

LEGISLATIVE BILL 623

Approved by the Governor February 17, 1984

Introduced by Government, Military & Veterans Affairs
Committee, Landis, 46, Chairperson;
Higgins, 9; Chambers, 11; R. Johnson, 34;
Cullan, 49; Vickers, 38; Goll, 16

AN ACT relating to elections; to amend sections 32-428.06, 32-428.10, 32-503.01, 32-808, 32-1001.39, 32-1001.40, and 75-101, Reissue Revised Statutes of Nebraska, 1943, and sections 32-265, 32-425, 32-504, 32-519.01, 32-537, and 32-803, Revised Statutes Supplement, 1982; to provide requirements for candidates for certain offices; to change provisions relating to voter registration; to change provisions relating to ballots; to change provisions relating to write-in candidates as prescribed; to change provisions relating to the nomination of candidates; to change petition requirements as prescribed; to change provisions relating to the withdrawal of candidates; to change provisions relating to absentee ballots and contested elections as prescribed; to change provisions relating to recounts; to eliminate a qualification for members of the Public Service Commission; and to repeal the original sections, and also section 32-428.02, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. Unless otherwise specifically designated in the constitution or by statute, any person seeking an elected state office or an elected office in any political subdivision within the state shall be a registered voter prior to holding such office and, in addition, if such person must sign a contract or comply with a bonding requirement prior to holding such office, he or she shall have reached the age of majority.

Sec. 2. That section 32-265, Revised Statutes Supplement, 1982, be amended to read as follows:

32-265. In all counties ~~with a population of fifty thousand inhabitants or less~~ the county clerk or election commissioner shall keep the voter registration records as current as possible.

The county clerk or election commissioner shall have the authority to remove the voter registration of a deceased person from the active records at any time by any supporting information he or she may have of the death of

such voter or of any other elector whom he or she has notice of registering in another county or state.

The voter registration records shall be verified prior to each statewide general election or at such other times as the county clerk or election commissioner shall deem necessary.

The county clerk or election commissioner shall verify the voter registrations in each precinct or ward by one of the following procedures:

(1) Send through the United States mail a letter of challenge verification to each registered elector at the address shown on the voter registration card; Envelopes should be marked election material, please forward; or

(2) The county clerk or election commissioner, or any person employed in his or her office, along with not less than Appoint two or more as many other persons as he or she may deem necessary, being registered voters electors of a precinct or ward, may to personally review the registration records of their respective precinct or ward. The persons so reviewing the registration records shall present to the county clerk or election commissioner the list of those electors voters who in their judgment shall be sent a letter of challenge verification.

CHALLENGE OF VOTER REGISTRATION
VERIFICATION OF VOTER REGISTRATION

In making a personal review of the voter registration records, it has been called to my attention that there is a possibility that you are of your not actually being domiciled at this address. This is a letter of verification challenge only and you are in no way obligated to make an appearance at my office. I will appreciate you your signing one of the three statements below and returning this letter of challenge verification immediately.

Please return to:

.....
(County Clerk or Election Commissioner)

.....
(County)

.....
(Address)

I affirm that the address upon my voter registration is correct and that I am actually domiciled at the address as shown.

.....
Signature of Addressee

I affirm that I am no longer domiciled in County and that I am a resident of Please cancel my registration in County, Nebraska.

.....
Signature of Addressee

I affirm that I am domiciled in
 County but that on or about the day of,
 19...., I changed my residence to the following new
 address:

.....
 Number-Street City State

(If rural, list mailing address and Section,
 Township, and Range)

Please send me authorization forms for the
 purpose of transferring my voter registration to the
 proper precinct or ward-

.....
 Signature of Addressee

Sec. 3. That section 32-425, Revised Statutes
 Supplement, 1982, be amended to read as follows:

32-425. (1) Every primary ballot shall contain
 the name of every candidate filing under the provisions of
 sections 32-503.01, 32-514, 32-524, and subdivision (1)(a)
 of section 32-504, and no other names. The name of a
 candidate shall not appear on the ballot or any series of
 ballots at any primary election more than once except for
 the office of delegate to a national or county convention,
 and no person shall be eligible to serve in more than one
 elected office defined in section 32-421.01.

