

AMENDMENTS TO LB390

Introduced by Government, Military and Veterans Affairs.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 32-808, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 32-808 (1) Except as otherwise provided in section 32-939.02,
6 ballots for early voting to be mailed pursuant to section 32-941 shall be
7 mailed by nonforwardable first-class mail ready for delivery to
8 registered voters not more than thirty at least thirty-five days prior to
9 each statewide primary or general election and at least fifteen days
10 prior to all other elections.

11 (2) The election commissioner or county clerk shall not mail or
12 issue any ballot for early voting if the election to which such ballot
13 pertains has already been held.

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

20 Sec. 2. Section 32-943, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 32-943 (1) Any registered voter who is permitted to vote early
23 pursuant to section 32-938 may appoint an agent to (a) submit a request
24 for a ballot for early voting on his or her behalf of such voter or (b)
25 return a voted ballot to the election commissioner or county clerk on
26 behalf of such voter. The registered voter or his or her agent may
27 request that the ballot be sent to the registered voter by mail or

1 indicate on the request that the agent will personally pick up the ballot
2 for such registered voter from the office of the election commissioner or
3 county clerk. A registered voter or an agent acting on behalf of a
4 registered voter shall request a ballot in writing to the election
5 commissioner or county clerk in the county where the registered voter has
6 established his or her residence and shall indicate the voter's residence
7 address, the address to which the ballot is to be mailed if different,
8 and the voter's telephone number if available and precinct if known. The
9 registered voter or the voter's agent may use the form published by the
10 election commissioner or county clerk pursuant to section 32-808. The
11 registered voter or his or her agent shall sign the request.

12 (2) A candidate for office at such election, ~~and~~ any person serving
13 on a campaign committee for such a candidate, or a registered voter's
14 employer or agent of such employer shall not act as an agent for any
15 registered voter requesting a ballot or returning a voted ballot pursuant
16 to this section unless such person is a member of the registered voter's
17 family. No person shall act as an agent as described in either
18 subdivision (1)(a) or (b) of this section for more than two registered
19 voters in any election.

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

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

26 (5) The Secretary of State shall adopt and promulgate rules and
27 regulations governing the return of a voted ballot by an agent pursuant
28 to this section.

29 Sec. 3. Section 32-947, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 32-947 (1) Upon receipt of an application or other request for a

1 ballot to vote early, the election commissioner or county clerk shall
2 determine whether the applicant is a registered voter and is entitled to
3 vote as requested. If the election commissioner or county clerk
4 determines that the applicant is a registered voter entitled to vote
5 early and the application was received not later than the close of
6 business on the second Friday preceding the election, the election
7 commissioner or county clerk shall deliver a ballot to the applicant in
8 person or by mail, postage paid. The election commissioner or county
9 clerk or any employee of the election commissioner or county clerk shall
10 write or cause to be affixed his or her customary signature or initials
11 on the ballot.

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

15 VOTER'S OATH

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

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

22 (a) I,, am a registered voter
23 in County;

24 (b) I reside in the State of Nebraska at

25 (c) I have voted the enclosed ballot and am returning it in
26 compliance with Nebraska law; ~~and~~

27 (d) I have not voted and will not vote in this election except by
28 this ballot; ~~and~~ -

29 (e) If returning this ballot by an agent appointed pursuant to
30 section 32-943, I have instructed such agent to sign below.

31 ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION

1 IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS
2 IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY
3 FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE
4 MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND
5 DOLLARS, OR BOTH.

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

8 Voter signature Signature

9 Agent signature (if applicable)

10 (3) If the ballot and identification envelope will be returned by
11 mail or by someone other than the voter, the election commissioner or
12 county clerk shall include with the ballot an identification envelope
13 upon the face of which shall be printed the official title and post
14 office address of the election commissioner or county clerk.

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

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

24 (b) A registration application and the oath pursuant to section
25 32-946, if the voter is without a residence address, with instructions
26 that the residence address of the voter shall be deemed that of the
27 office of the election commissioner or county clerk of the county of the
28 voter's prior residence and that failure to return the completed and
29 signed application and oath to the election commissioner or county clerk
30 by the close of the polls on election day will result in the ballot not
31 being counted; or

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

7 (5) The election commissioner or county clerk may enclose with the
8 ballot materials a separate return envelope for the voter's use in
9 returning his or her identification envelope containing the voted ballot,
10 registration application, and other materials that may be required.

