

AMENDMENTS TO LB 239

Introduced by Government, Military and Veterans Affairs

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

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

5           32-101 Sections 32-101 to 32-1551 and section 3 of this  
6 act shall be known and may be cited as the Election Act.

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

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

12           Sec. 3. Government-issued photographic identification  
13 means:

14           (1) A motor vehicle operator's license or state  
15 identification card issued under the Motor Vehicle Operator's  
16 License Act which is current and valid at the time it is presented;  
17 or

18           (2) A document issued by the United States which shows:

19           (a) The name of the individual to whom the document was  
20 issued and the name conforms to the name in the voter's voter  
21 registration record;

22           (b) A photograph of the individual to whom the document  
23 was issued; and

1           (c) An expiration date which is not passed.

2           Sec. 4. Section 32-311.01, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           32-311.01 (1) The Secretary of State shall prescribe and  
5 distribute a registration application which may be used statewide  
6 to register to vote and update voter registration records. An  
7 applicant may use the application to register to vote or to update  
8 his or her voter registration record with changes in his or her  
9 personal information or other information related to his or her  
10 eligibility to vote. An applicant may submit the application in  
11 person, through a personal messenger or personal agent, or by mail.  
12 Every election commissioner or county clerk shall accept such an  
13 application for registration. If an applicant who is eligible to  
14 register to vote submits the application in person at the office of  
15 the election commissioner or county clerk, the information from the  
16 application shall be entered into the voter registration register  
17 in the presence of the applicant if possible.

18           (2) The application shall contain substantially all  
19 the information provided in section 32-312 and the following  
20 informational statements:

21           (a) An applicant who is unable to sign his or her name  
22 may affix his or her mark next to his or her name written on the  
23 signature line by some other person;

24           (b) If the application is submitted by mail and the  
25 applicant is registering in the state for the first time and has  
26 not previously voted within the state, the applicant must submit  
27 with the application a copy of a government-issued photographic

1 identification or other photo identification which is current and  
2 valid or a copy of a utility bill, bank statement, government  
3 check, paycheck, or other government document that is current and  
4 that shows the name and address of the applicant as they appear  
5 on the application in order to avoid additional identification  
6 requirements when voting for the first time;

7 (c) An applicant may deliver the application to the  
8 office of the election commissioner or county clerk in person,  
9 through a personal messenger or personal agent, or by mail;

10 (d) To vote at the polling place on election day, the  
11 completed application must be:

12 (i) Delivered by the applicant in person to the office of  
13 the election commissioner or county clerk on or before the deadline  
14 prescribed in section 32-302;

15 (ii) Delivered by the applicant's personal messenger or  
16 personal agent to the office of the election commissioner or county  
17 clerk on or before the third Friday before the election; or

18 (iii) Postmarked on or before the third Friday before the  
19 election if the application is submitted by mail; and

20 (e) The election commissioner or county clerk will, upon  
21 receipt of the application for registration, send an acknowledgment  
22 of registration to the applicant indicating whether the application  
23 is proper or not.

24 Sec. 5. Section 32-318.01, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 32-318.01 (1) (a) Except as provided by subsection (2) of  
27 this section, a person who registers to vote by mail after January

1 1, 2003, and has not previously voted in an election within the  
2 state shall present a government-issued photographic identification  
3 or other photographic identification which is current and valid  
4 or a copy of a utility bill, bank statement, government check,  
5 paycheck, or other government document which is dated within the  
6 sixty days immediately prior to the date of presentation and which  
7 shows the same name and residence address of the person provided  
8 on the registration application in order to avoid additional  
9 identification requirements at the time of voting pursuant to  
10 section 32-914 or 32-947.

11 (b) Such documentation may be presented at the time of  
12 application for registration, after submission of the application  
13 for registration, or at the time of voting. The documentation must  
14 be received by the election commissioner or county clerk not later  
15 than 6 p.m. on the second Friday preceding the election to avoid  
16 additional identification requirements at the time of voting at  
17 the polling place if the voter votes in person. If the voter is  
18 voting using a ballot for early voting, the documentation must be  
19 received by the election commissioner or county clerk prior to the  
20 date on which the ballot is mailed to the voter to avoid additional  
21 identification requirements at the time of voting. Documentation  
22 received after the ballot has been mailed to the voter but not  
23 later than 8 p.m. on election day will be considered timely for  
24 purposes of determining the applicant's eligibility to vote in the  
25 election.

26 (c) Such documentation may be presented in person, by  
27 mail, or by facsimile transmission.

1           (d) Failure to present such documentation may result in  
2 the ballot not being counted pursuant to verification procedures  
3 prescribed in sections 32-1002 and 32-1027.