(2) When, at the primary election, two or more of
 the surnames of candidates for the same office are the same
 in spelling or sound, the Secretary of State, county clerk,
 city clerk, election commissioner, or any other public
 officer upon whom is enjoined the duty of preparing and
 publishing official ballots, may on the request of any such
 candidate, print on the ballot immediately below his or her
 name in not to exceed five words the post office address
 and occupation of such candidate. The designation thus
 made shall be set in light face type, capital and lower
 case letters, of the same size as the name of the candidate
 is printed.

Sec. 4. That section 32-428.06, Reissue Revised
 Statutes of Nebraska, 1943, be amended to read as follows:

32-428.06. If 7 at any stage of the canvass
counting, whether voting by paper ballot, punch card, or
voting machine, a ballot shall be found having a Christian,
given, or generally-recognized generally recognized name
 and the surname of a person residing in the county,
 precinct, district or township written or printed on a line
 provided for that purpose, making such person a candidate
 for a specified office, the ballot shall be counted. if
the Christian, given, or generally-recognized name and the
surname written or printed on the ballot is reasonably
close to the proper spelling of the person's Christian,
given, or generally-recognized name and surname, and the
counting board is satisfied that such person is a qualified
write-in candidate. When any ballot has been overvoted, is

found having a name written in and a vote cast for a candidate or candidates whose name or names are printed on the ballot, or whenever more names have been marked than there are candidates to be elected, such ballot shall be rejected for the office involved and the counting board shall make the following notation on the back of the ballot: ~~7 punch card, or paper printout.~~ Rejected for the office of, overvoted.

Sec. 5. That section 32-428.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-428.10. (1) Except as provided in subsection (2) of this section, when a ballot is found, ~~whether voting by paper ballot, punch card, or voting machine,~~ with a write-in using the surname of a person only and there is more than one person in the county having the same surname, the counting board shall reject such ballot to that office and the counting board shall make the following notation on the back of the ballot: ~~7 punch card, or paper printout.~~ Rejected for the office of, no ~~Christian,~~ given, or ~~generally-recognized~~ generally recognized name.

(2) Any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent with the county clerk or election commissioner no later than the day prior to the election. Candidates filing a notarized affidavit shall be entitled to all write-in votes when only the surname of the candidate has been written if such surname is reasonably close to the proper spelling. Any candidate who has been actively engaged in a write-in campaign and who shall have filed a notarized affidavit of his intentions with the county clerk or election commissioner not later than the day prior to the election shall be entitled to all write-in votes when only the surname of the candidate has been written, if such surname is reasonably close to the proper spelling.

Sec. 6. That section 32-503.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-503.01. ~~All Any partisan or nonpartisan candidates candidate may place his or her name on the primary ballot by filing an application or by petitions signed and filed as provided in section 32-504. for elective offices shall be nominated. (1) By a primary held in accordance with Chapter 32, article 5, or (2) by nomination papers signed and filed as provided by section 32-504. If a candidate for an elective office is the incumbent of a partisan or nonpartisan elective office, the filing of the requisite nomination papers of such incumbent for any partisan or nonpartisan elective office shall be perfected at least seventy-five days prior to the date of the primary, notwithstanding sections 32-504 and 32-515. All other candidates shall file for a partisan or nonpartisan elective office at least sixty days prior to the date of the primary. If any person holding an elective~~

office created by act of the Legislature shall be elected to any other elective office, his or her office to which first elected shall become vacated.

Sec. 7. That section 32-504, Revised Statutes Supplement, 1982, be amended to read as follows:

32-504. (1) Candidates for public offices may be nominated otherwise than by direct filing, convention, or committee in the following manner:

(a) Candidates for any municipal office in cities of the first or second class and villages; and any office in Class II, III, or VI school districts may be nominated by petition. Petitions shall conform to the requirements of section 32-4,156. Petitions shall contain signatures of registered voters totaling not less than ten per cent of the total votes received by the candidate receiving the highest number of votes in the city, village, ward, or school district at the preceding general election in which officers were last elected to such office and shall be accompanied by a treasurer's receipt for the filing fees as provided in section 32-513. Villages and Class II school districts may caucus for candidates as provided in section 17-601-01. Petitions shall be signed by registered voters equal in number to five per cent of the votes cast in the city or ward at the most recent municipal election; except that in Class II, III, or VI school districts the candidates may be nominated by a petition signed by not less than five per cent of the total number of votes cast at the last election in the district; Provided, not less than twenty-five signatures of registered voters of the district when the nomination is for an election in a Class II or VI school district; or not less than fifty signatures of registered voters of the district when the nomination is for an election in a Class III school district shall be required. The form of such petitions shall be prescribed by the Secretary of State and shall conform with the requirements of section 32-4,156. Such petitions shall be filed with the county clerk, election commissioner, or city clerk. Petition signers and petition circulators shall conform to the requirements of section 32-713. The deadline for filing such petitions shall be sixty days prior to the statewide primary election. Any candidate whose petition is valid and sufficient shall have his or her name certified to the proper election official to be placed upon the ballot; and

