

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 793

Introduced by McCollister, 20.

Read first time January 06, 2022

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Election Act; to amend sections 14-205,
2 14-206, 14-207, 32-554, 32-801, 32-812, 32-813, 32-817, 32-1003,
3 32-1004, 32-1119, and 32-1122, Reissue Revised Statutes of Nebraska,
4 sections 16-104, 17-527, 19-409, 32-101, 32-103, 32-202, 32-538,
5 32-901, and 32-1008, Revised Statutes Cumulative Supplement, 2020,
6 and sections 32-816 and 32-1005, Revised Statutes Supplement, 2021;
7 to define terms; to provide for ranked-choice voting for certain
8 city or village offices; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-205, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 14-205 (1) If ranked-choice voting is not applicable to the
4 position to be filled as provided in section 19 of this act
5 ~~Notwithstanding any more general law respecting primary elections in~~
6 ~~force in this state,~~ the official ballot to be prepared and used at the
7 primary election under section 14-204 shall be in substantially the form
8 provided in this subsection ~~section~~. The names of all candidates shall be
9 placed upon the ballot without any party designation.

10 Candidate for Nomination for Council Member from City Council
11 District No., of the City of, at the
12 Primary Election

13 Vote for only one:
14
15 (Names of candidates)

16 (2) In all other respects the general character of the ballot to be
17 used shall be the same as authorized by the Election Act.

18 (3) In printing, the names shall not be arranged alphabetically but
19 shall be rotated according to the following plan: The form shall be set
20 up by the printer, with the names in the order in which they are placed
21 upon the sample ballot prepared by the officer authorized to conduct the
22 general city election. In printing the ballots for the various election
23 districts or precincts, the position of the names shall be changed for
24 each election district, and in making the change of position the printer
25 shall take the line of type containing the name at the head of the form
26 and place it at the bottom, shoving up the column so that the name that
27 was second before the change shall be the first after the change. The
28 primary election shall be conducted pursuant to the Election Act except
29 as provided in section 14-204 and unless otherwise provided in the home
30 rule charter or city code.

31 Sec. 2. Section 14-206, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 14-206 (1) If there are three or more candidates for a city council
3 district at the primary election under section 14-204, the The two
4 candidates receiving the highest number of votes using ranked-choice
5 voting under section 19 of this act in each such city council district at
6 the primary election under section 14-204 shall be the candidates and the
7 only candidates whose names shall be placed upon the official ballot for
8 council members in such city council district at the general city
9 election in such city.

10 (2) If there are only one or two candidates for a city council
11 district at the primary election under section 14-204, such candidate or
12 candidates shall be the candidates and the only candidates whose names
13 shall be placed upon the official ballot for council members in such city
14 council district at the general city election in such city.

15 Sec. 3. Section 14-207, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 14-207 At the general city election at which council members are to
18 be elected, the ballot shall be prepared in substantially the same form
19 as provided in subsection (1) of section 14-205, and the person receiving
20 the highest number of votes in each of the city council districts shall
21 be the council member elected. The general city election shall be
22 conducted pursuant to the Election Act unless otherwise provided in the
23 home rule charter or city code.

24 Sec. 4. Section 16-104, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 16-104 If a city of the second class becomes a city of the first
27 class, the mayor and city council shall divide the city into not less
28 than three wards, as compact in form and equal in population as may be,
29 the boundaries of which shall be defined by ordinance, to take effect at
30 the next annual city election after reorganization except as provided in
31 section 32-553. Each ward shall constitute an election district, except

1 that when any ward has over five hundred legal voters, the mayor and city
2 council may divide such ward into two or more election districts. If it
3 is necessary to establish the staggering of terms by nominating and
4 electing council members for terms of different durations at the same
5 elections, the candidates receiving the greatest number of votes shall be
6 nominated and have their names placed on the general election ballot. The
7 determination of the greatest number of votes shall be made by ranked-
8 choice voting pursuant to section 19 of this act for any position for
9 which there are three or more candidates.

10 Sec. 5. Section 17-527, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 17-527 Cities of the second class and villages shall, subject to
13 section 19 of this act, have power to prescribe the manner of conducting
14 all municipal elections and the return of such elections and for holding
15 special elections for any purpose provided by law.

16 Sec. 6. Section 19-409, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

18 19-409 (1) In a city under the commission plan of government, the
19 two candidates for city council member receiving the highest number of
20 votes at the primary election shall be placed upon the official ballot
21 for such position at the statewide general election. If there are three
22 or more candidates for such position, the determination of the two
23 candidates with the highest number of votes shall be made using ranked-
24 choice voting pursuant to section 19 of this act. If no candidates
25 appeared on the primary election ballot or if the city council waived the
26 primary election under section 19-405, all persons filing pursuant to
27 section 19-405 shall be the only candidates whose names shall be placed
28 upon the official ballot for such position at the statewide general
29 election. If there are three or more candidates for such position, the
30 determination of the winner shall be made using ranked-choice voting
31 pursuant to section 19 of this act.