4           (2) A person who registers to vote by mail after January  
5 1, 2003, and has not previously voted in an election within the  
6 state shall not be required to present additional identification if  
7 he or she:

8           (a) Has provided his or her Nebraska driver's license  
9 number or the last four digits of his or her social security number  
10 and the election commissioner or county clerk verifies the number  
11 provided pursuant to subsection (2) of section 32-312.03;

12           (b) Is a member of the armed forces of the United States  
13 who by reason of active duty is absent from his or her place of  
14 residence where the member is otherwise eligible to vote;

15           (c) Is a member of the United States Merchant Marine who  
16 by reason of service is away from his or her place of residence  
17 where the member is otherwise eligible to vote;

18           (d) Is a spouse or dependent of a member of the armed  
19 forces of the United States or United States Merchant Marine who  
20 is absent from his or her place of residence due to the service of  
21 that member;

22           (e) Resides outside the United States and but for such  
23 residence would be qualified to vote in the state if the state was  
24 the last place in which the person was domiciled before leaving the  
25 United States; or

26           (f) Is elderly or handicapped and has requested to vote  
27 by alternative means other than by casting a ballot at his or her

1 polling place on election day.

2           Sec. 6. Section 32-322, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           32-322 (1) Upon receipt by the election commissioner or  
5 county clerk of a complete and correct registration application  
6 showing that the registrant is qualified to be a registered voter  
7 pursuant to sections 32-312.01 to 32-312.05, the registrant shall  
8 be a registered voter and the election commissioner or county clerk  
9 shall send, by nonforwardable first-class mail, an acknowledgment  
10 of registration to the registrant at the postal address shown on  
11 the registration application. If an acknowledgment of registration  
12 is returned as undeliverable, a second nonforwardable first-class  
13 mailing shall be attempted. If a registration application is a  
14 duplicate of a registration already on file, the registrant shall  
15 be so notified.

16           (2) Prior to the statewide primary and general election  
17 in every even-numbered year, the Secretary of State shall notify  
18 each election commissioner and county clerk regarding every  
19 registered voter in the respective county who, according to the  
20 voter registration records of the Secretary of State, does not  
21 have a motor vehicle operator's license or state identification  
22 card. Prior to the statewide primary and general election in every  
23 even-numbered year, the election commissioner or county clerk shall  
24 mail an acknowledgment of registration to every registered voter  
25 listed on the notification received from the Secretary of State for  
26 purposes of presenting identification at the voter's polling place.

27           Sec. 7. Section 32-902, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           32-902 (1) The election commissioner or county clerk  
3 shall cause instructions for the guidance of registered voters in  
4 preparing their ballots to be printed in large, clear type on  
5 cards in English. He or she shall furnish at least five such cards  
6 to each polling place in each precinct at the same time and in  
7 the same manner as the printed ballots. The judges or clerks of  
8 election shall post such cards in each voting booth on the day of  
9 election. The card shall contain full instructions on preparing and  
10 casting ballots, including how to cast a write-in vote. The form  
11 and contents of the cards shall be approved by the Secretary of  
12 State.

13           (2) The election commissioner or county clerk shall cause  
14 voting information to be posted in each polling place on the day  
15 of election. The voting information shall include the following  
16 information as approved by the Secretary of State:

17           (a) Information regarding the date of the election and  
18 the hours during which polling places will be open;

19           (b) Instructions for voters who registered to vote by  
20 mail and first-time voters and for voters to present identification  
21 or vote a provisional ballot;

22           (c) General information on voting rights under applicable  
23 federal and state laws, including information on the right of an  
24 individual to cast a provisional ballot and instructions on how to  
25 contact the appropriate officials if these rights are alleged to  
26 have been violated; and

27           (d) General information on federal and state laws

1 regarding prohibitions on acts of fraud and misrepresentation.

2           Sec. 8. Section 32-914, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           32-914 (1) Official ballots shall be used at all  
5 elections. No person shall receive a ballot or be entitled to  
6 vote unless and until he or she is registered as a voter except  
7 as provided in section 32-914.01, 32-914.02, 32-915, 32-915.01, or  
8 32-936.