(b) Petitions As to candidates for other elective public offices not appearing on the nonpolitical ballot; petitions for nomination for political offices shall conform; conforming with to the requirements of section 32-4,156. Petitions shall state, containing the name of the office to be filled, and stating the name, residence, business, and post office post-office address of the candidate. Petitions, shall be signed by registered voters residing in the district or political subdivision

in which the officer is to be elected and filed with the county clerk, the election commissioner, or the Secretary of State. Petition signers and petition circulators shall conform to the requirements of section 32-713. be at least the constitutionally prescribed age of an elector, shall reside in the state, be a citizen of the United States, and a registered voter; Provided, that no No petition for nomination shall be filed unless there is attached thereto a proper county treasurer's receipt from the county of such nominee's residence showing the payment of the same filing fee as is required of candidates for the same office in the primary election. Such petitions must be filed at least seventy days prior to the general election. Within ten days after the petitions have been filed with the county clerk, election commissioner, or Secretary of State, the candidate shall file with the appropriate official, a statement in writing accepting the petition candidacy. The number of signatures shall not be less than two thousand when the nomination is for an office to be filled by the electors of the entire state; twenty per cent of the total vote for Governor or for President at the last general election within the county or other subdivision of the state, not to exceed two thousand signatures, when the nomination is for an office to be filled by the electors of a county or other subdivision less than the state except a township or precinct; and not less than fifty when the nomination is for an office to be filled by the electors of a township or precinct. The ~~7~~ Provided, the number of signatures need not in any instance exceed one-fourth of the total number of voters therein at the last preceding election when the nomination is for any office to be filled by the electors of a county, township, or precinct, and the signatures need not all be appended to one paper.

(2) In the event of petition filings for the office of Governor and Lieutenant Governor for election as provided by Article IV, section 1, of the Constitution of Nebraska the following procedures shall be followed:

(a) Each of the candidates for the office of Governor and Lieutenant Governor circulating or having petitions circulated in his or her behalf after the primary election and prior to the general election shall prior to the circulation of such petition or petitions select the person whom he or she wishes to be his or her team member for ballot purposes. Such petitions shall conform with the requirements of section 32-4,156. Petition signers and petition circulators shall conform to the requirements of section 32-713. Two thousand signatures on the petition or petitions carrying the names of the candidates for Governor and Lieutenant Governor shall be sufficient for the placing of both names jointly on the general election ballot. Beneath the names of the candidates for Governor and Lieutenant Governor nominated at a primary election by party and beneath the names of all candidates for Governor

and Lieutenant Governor placed on the general election ballot by petition there shall be two write-in lines provided enclosed with brackets with one square to the left in which the voter may write the names of the candidates of his or her choice. The name appearing on the top line will be considered to be the candidate for Governor and the name appearing on the second line shall be considered to be the candidate for Lieutenant Governor, and the vote cast jointly for the persons whose names are so written shall be counted even though not marked as if printed on the ballot. If an elector chooses to use the write-in provision for casting a joint ballot for the Governor and Lieutenant Governor of his or her choice, he or she shall write in the name of his or her choice for Governor and the name of his or her choice for Lieutenant Governor and in the case of the omission of a name for Governor or for Lieutenant Governor under this provision, the counting board shall reject that portion of the ballot pertaining to the offices of Governor and Lieutenant Governor; and

(b) At the general election one vote shall be cast jointly for the candidates for Governor and Lieutenant Governor whose names appear on the same petition or petitions. The candidates shall be termed candidates by petition, and their names shall be placed on the ballot beneath the names of all other candidates placed there by nomination and there shall be printed after such names the words By ~~petition~~ Petition. and