1 (2) Terms for city council members under the commission plan of
2 government shall begin on the date of the first regular meeting of the
3 city council in December following the statewide general election. The
4 changes made to this section by Laws 1999, LB 250, shall not change the
5 staggering of the terms of city council members in cities that have
6 adopted the commission plan of government prior to January 1, 1999.

7 Sec. 7. Section 32-101, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 32-101 Sections 32-101 to 32-1551 and sections 9 and 19 of this act
10 shall be known and may be cited as the Election Act.

11 Sec. 8. Section 32-103, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:

13 32-103 For purposes of the Election Act, the definitions found in
14 sections 32-104 to 32-120 and section 9 of this act shall be used.

15 Sec. 9. Ranked-choice voting means an election voting system in
16 which a voter uses a ranked ballot to indicate the voter's preference
17 between candidates and the results are determined using the ranked-choice
18 voting count pursuant to section 19 of this act.

19 Sec. 10. Section 32-202, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 32-202 In addition to any other duties prescribed by law, the
22 Secretary of State shall:

23 (1) Supervise the conduct of primary and general elections in this
24 state;

25 (2) Provide training for election commissioners, county clerks, and
26 other election officials in providing for registration of voters and the
27 conduct of elections;

28 (3) Enforce the Election Act;

29 (4) With the assistance and advice of the Attorney General, make
30 uniform interpretations of the act;

31 (5) Provide periodic training for the agencies and their agents and

1 contractors in carrying out their duties under sections 32-308 to 32-310;

2 (6) Develop and print forms for use as required by sections 32-308,
3 32-310, 32-320, 32-329, 32-947, 32-956, and 32-958;

4 (7) Contract with the Department of Administrative Services for
5 storage and distribution of the forms;

6 (8) Require reporting to ensure compliance with sections 32-308 to
7 32-310;

8 (9) Prepare and transmit reports as required by the National Voter
9 Registration Act of 1993, 52 U.S.C. 20501 et seq.;

10 (10) Provide for the proper and efficient administration of
11 elections determined by ranked-choice voting, including procedures for
12 requesting and conducting recounts of the results as determined in the
13 rounds of counting as provided in section 19 of this act;

14 (11) ~~(10)~~ Develop and print a manual describing the requirements of
15 the initiative and referendum process and distribute the manual to
16 election commissioners and county clerks for distribution to the public
17 upon request;

18 (12) ~~(11)~~ Develop and print pamphlets described in section
19 32-1405.01;

20 (13) ~~(12)~~ Adopt and promulgate rules and regulations as necessary
21 for elections conducted under sections 32-952 to 32-959; and

22 (14) ~~(13)~~ Establish a free access system, such as a toll-free
23 telephone number or an Internet web site, that any voter who casts a
24 provisional ballot may access to discover whether the vote of that voter
25 was counted and, if the vote was not counted, the reason that the vote
26 was not counted. The Secretary of State shall establish and maintain
27 reasonable procedures necessary to protect the security, confidentiality,
28 and integrity of personal information collected, stored, or otherwise
29 used by the free access system. Access to information about an individual
30 provisional ballot shall be restricted to the individual who cast the
31 ballot.

1 Sec. 11. Section 32-538, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 32-538 (1) In a city which adopts the city manager plan of
4 government pursuant to the City Manager Plan of Government Act, the city
5 council members shall be nominated at the statewide primary election and
6 elected at the statewide general election.

7 (2) City council members shall be elected from the city at large
8 unless the city council by ordinance provides for the election of all or
9 some of the city council members by wards, the number and boundaries of
10 which are provided for in section 16-104. City council members shall
11 serve for terms of four years or until their successors are elected and
12 qualified. The city council members shall meet the qualifications found
13 in sections 19-613 and 19-613.01.

14 (3) The first election under an ordinance changing the number of
15 city council members or their manner of election shall take place at the
16 next statewide primary and general elections. City council members whose
17 terms of office expire after the election shall continue in office until
18 the expiration of the terms for which they were elected and until their
19 successors are elected and qualified. At the first election under an
20 ordinance changing the number of city council members or their manner of
21 election, one-half or the bare majority of city council members elected
22 at large, as the case may be, who receive the highest number of votes
23 shall serve for four years and the other or others, if needed, for two
24 years. At such first election, one-half or the bare majority of city
25 council members, as the case may be, who are elected by wards shall serve
26 for four years and the other or others, if needed, for two years, as
27 provided in the ordinance. If only one city council member is to be
28 elected at large at such first election, such member shall serve for four
29 years.