9           (2) Except as otherwise specifically provided, no ballot  
10 shall be handed to any voter at any election until:

11           (a) He or she announces his or her name and address to  
12 the clerk of election;

13           (b) The clerk has found that he or she is a registered  
14 voter at the address as shown by the precinct list of registered  
15 voters unless otherwise entitled to vote in the precinct under  
16 section 32-328, 32-914.01, 32-914.02, 32-915, or 32-915.01;

17           (c) The voter has presented a government-issued  
18 photographic identification which is current and valid at the time  
19 of the election, or a copy of a utility bill, bank statement,  
20 paycheck, government check, or other government document which  
21 is current at the time of the election and which shows the same  
22 name and residence address of the voter that is on the precinct  
23 list of registered voters, if the voter registered by mail after  
24 January 1, 2003, and has not previously voted in an election for  
25 a federal office within the county and a notation appears on  
26 the precinct list of registered voters that the voter has not  
27 previously presented identification to the election commissioner



1 or county clerk;

2 (d) For voters other than a voter subject to subdivision  
3 (c) of this subsection, the voter has presented a government-issued  
4 photographic identification or the acknowledgment of registration  
5 provided to the voter pursuant to section 32-322;

6 ~~(d)~~ (e) As instructed by the clerk of election, the  
7 registered voter has personally written his or her name (i) in  
8 the precinct sign-in register on the appropriate line which follows  
9 the last signature of any previous voter or (ii) in the combined  
10 document containing the precinct list of registered voters and the  
11 sign-in register; and

12 ~~(e)~~ (f) The clerk has listed on the precinct list of  
13 registered voters the corresponding line number and name of the  
14 registered voter or has listed the name of the voter in a separate  
15 book as provided in section 32-913.

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

18 32-915 (1) A person whose name does not appear on the  
19 precinct list of registered voters at the polling place for the  
20 precinct in which he or she resides, whose name appears on the  
21 precinct list of registered voters at the polling place for the  
22 precinct in which he or she resides at a different residence  
23 address as described in section 32-914.02, ~~or~~ whose name appears  
24 with a notation that he or she received a ballot for early voting,  
25 or who does not present identification or documentation required  
26 under subdivision (2)(c) or (d) of section 32-914 may vote a  
27 provisional ballot if he or she:

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

4           (b) Is not entitled to vote under section 32-914.01 or  
5 32-914.02;

6           (c) Has not registered to vote or voted in any other  
7 county since registering to vote in the county in which the  
8 precinct is located;

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

12           (e) Completes and signs a registration application before  
13 voting.

14           ~~(2) A voter whose name appears on the precinct list~~  
15 ~~of registered voters for the polling place with a notation~~  
16 ~~that the voter is required to present identification pursuant~~  
17 ~~to section 32-318.01 but fails to present identification may vote a~~  
18 ~~provisional ballot if he or she completes and signs a registration~~  
19 ~~application before voting.~~

20           ~~(3)~~ (2) Each person voting by provisional ballot shall  
21 enclose his or her ballot in an envelope marked Provisional Ballot  
22 and shall, by signing the certification on the front of the  
23 envelope or a separate form attached to the envelope, certify to  
24 the following facts:

25           (a) I am a registered voter in ..... County;

26           (b) My name or address did not correctly appear on the  
27 precinct list of registered voters without a notation or I have

1 not presented identification or documentation required to otherwise  
2 obtain a ballot;

3 (c) I registered to vote on or about this date  
4 .....

5 (d) I registered to vote  
6 .... in person at the election office or a voter  
7 registration site,  
8 .... by mail,  
9 .... on a form through the Department of Motor Vehicles,  
10 .... on a form through another state agency,  
11 .... in some other way;

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

14 (f) My current address is shown on the registration  
15 application completed as a requirement for voting by provisional  
16 ballot; and

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

19 ~~(4)~~ (3) The voter shall sign the certification under  
20 penalty of election falsification. The following statements shall  
21 be on the front of the envelope or on the attached form: By signing  
22 the front of this envelope or the attached form you are certifying  
23 to the information contained on this envelope or the attached form  
24 under penalty of election falsification. Election falsification  
25 is a Class IV felony and may be punished by up to five years  
26 imprisonment, a fine of up to ten thousand dollars, or both.

27 ~~(5)~~ (4) If the person's name does not appear on the

1 precinct list of registered voters for the polling place and the  
2 judge or clerk of election determines that the person's residence  
3 address is located in another precinct within the same county, the  
4 judge or clerk of election shall direct the person to his or her  
5 correct polling place to vote.

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

8           32-938 (1) A registered voter shall be permitted to vote  
9 early by requesting a ballot for early voting pursuant to section  
10 32-941 or 32-943. A registered voter voting early shall not be  
11 required to present identification or other documentation prior  
12 to being issued a ballot for early voting except as provided in  
13 subdivision (2)(b) of section 32-311.01.

14           (2) Any person excluded from voting under section 32-313  
15 or 32-314 shall not be allowed to receive a ballot for early  
16 voting.

17           (3) Any person who fails to register to vote by the  
18 voter registration deadline shall not be allowed to vote except as  
19 provided in section 32-940 or 32-941.