(3) ~~(e)~~ Partisan candidates for the offices of President and Vice President of the United States shall be certified to the Governor and Secretary of State by the national nominating convention as provided by law. Candidates for the offices of President and Vice President of the United States of newly established political parties or of an independent status may obtain general election ballot position by filing with the Secretary of State an application therefor containing the following information:

(a) ~~(i)~~ The name or names to be printed on the ballot;

(b) ~~(ii)~~ The status of the candidacy, whether independent or partisan;

(c) ~~(iii)~~ The written consent of the designated vice presidential candidate to have his or her name printed on the ballot;

(d) ~~(iv)~~ A list of names and addresses of the persons to represent the applicant as presidential elector candidates together with the written consent of such persons to become candidates; and

(e) ~~(v)~~ A petition signed by qualified voters numbering not less than two thousand five hundred. Such petitions shall conform to ~~with~~ the requirements of section 32-4,156 and shall not be circulated until after the date of the primary election in that election year.

Voters who voted in the primary of any political party that held a Presidential Preference Primary that year are ineligible to sign the petitions of an independent candidate for President. The canvass of votes for candidates for President and Vice President and the returns thereof shall include a canvass of returns of votes cast for the newly established party and independent candidates.

(4) ~~(3)~~ Candidates, nominated under the provisions of subdivision (1)(b) of this section, shall be termed candidates by petition, and upon the ballot upon which their names are printed shall be printed after such names the words ~~By petition~~ Petition.

~~(4) Each elector, signing a petition under the provisions of subdivision (1)(b) of this section, shall add to his or her signature his or her printed name, city, village, or post-office address, and street and street number or voting precinct.~~

(5) Petitions for nominations for all county, district, or precinct offices, under the provisions of subdivision (1)(b) of this section, shall be filed with the county clerk or election commissioner of the respective counties wherein the officers are to be elected, or with the Secretary of State.

(6) Within twenty-four hours after the receipt for filing of a petition for nomination as provided for by subdivision (1)(a) or subsection (5) or ~~(6)~~ (7) of this section, the filing officer shall notify by either registered or certified mail the candidate so nominated, who shall, within five days from the date of filing of such petition for nomination, file with such officer his or her acceptance of the petition for nomination or his or her name shall not be printed on the election ballot unless otherwise provided by law.

(7) When a new political party in this state has been properly established under the provisions of section 32-526, prior to the general election and after the primary of that year, all candidates except those candidates for President or Vice President of the United States shall file with the appropriate filing officer in the following manner:

(a) Pay the appropriate filing fee, if any, to the county treasurer of residence;

(b) File an affidavit of personal nomination with the Secretary of State, county clerk, or election commissioner, whichever the case may be, no later than seventy days prior to the general election. Such affidavit of personal nomination shall be accompanied by a petition containing the names of not less than twenty-five qualified registered electors of the party obtained from the appropriate jurisdiction; and

(c) Comply with all provisions of the Nebraska Political Accountability and Disclosure Act.

Sec. 8. That section 32-519.01, Revised Statutes Supplement, 1982, be amended to read as follows:

32-519.01. (1) Whenever any person who has filed for public office shall, at least sixty seventy days before the primary election, notify the proper officer as provided in subsection (2) of this section with whom the nomination paper was filed, by a statement in writing by him or her and duly acknowledged, that he or she declines to be a candidate, the name shall not be printed on the primary ballot, but no declination shall be received after the time specified herein; PROVIDED, that a filing of nomination pursuant to subsection (3) of section 32-514 (3) shall extend the time for declination an additional five days for such office.

(2) Any individual declining to be a candidate pursuant to subsection (1) of this section shall notify the officers with whom the original nomination paper was filed, except that if the original nomination paper was filed with the Secretary of State such individual may in lieu of notifying the Secretary of State notify the county clerk or election commissioner of the county in which he or she resides. Any county clerk or election commissioner receiving notice of declination for a nomination paper originally filed with the Secretary of State shall immediately notify the Secretary of State by phone and forward the declination statement. within five days after receipt of such notice forward a copy of the written declination statement to the Secretary of State.

Sec. 9. That section 32-537, Revised Statutes Supplement, 1982, be amended to read as follows:

32-537. (1) If, before a primary election, there shall be a vacancy on account of death or declination after the time for filing and before the primary election, such vacancy can only be filled by a petition candidate after the primary election. Petition signers and petition circulators shall be at least the constitutionally prescribed age of an elector, reside in the state, be a citizen of the United States, and a registered voter conform to the requirements of section 32-713.