11 Sec. 4. Section 32-949, Reissue Revised Statutes of Nebraska, is
12 amended to read:

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

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

28 (a) Place the marked ballot in the identification envelope received
29 for that purpose in such a manner that the signature of the issuing
30 officer on the ballot is visible;

31 (b) Complete and sign the voter's oath on the outside of the

1 identification envelope under the penalty of election falsification and
2 ensure the identification envelope is also signed by the agent appointed
3 pursuant to section 32-943 if returned by such agent;

4 (c) Enclose, in the identification envelope or separately in the
5 return envelope if one has been provided, his or her completed
6 registration application if one was provided pursuant to section 32-945
7 or 32-946, a copy of his or her identification document if such
8 identification has been requested, and the oath completed and signed by a
9 voter without a residence address if required pursuant to section 32-946;

10 (d) Ensure that the identification envelope or return envelope is
11 sealed; and

12 (e) Mail, deliver, or cause to be delivered the envelope containing
13 the ballots and any required materials to the election commissioner or
14 county clerk from whom it was received.

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

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

20 32-954 Upon receipt of the official ballot, the registered voter
21 shall mark it, seal the ballot in the identification envelope supplied
22 with the ballot, sign the identification envelope, also have the agent
23 appointed pursuant to section 32-943 sign the identification envelope if
24 returned by such agent, and comply with the instructions provided with
25 the ballot. The voter may return the ballot to the election commissioner
26 or county clerk by mailing it or by personally delivering it to the
27 office of the election commissioner or county clerk. The deadline for
28 receipt of the ballot is 5 p.m. on the date set for the election. The
29 official ballot must be returned in the identification envelope. The
30 registered voter shall, by signing the envelope, certify to the facts
31 contained on the envelope. The election commissioner or county clerk

1 shall keep the identification envelopes received from registered voters
2 unopened in a fireproof safe or other suitable location which is locked
3 until delivered to the counting board.

4 Sec. 6. Section 32-957, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 32-957 An official ballot under section 32-953 shall be counted only
7 if it is returned in the identification envelope, the envelope is signed
8 by the voter to whom it was issued and also by the agent appointed
9 pursuant to section 32-943 if returned by such agent, and the voter's
10 signature is verified by the election commissioner or county clerk. The
11 election commissioner or county clerk shall verify the voter's signature
12 on each identification envelope received in his or her office with the
13 signature appearing on the voter registration records. If the election
14 commissioner or county clerk is unable to verify a voter's signature, the
15 election commissioner or county clerk shall contact the voter within two
16 days after determining that he or she is unable to verify the signature
17 to ascertain whether the voter cast a ballot. The election commissioner
18 or county clerk may request that the registered voter sign and submit a
19 current signature card pursuant to section 32-318. The election
20 commissioner or county clerk may begin verifying the voter signatures as
21 the envelopes are received in his or her office. If the election
22 commissioner or county clerk determines that a voter has voted more than
23 once, no ballot cast by that voter in that election shall be counted. The
24 election commissioner or county clerk shall make public any record or
25 list of registered voters who have returned their ballots.

26 Sec. 7. Section 32-1027, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 32-1027 (1) The election commissioner or county clerk shall appoint
29 two or more registered voters to the counting board for early voting. One
30 registered voter shall be appointed from the political party casting the
31 highest number of votes for Governor or for President of the United

1 States in the county in the immediately preceding general election, and
2 one registered voter shall be appointed from the political party casting
3 the next highest vote for such office. The election commissioner or
4 county clerk may appoint additional registered voters to serve on the
5 counting board and may appoint registered voters to serve in case of a
6 vacancy among any of the members of the counting board. Such appointees
7 shall be balanced between the political parties and may include
8 registered voters unaffiliated with any political party. The counting
9 board may begin carrying out its duties not earlier than the second
10 Friday before the election and shall meet as directed by the election
11 commissioner or county clerk.

12 (2) The counting board shall place all identification envelopes in
13 order and shall review each returned identification envelope pursuant to
14 verification procedures prescribed in subsections (3) and (4) of this
15 section.

