other suitable location which is locked until such board reconvenes.

Sec. 29. Section 32-1032, Reissue Revised Statutes of Nebraska, is amended to read:

32-1032. Upon the completion of the canvass by the county canvassing board, all books shall again be sealed, and the election commissioner or county clerk shall keep all election materials, including the ballots-cast containers from each precinct, the sealed envelopes containing the precinct list of registered voters, the precinct sign-in register, the official summary or summaries of votes cast, and the ~~absentee voters ballots-cast~~ container for early voting materials, for not less than twenty-two months when statewide primary, general, or special elections involve federal offices, candidates, and issues and not less than fifty days for local elections not held in conjunction with a statewide primary, general, or special election. The election commissioner or county clerk shall keep on file one copy of each ballot face used in each precinct of the official partisan, nonpartisan, constitutional amendment, and initiative and referendum ballots, as used for ~~absentee~~ voting, and all election notices used at each primary and general election for twenty-two months. The precinct sign-in register, the ~~absentee voters book~~ record of early voters, and the official summary of votes cast shall be subject to the inspection of any person who may wish to examine the same after the primary, general, or special election. The election commissioner or county clerk shall not allow any other election materials to be inspected except when an election is contested or the materials become necessary to be used in evidence in the courts. The election commissioner or county clerk shall direct the destruction of such materials after such time, except that the election commissioner or county clerk may retain materials for the purposes of establishing voter histories.

Sec. 30. Section 32-1502, Reissue Revised Statutes of Nebraska, is amended to read:

32-1502. A person shall be guilty of election falsification if, orally or in writing, he or she purposely states a falsehood under oath lawfully administered or in a statement made under penalty of election falsification (1) as to a material matter relating to an election in a proceeding before a court, tribunal, or public official or (2) in a matter in relation to which an oath or statement under penalty of election falsification is authorized by law, including a statement required for verifying or filing a voter registration form or voting ~~on an absentee ballot~~ early or a statement required by a new or former resident to enable him or her to vote for President or Vice President of the United States. Any person committing election falsification shall be guilty of a Class IV felony.

Sec. 31. Section 32-1539, Reissue Revised Statutes of Nebraska, is amended to read:

32-1539. Any person who (1) impersonates or makes a false representation in order to obtain ~~an absentee ballot~~ a ballot for early voting, (2) knowingly connives to help a person to vote ~~an absentee~~ such a ballot illegally, (3) destroys, steals, marks, or mutilates any ~~absentee~~ such ballot after the same has been voted or aids or abets another to do so, (4) delays in delivering ~~an absentee~~ such a ballot to the election commissioner or county clerk to prevent the ballot from arriving in time to be counted, (5) in any manner aids or attempts to aid any person to vote ~~an absentee~~ such a ballot unlawfully, (6) hinders or attempts to hinder a registered voter from voting any ~~absentee~~ such ballot, or (7) hinders or attempts to hinder any official from delivering or counting any ~~absentee~~ such ballot shall be guilty of a Class IV felony.

Sec. 32. Section 32-1544, Reissue Revised Statutes of Nebraska, is amended to read:

32-1544. Any person who, from the time any ballots are cast or voted until the time has expired for using the same as evidence in any contest of an election, unlawfully destroys or attempts to destroy or incites or requests another to destroy any ballot box, list of registered voters, sign-in register, or ~~absentee voters book~~ record of early voters used at any election, unlawfully destroys, falsifies, marks, or writes on any ballot cast or voted, or changes, alters, erases, or tampers with any name contained on any ballot cast or voted shall be guilty of a Class IV felony.

Sec. 33. Section 42-1207, Reissue Revised Statutes of Nebraska, is

amended to read:

42-1207. (1) A program participant who is otherwise qualified to vote may apply as an ~~absentee voter~~ to vote early under sections 32-938 to 32-951. The county clerk or election commissioner shall transmit the ~~absentee~~ ballot for early voting to the program participant at the address designated by the program participant in his or her application as an ~~absentee~~ early voter. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

(2) The county clerk or election commissioner shall not make a program participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

Sec. 34. Section 53-122, Reissue Revised Statutes of Nebraska, is amended to read:

53-122. (1) The commission may issue licenses for the sale of alcoholic liquor, except beer, by the drink subject to all the terms and conditions of the Nebraska Liquor Control Act in all cities and villages in this state, except in those cases when it affirmatively appears that the issuance will render null and void prior conveyances of land to such city or village for public uses and purposes by purchase, gift, or devise, under the conditions and in the manner provided in this section.