(2) If, after a primary election, there shall, through any cause whatsoever, be a vacancy upon the nonpolitical ballot for any office, such vacancy may be filled by filing petitions with the Secretary of State, county clerk, or election commissioner no later than seventy days prior to the general election.

(3) The petitions shall conform to with the requirements of section 32-4.156 and shall show the name and address of the candidate, the office to be filled, and the signatures, printed names, and addresses of the qualified, registered signers, the truth of which must be sworn to by the circulator thereof. The petitions must bear the signatures of at least five per cent of the total number of registered voters voting for Governor or

President in the preceding general election in the district in which the vacancy is to be filled. ~~In ; Provided, in~~ no event shall the total number of signatures required exceed seven hundred fifty. ~~If ; and provided further, if~~ the district in which the petitions are circulated comprises more than two counties, at least twenty-five signatures shall have been obtained in each county comprising the district. In a Class III school district the petitions must bear signatures of at least twenty per cent of the total number of votes cast for the board member receiving the highest number of votes at the preceding general election in the district in which the vacancy is to be filled. The petition signers shall be registered voters residing within the boundaries of the school district and petition circulators need not give consideration to county boundaries. Once the petition process is commenced to fill a vacancy on the ballot, as defined in subsection (4) of this section, all candidates filing petitions no later than seventy days prior to the general election shall have their name placed on the ballot. Candidates placed on the ballot by petition shall be termed candidates by petition, and upon the ballot upon which their names are printed shall be printed after such name the words By Petition. The names shall rotate as provided in subsection (2) of section 32-424.

(4) Accompanying each petition shall be a receipt from the county treasurer of the county in which the candidate holds legal residence for the sum which would have been required had the candidate filed before the primary election. Within five days after all petitions have been filed with the Secretary of State, county clerk, or election commissioner, the candidate shall file a written statement of acceptance with the appropriate election official. A vacancy shall be deemed to exist when (a) any person shall cease for any reason to be a candidate for the office for which he or she was nominated in the primary, (b) no person was nominated for the office in the primary, or (c) ~~when~~ the number of candidates for the office shall be less than twice the number of positions to be filled.

(5) In any nonpartisan primary election in which the number of persons to be nominated for an office is not greater than two, where the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such primary who received the next highest number of votes shall be declared the nominee and be entitled to the certificate of nomination; PROVIDED, that such candidate receiving the next highest number of votes shall have received not less than twenty-five per cent of the total number of votes cast for

such office in such primary. If, in such primary, the candidate who received the next highest number of votes received less than twenty-five per cent of the total number of votes cast for such office, or if no other person was a candidate for that office, or if the electorate did not have reasonable notice at the time of the election of the disability of the candidate who received the highest number of votes, a vacancy on the general election ballot shall be deemed to exist. Such vacancy may be filled only by candidates filing for the office by petition as prescribed in this section. 32-537-

(6) In any nonpartisan primary election in which the number of persons to be nominated for an office is greater than two, the provisions of subsection (5) of this section shall apply, with the exception that the requisite percentage of total number of votes cast for the office shall be ten per cent. In any partisan primary election, when the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such primary who received the next highest number of votes shall be declared the nominee, and shall be entitled to the certificate of nomination; PROVIDED, that such candidate receiving the next highest number of votes shall have received not less than thirty-five per cent of the total number of votes cast for such office in such primary. If, in such primary, the candidate who received the next highest number of votes received less than thirty-five per cent of the total number of votes cast for such office, or if no other person was a candidate for that office, or if the electorate did not have reasonable notice at the time of the election of the disability of the candidate who received the highest number of votes, a vacancy on the general election ballot shall be deemed to exist. Such vacancy may be filled as prescribed in section 32-522. Any person who was a candidate for nomination in any partisan or nonpartisan primary election, who received the next highest number of votes to a candidate disqualified under the provisions of subsections (3) and (4) of this section, and who was not declared nominated because of his or her failure to receive the requisite per cent of the total votes cast for the office in that election, shall not be deemed to be defeated within the meaning of subsection (2) of section 32-504.