20           Sec. 11. Section 32-953, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           32-953 The election commissioner or county clerk shall  
23 mail the official ballot to all registered voters of the political  
24 subdivision at the addresses appearing on the voter registration  
25 register on the same day. In an election held by mail, registered  
26 voters shall not be required to present identification or other  
27 documentation otherwise required under subdivision (2)(d) of

1 section 32-914 prior to being issued a ballot. The ballots shall  
2 be mailed by nonforwardable first-class mail not sooner than the  
3 twentieth day before the date set for the election and not later  
4 than the tenth day before the date set for the election. The  
5 election commissioner or county clerk shall include with the ballot  
6 an unsealed identification envelope meeting the requirements of  
7 subsection (2) of section 32-947 and instructions sufficient to  
8 describe the voting process.

9           Sec. 12. Section 32-1002, Revised Statutes Cumulative  
10 Supplement, 2010, is amended to read:

11           32-1002 (1) As the ballots are removed from the ballot  
12 box pursuant to sections 32-1012 to 32-1018, the receiving board  
13 shall separate the envelopes containing the provisional ballots  
14 from the rest of the ballots and deliver them to the election  
15 commissioner or county clerk.

16           (2) Upon receipt of a provisional ballot, the election  
17 commissioner or county clerk shall verify that the certificate on  
18 the front of the envelope or the form attached to the envelope is  
19 in proper form and that the certification has been signed by the  
20 voter.

21           (3) The election commissioner or county clerk shall  
22 also (a) verify that such person has not voted anywhere else  
23 in the county or been issued a ballot for early voting, (b)  
24 investigate whether any credible evidence exists that the person  
25 was properly registered to vote in the county before the deadline  
26 for registration for the election, (c) investigate whether any  
27 information has been received pursuant to section 32-309, 32-310,

1 or 32-324 that the person has resided, registered, or voted in  
2 any other county or state since registering to vote in the county,  
3 and (d) upon determining that credible evidence exists that the  
4 person was properly registered to vote in the county, make the  
5 appropriate changes to the voter registration register by entering  
6 the information contained in the registration application completed  
7 by the voter at the time of voting a provisional ballot.

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

10 (a) Credible evidence exists that the voter was properly  
11 registered in the county before the deadline for registration for  
12 the election;

13 (b) The voter has resided in the county continuously  
14 since registering to vote in the county;

15 (c) The voter has not voted anywhere else in the county  
16 or has not otherwise voted early using a ballot for early voting;

17 (d) The voter has completed a registration application  
18 prior to voting as prescribed in subsection (6) of this section  
19 and:

20 (i) The residence address provided on the registration  
21 application completed pursuant to subdivision (1)(e) of section  
22 32-915 is located within the precinct in which the person voted;  
23 and

24 (ii) If the voter is voting in a primary election,  
25 the party affiliation provided on the registration application  
26 completed prior to voting the provisional ballot is the same party  
27 affiliation that appears on the voter's voter registration record

1 based on his or her previous registration application; and

2 (e) The certification on the front of the envelope or  
3 form attached to the envelope is in the proper form and signed by  
4 the voter.

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

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

9 (b) Information has been received pursuant to section  
10 32-309, 32-310, or 32-324 that the voter has resided, registered,  
11 or voted in any other county or state since registering to vote in  
12 the county in which he or she cast the provisional ballot;

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

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

18 (e) The residence address provided on the registration  
19 application completed pursuant to subdivision (1)(e) of section  
20 32-915 is in a different county or in a different precinct than the  
21 county or precinct in which the voter voted;

22 (f) If the voter is voting in a primary election, the  
23 party affiliation on the registration application completed prior  
24 to voting the provisional ballot is different than the party  
25 affiliation that appears on the voter's voter registration record  
26 based on his or her previous registration application; or

27 (g) The voter failed to complete and sign the

1 certification on the envelope or form attached to the envelope  
2 pursuant to subsection ~~(3)~~ (2) of section 32-915.

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

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

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

11 (b) Both the registration application and the  
12 certification are signed by the voter.

13 (7) Upon determining that the voter's provisional ballot  
14 is eligible to be counted, the election commissioner or county  
15 clerk shall remove the ballot from the envelope without exposing  
16 the marks on the ballot and shall place the ballot with the ballots  
17 to be counted by the county canvassing board.

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

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

24 Sec. 13. Original sections 32-103, 32-311.01, 32-318.01,  
25 32-322, 32-902, 32-914, 32-938, and 32-953, Reissue Revised  
26 Statutes of Nebraska, and sections 32-101, 32-915, and 32-1002,  
27 Revised Statutes Cumulative Supplement, 2010, are repealed.