

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 161

Introduced by Karpisek, 32; Avery, 28; Wallman, 30.

Read first time January 07, 2011

Committee: Government, Military and Veterans Affairs

A BILL

- 1 FOR AN ACT relating to elections; to amend sections 32-1119 and
- 2 32-1121, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to recounts; and to repeal the
- 4 original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-1119, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-1119 (1) If it appears as evidenced by the abstract of
4 votes that any candidate failed to be nominated or elected by a
5 margin of (a) one percent or less of the votes received by the
6 candidate who received the highest number of votes for the office at
7 an election in which more than five hundred total votes were cast or
8 (b) two percent or less of the votes received by the candidate who
9 received the highest number of votes for the office at an election in
10 which five hundred or less total votes were cast, then such candidate
11 shall be entitled to a recount. Any losing candidate may waive his or
12 her right to a recount by filing a written statement with the
13 Secretary of State, election commissioner, or county clerk with whom
14 he or she made his or her filing. All expenses of a recount under
15 this section shall be paid by those political subdivisions involved
16 in the recount.

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

22 (3) Recounts for candidates who filed with the Secretary
23 of State shall be made on the fifth Wednesday after the election and
24 shall commence at 9 a.m. The Secretary of State shall inform each
25 election commissioner or county clerk of the names of the candidates

1 for which the board of state canvassers deems a recount to be
2 necessary.

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

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

15 (6) The procedures for the recounting of ballots required
16 under subsection (1) of this section shall be the same as those used
17 for the counting of ballots on election day. The recount shall be
18 conducted at the county courthouse, except that if vote counting
19 devices are used for the counting or recounting, such counting or
20 recounting may be accomplished at the site of the devices. Counties
21 counting ballots by using a vote counting device shall first recount
22 the ballots by use of the device. If substantial changes are found,
23 the ballots shall then be counted using such device in any precinct
24 which might reflect a substantial change.

25 Sec. 2. Section 32-1121, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-1121 ~~If any candidate~~ Any candidate who failed to be
3 nominated or elected ~~by more than the margin provided in section~~
4 ~~32-1119, the losing candidate~~ may submit a certified written request
5 for a manual recount at his or her expense. The request shall be
6 filed with the filing officer with whom the candidate filed for
7 election not later than the tenth day after the county canvassing
8 board or the board of state canvassers convenes. The recount shall be
9 conducted ~~as provided in section 32-1119.~~ manually by the county
10 canvassing board. The requesting candidate may provide the filing
11 officer with a discretionary list of up to ten election precincts to
12 be recounted first and may waive the balance of the recount after
13 these precincts have been recounted. Prior to conducting the recount
14 for a county or for a listed precinct, the cost of the recount shall
15 be determined for both the county and the listed precinct by the
16 election commissioner or county clerk and the requesting candidate
17 shall be so notified. The candidate requesting the recount shall pay
18 the ~~estimated~~ determined cost of the recount before the recount is
19 scheduled to be conducted for a county or for a listed precinct. If
20 the recount involves more than one county, the election commissioner
21 or county clerk shall certify the cost to the Secretary of State. The
22 Secretary of State shall then notify the candidate of the determined
23 cost for each county and for listed precincts, and the determined
24 cost shall be paid before ~~any~~ a recount is scheduled to be conducted
25 for the county or for listed precincts. The candidate shall pay the

1 cost on demand to the county treasurer of each county involved, and
2 such sums shall be placed in the county general fund to help defray
3 the cost of the recount. If the actual expense is less than the
4 determined cost, the candidate may file a claim with the county board
5 for overpayment of the recount. If the recount determines the
6 candidate to be the winner, all costs which he or she paid shall be
7 refunded. Refunds shall be made from the county general fund.

8 Sec. 3. Original sections 32-1119 and 32-1121, Reissue
9 Revised Statutes of Nebraska, are repealed.