(7) In any general election, when the person who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate, and the electorate had reasonable notice of such disability at the time of the election, the candidate in such election who received the next highest number of votes shall be

declared elected, and shall be entitled to the certificate of election; PROVIDED, that such candidate receiving the next highest number of votes shall have received not less than thirty-five per cent of the total number of votes cast for such office in such election. If, in such election, the candidate who received the next highest number of votes received less than thirty-five per cent of the total number of votes cast for such office, or if no other person was a candidate for such office, or if the electorate did not have reasonable notice at the time of the election of the disability of the candidate who received the highest number of votes, a vacancy in such office shall be declared to exist at the time of commencement of the term. Such vacancy may be filled as prescribed by law.

(8) In any general election in which the number of persons to be elected to an office is greater than two, the provisions of subsection (5) of this section shall apply, with the exception that the requisite percentage of total number of votes cast for the office shall be ten per cent.

Sec. 10. That section 32-803, Revised Statutes Supplement, 1982, be amended to read as follows:

32-803. (1) Any qualified voter of this state who will be absent from the county where such voter resides on the day of any election may, not more than ninety days nor later than 4:00 p.m. on the Friday before such election, apply in writing to the county clerk or election commissioner of the county of such voter's residence, as issuing officer, and request that such officer forward an absent voter's ballot to such voter by mail, or by such means as the Congress of the United States may provide. The application for an absent voter's ballot shall be in writing and signed by the voter, or his or her spouse, parent, or child of voting age and shall state the voter's residence address or courthouse address if registered pursuant to section 32-803.01, and the address outside the county where the ballot and supplies shall be sent to the voter. All ballots mailed to voters outside the county of their residence shall be voted, attested, and mailed as provided in section 32-812. If the election be a primary election, the voter must state the political party with which such voter affiliates. Any qualified voter, not more than thirty-five days before any election and not later than 4:00 p.m. on the day preceding such election, may appear in person at the office of the county clerk or election commissioner in the county of his or her residence to obtain a ballot and vote before leaving the county. Those persons appearing at the office of the county clerk or election commissioner after the deadline for registering and prior to the election to vote absentee shall not be permitted to register with the absent voters' ballots. Registration with absent voters' ballots shall be for those electors absent from the county as provided in

section 32-221, except that any law enforcement official, firefighting official, ~~or any emergency vehicle operator or attendant staff, or election officials and staff,~~ who by reason of carrying out their official duties are on duty for a period in excess of twelve hours, shall be eligible to vote an absentee ballot notwithstanding the fact that they are not absent from their county or precinct.

(2) Notwithstanding any other provisions of law to the contrary, any qualified voter who, because of unforeseen and unavoidable circumstances, shall be absent from the county where such voter resides on the day of any election and shall not have had sufficient time to make application for an absent voter's ballot, may authorize his or her agent to personally pick up a ballot for such absent voter from the office of the county clerk or election commissioner. The agent shall deliver the ballot to the absent voter and return the ballot not later than 8:00 p.m. on the day of the election. The request for such absent voters' ballots shall be in writing by the agent. The county clerk or election commissioner shall adopt procedures for the distribution of absent voters' ballots under this subsection, which procedures shall be similar to those established in section 32-807.01 for the distribution of disabled voters' ballots. No person shall act as agent for more than two voters for any one election.

Sec. 11. That section 32-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-808. Upon receipt of the ballot of an absent voter and supplies mentioned in section 32-806, the voter shall present himself or herself before some official provided for in section 32-813, exhibit the ballot unmarked to such official and forthwith, in the presence of the official and in the presence of no other person, but in a manner that the official cannot see how the ballot is marked, mark the ballot and fold it so that the signature endorsed name and title of the county clerk or election commissioner or any employee thereof is exposed and all other marks are hidden. The voter shall deliver the ballot to the official, who shall place the ballot in the identification envelope and seal the same.

Sec. 12. That section 32-1001.39, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1001.39. If it shall appear as evidenced by the primary election abstract of votes cast that any candidate for United States Senator, Representative in Congress, or any state or district officer or any other candidate who files his application for nomination with the Secretary of State, or any county, district, municipal, school, or other candidate who filed his application for nomination with the county clerk or election commissioner failed to be nominated or elected in a primary election by a margin of: (1) One two per cent or

less of the votes received by the candidate of his party who received the highest number of votes for that office at an election in which more than five hundred total votes were cast; or (2) two per cent 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 as provided in section 32-1001.40, or in the case of a nonpartisan office by a margin of two per cent or less of the votes received by the candidate receiving the highest number of votes for that office, or failed to be elected in a general or special election by a margin of one and one half per cent or less of the votes received by the candidate who received the highest number of votes for that office, the Secretary of State, county clerk, or election commissioner shall order a recount of the votes cast for the specific office or offices in question unless the losing candidate files a written statement with the person with whom he made his filing that he does not want a recount. A recount shall also be ordered for the office in which the total votes cast for all candidates exceed one hundred thousand and the total vote received by any losing candidate is within one per cent of the total vote received by any winning candidate.