(2) If (a) a sufficient petition is signed by the registered voters of any such city or village of such number as equals twenty percent of the votes cast at the last general election held in such city or village, which petition requests that the question of licensing the sale of alcoholic liquor, except beer, by the drink in the city or village be submitted to the registered voters of the city or village at a special election to be called for that purpose and (b) such petition is presented to the clerk of the city or village, the clerk shall cause to be published one time in a legal newspaper published in or of general circulation in the city or village a notice of a special election to be held not less than ten days nor more than twenty days after the date of such publication. The notice shall state the proposition to be submitted at such special election.

(3) The question of licensing the sale of alcoholic liquor either by the drink or in the original package, or both by the drink and in the original package, may also be submitted at any general municipal election, except as otherwise provided in section 53-121, in any city or village in this state subject to the following:

(a) Upon the filing with the clerk of the city or village of a petition signed by registered voters of the city or village in a number equal to twenty percent of the votes cast at the last general election held in the city or village, such proposition or propositions shall be submitted;

(b) Each petition shall conform to the requirements of section 32-628;

(c) At the top of each sheet shall be stated the proposition or propositions to be submitted and the date of the general municipal election at which it is proposed to be submitted;

(d) No signature on the petition shall be valid unless appended to the petition within the last ninety days prior to the date of filing the petition with the clerk of the city or village; and

(e) The petition shall be filed thirty days prior to the day of the general municipal election at which the proposition is to be submitted, and during such thirty-day period no signature shall be withdrawn and no signature shall be added.

(4) Any person who signs any proposal or petition contemplated under this section knowing that he or she is not a registered voter in the place where such proposal or petition is made, who signs any name other than his or her own to such proposal or petition, or who aids or abets any other person in doing any of the acts mentioned is guilty of a Class I misdemeanor. Any person who bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such proposal or petition, who accepts money for signing such proposal or petition, or who aids or abets any other person in doing any of such acts is guilty of a Class IV felony.

(5) Upon the ballot either at the special election or at any general municipal election, the proposition or propositions shall be stated as follows:

Shall the sale of alcoholic liquor, except beer, by the drink be licensed in (here insert the name of the city or village)?

.... For license to sell by drink.  
 .... Against license to sell by drink.

Shall the sale of alcoholic liquor, except beer, by the package be licensed in (here insert the name of the city or village)?

.... For license to sell by the package.  
 .... Against license to sell by the package.

The provisions of the Election Act relating to election officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of elections, and recounts of votes, so far as applicable, shall apply to voting on the proposition or propositions under the Nebraska Liquor Control Act, and a majority vote of those voting on the question shall be mandatory upon the commission.

(6) If the question is to be submitted at a statewide primary or general election, the petitions shall be filed with the clerk of the city or village not less than sixty days prior to the election. The provisions for the required number of signers and the form of petition shall be the same as for a special election. The clerk of the city or village shall verify the signatures on the petitions with the voter registration records in the office of the county clerk or election commissioner. During the ten-day period while the petitions are being checked, no signatures shall be withdrawn and no signatures shall be added.

If the clerk of the city or village finds the petitions to be valid, he or she shall, not less than fifty days prior to the statewide primary or general election, give notice in writing to the county clerk or election commissioner that the question is to be submitted at the time of the statewide primary or general election. The election notices, issuing of the official ballots on election day, issuing of the ~~official absentee~~ ballots for early voting, and counting and canvassing of the ballots shall be conducted by the county clerk or election commissioner as provided in the Election Act and the official results certified to the clerk of the city or village.

(7) An election may not be held in the same city or village under this section more often than once every twenty-three months. Subdivision (5) (e) of section 53-124 is not subject to this section.

Sec. 35. Original sections 23-3557, 23-3575, 32-331, 32-558, 32-559, 32-807, 32-808, 32-936, 32-938 to 32-952, 32-958, 32-1027, 32-1030, 32-1031, 32-1032, 32-1502, 32-1539, 32-1544, 42-1207, and 53-122, Reissue Revised Statutes of Nebraska, and section 10-703.01, Revised Statutes Supplement, 2004, are repealed.