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

17 (a) The voter has provided his or her name, residence address, and
18 signature on the voter identification envelope and the agent has provided
19 the signature of the agent appointed pursuant to section 32-943 if the
20 envelope is returned by such agent;

21 (b) The ballot has been received from the voter who requested it and
22 the residence address is the same address provided on the voter's request
23 for a ballot for early voting, by comparing the information provided on
24 the identification envelope with information recorded in the record of
25 early voters or the voter's request;

26 (c) A completed and signed registration application has been
27 received from the voter by the deadline in section 32-302, 32-321, or
28 32-325 or by the close of the polls pursuant to section 32-945;

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

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

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

6 (a) A ballot received from a voter who was properly registered on or
7 prior to the deadline for registration pursuant to section 32-302 or
8 32-321 shall be accepted for counting without further review if:

9 (i) The name on the identification envelope appears to be that of a
10 registered voter to whom a ballot for early voting has been issued or
11 sent;

12 (ii) The residence address provided on the identification envelope
13 is the same residence address at which the voter is registered or is in
14 the same precinct and subdivision of a precinct, if any; and

15 (iii) The identification envelope has been signed by the voter and
16 by the agent appointed pursuant to section 32-943 if returned by such
17 agent;

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

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

24 (ii) The name on the identification envelope appears to be that of
25 the person who requested the ballot;

26 (iii) The residence address provided on the identification envelope
27 and on the registration application is the same as the residence address
28 as provided on the voter's request for a ballot for early voting; and

29 (iv) The identification envelope has been signed by the voter and by
30 the agent appointed pursuant to section 32-943 if returned by such agent;

31 (c) In the case of a ballot received from a voter without a

1 residence address who requested a ballot pursuant to section 32-946, the
2 ballot shall be accepted for counting if:

3 (i) The name on the identification envelope appears to be that of a
4 registered voter to whom a ballot has been sent;

5 (ii) A valid registration application completed and signed by the
6 voter, for whom the residence address is deemed to be the address of the
7 office of the election commissioner or county clerk pursuant to section
8 32-946, has been received by the election commissioner or county clerk
9 prior to the close of the polls on election day;

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

14 (iv) The identification envelope has been signed by the voter and by
15 the agent appointed pursuant to section 32-943 if returned by such agent;
16 and

17 (d) In the case of a ballot received from a registered voter
18 required to present identification before voting pursuant to section
19 32-318.01, the ballot shall be accepted for counting if:

20 (i) The name on the identification envelope appears to be that of a
21 registered voter to whom a ballot has been issued or sent;

22 (ii) The residence address provided on the identification envelope
23 is the same address at which the voter is registered or is in the same
24 precinct and subdivision of a precinct, if any;

25 (iii) A copy of an identification document authorized in section
26 32-318.01 has been received by the election commissioner or county clerk
27 prior to the close of the polls on election day; and

28 (iv) The identification envelope has been signed by the voter and by
29 the agent appointed pursuant to section 32-943 if returned by such agent.

30 (5) In opening the identification envelope or the return envelope to
31 determine if registration applications, oaths, or identification

1 documents have been enclosed by the voters from whom they are required,
2 the counting board shall make a good faith effort to ensure that the
3 ballot remains folded and that the secrecy of the vote is preserved.

4 (6) The counting board may, on the second Friday before the
5 election, open all identification envelopes which are approved, and if
6 the signature of the election commissioner or county clerk or his or her
7 employee is on the ballot, the ballot shall be unfolded, flattened for
8 purposes of using the optical scanner, and placed in a sealed container
9 for counting as directed by the election commissioner or county clerk. At
10 the discretion of the election commissioner or county clerk, the counting
11 board may begin counting early ballots no earlier than twenty-four hours
12 prior to the opening of the polls on the day of the election.

13 (7) If an identification envelope is rejected, the counting board
14 shall not open the identification envelope. The counting board shall
15 write Rejected on the identification envelope and the reason for the
16 rejection. If the ballot is rejected after opening the identification
17 envelope because of the absence of the official signature on the ballot,
18 the ballot shall be reinserted in the identification envelope which shall
19 be resealed and marked Rejected, no official signature. The counting
20 board shall place the rejected identification envelopes and ballots in a
21 container labeled Rejected Ballots and seal it.

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

28 Sec. 8. Original sections 32-808, 32-943, 32-949, 32-954, and
29 32-957, Reissue Revised Statutes of Nebraska, and sections 32-947 and
30 32-1027, Revised Statutes Cumulative Supplement, 2022, are repealed.