Sec. 13. That section 32-1001.40, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1001.40. The Secretary of State shall, by registered or certified mail, make demand upon each county clerk and election commissioner of each county in which a recount is evident for a recount to be made at the courthouse at a specified date and time set by the Secretary of State. The recount All recounts shall be made by the county board of canvassers who officiated in making the official county canvass of the election returns. If any member of such board cannot for any reason participate in such recount, another person shall be appointed in his or her place.

All recounts for candidates filing with the Secretary of State shall be made on the fifth Wednesday after the election, shall be conducted at the courthouse, and shall commence at 9:00 a.m. The Secretary of State shall inform each county clerk and election commissioner of the names of the candidates for which the state canvassing board deems a recount to be necessary. The county clerks and election commissioners shall be responsible for recounting the ballots for those candidates when the county canvassing board deems a recount to be necessary. The recount shall be made as soon as possible after adjournment of the county canvassing board. The Secretary of State, county clerk, or election commissioner shall notify all candidates whose ballots

will be recounted of the time, date, and place of the recount. Any losing candidate may waive his or her right to a recount by filing a written statement with the Secretary of State, county clerk, or election commissioner with whom he or she made his or her filing. Candidates whose ballots will be recounted may be present or be represented by an agent appointed by the candidate. The procedures for the recounting of ballots shall be the same as those used for the counting of ballots on election day. If specialized counting machinery is used for the counting or recounting, such counting or recounting may be accomplished at the site of such specialized machinery, in essentially the same manner and under the same conditions as the original board was selected. The recount for candidates filing with the county clerk or election commissioner shall be made as soon as possible after the official abstract has been signed by the county canvassing board or, for the candidates filing with the Secretary of State, the recount shall be made as soon as possible after the official abstract has been signed by the state canvassing board. Immediately after the signing of the abstract, the Secretary of State, county clerk, or election commissioner shall notify all candidates involved in any recount. The apparent losing candidate may specify the date and time for the recount but, if he does not so specify by the third Wednesday following the election, the election officer with whom filings for the office were made shall set the date and time. In no case shall any recount be made later than the fifth Wednesday after the election. The Secretary of State shall promulgate and provide each county clerk and election commissioner with rules and regulations as in his opinion shall be necessary to conduct such recounts in a fair, impartial, and uniform manner, including provisions for allowing interested political parties and candidates involved to be represented by their appointed agents during the recount. Appointed agents shall have the authority to challenge any ballots so cast.

Sec. 14. That section 75-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-101. The members of the Public Service Commission shall (1) be resident citizens of this state, (2) be qualified voters under the Constitution and laws thereof, and (3) be, if members of or practitioners in any profession, in good standing according to the established standards of such profession, and (4) be not less than thirty years of age nor more than sixty-eight years of age at the time of taking office. No person shall be eligible to the office of Public Service Commissioner who is directly or indirectly interested in any common carrier in the state or out of it or who is in any way or manner pecuniarily interested in any common carrier subject to the provisions of this chapter. If any such commissioner shall become so interested, after his election or

appointment, his or her office shall become vacant; and if any commissioner shall become so interested, otherwise than voluntarily, he or she shall, within a reasonable time, divest himself or herself of such interest, and, failing to do so, his or her office shall become vacant.

~~No~~ A commissioner shall not hold any other office under the government of the United States, ~~or~~ of this state, or of any other state ~~government~~; and ~~he~~ shall not, while such commissioner, engage in any other occupation.

Sec. 15. That original sections 32-428.06, 32-428.10, 32-503.01, 32-808, 32-1001.39, 32-1001.40, and 75-101, Reissue Revised Statutes of Nebraska, 1943, and sections 32-265, 32-425, 32-504, 32-519.01, 32-537, and 32-803, Revised Statutes Supplement, 1982, and also section 32-428.02, Reissue Revised Statutes of Nebraska, 1943, are repealed.