30 (4) The determination of the highest number of votes shall be made
31 by ranked-choice voting pursuant to section 19 of this act for any

1 position for which there are three or more candidates.

2 Sec. 12. Section 32-554, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 32-554 (1)(a) Any city not under a home rule charter, village,
5 county, or school district nominating and electing members to its
6 governing board at large may, either by majority vote of the governing
7 body or by petition of registered voters pursuant to subsection (2) of
8 this section, submit, at a general election, the question of nominating
9 and electing members to its governing board by district or ward.

10 (b) Any city not under a home rule charter, village, county having
11 not more than four hundred thousand inhabitants as determined by the most
12 recent federal decennial census, or school district nominating and
13 electing members to its governing board by district or ward may, either
14 by majority vote of the governing body or by petition of registered
15 voters pursuant to subsection (2) of this section, submit, at a general
16 election, the question of nominating and electing members to its
17 governing board at large.

18 (c) Any city of the first class, except a city having adopted the
19 commissioner or city manager plan of government, nominating and electing
20 members to its governing body by ward may, either by ordinance by
21 majority vote of the governing body or by petition of registered voters
22 pursuant to subsection (2) of this section, submit, at a general
23 election, the question of nominating and electing some of the members to
24 its governing body by ward and some at large. No more than four members
25 of the city council may be elected on an at-large basis, and at least
26 four members of the city council shall be elected by ward. The ordinance
27 of the governing body or petition shall specify the number of at-large
28 members to be elected. At the first election in which one or more at-
29 large members are to be elected to the city council, the members shall be
30 elected to serve for initial terms of office of the following lengths:
31 (i) If one at-large member is to be elected, he or she shall serve for a

1 four-year term; (ii) if two at-large members are to be elected, the
2 candidate receiving the highest number of votes shall be elected to serve
3 for a four-year term and the other elected member shall be elected to
4 serve for a two-year term; (iii) if three at-large members are to be
5 elected, the two candidates receiving the highest number of votes shall
6 be elected to serve for four-year terms and the other elected member
7 shall be elected to serve for a two-year term; and (iv) if four at-large
8 members are to be elected, the two candidates receiving the highest
9 number of votes shall be elected to serve for four-year terms and the
10 other elected members shall be elected to serve for two-year terms.
11 Following the initial term of office, all at-large council members shall
12 be elected to serve for four-year terms. No candidate may file as both an
13 at-large candidate and a candidate by ward at the same election.

14 (2) Petitions for submission of the question shall be signed by
15 registered voters of the city, village, county, or school district
16 desiring to change the procedures for electing the governing board of the
17 city, village, county, or school district. The petition or petitions
18 shall be signed by registered voters equal in number to twenty-five
19 percent of the votes cast for the person receiving the highest number of
20 votes in the city, village, county, or school district at the preceding
21 general election for electing the last member or members to its governing
22 board. Each sheet of the petition shall have printed the full and correct
23 copy of the question as it will appear on the official ballot. The
24 petitions shall be filed with the county clerk or election commissioner
25 not less than seventy days prior to the date of the general election, and
26 no signatures shall be added or removed from the petitions after they
27 have been so filed. Petitions shall be verified as provided in section
28 32-631. If the petition or petitions are found to contain the required
29 number of valid signatures, the county clerk or election commissioner
30 shall place the question on a separate ballot to be issued to the
31 registered voters of the city, village, county, or school district

1 entitled to vote on the question.

2 (3)(a) Any city, village, county, or school district voting to
3 change from nominating and electing the members of its governing board by
4 district or ward to nominating and electing some or all of such members
5 at large shall notify the public and instruct the filing officer to
6 accept the appropriate filings on an at-large basis. Candidates to be
7 elected at large shall be nominated and elected on an at-large basis at
8 the next primary and general election following submission of the
9 question.

10 (b) Any city, village, county, or school district voting to change
11 from nominating and electing the members of its governing board at large
12 to nominating and electing by district or ward shall notify the public
13 and instruct the filing officer to accept all filings by district or
14 ward. Candidates shall be nominated and elected by district or ward at
15 the next primary and general election following submission of the
16 question. When district or ward elections have been approved by the
17 majority of the electorate, the governing board of any city, village,
18 county, or school district approving such question shall establish
19 districts substantially equal in population as determined by the most
20 recent federal decennial census except as provided in subsection (2) of
21 section 32-553.

22 (4) Except as provided in section 14-201, each city not under a home
23 rule charter, village, county, and school district which votes to
24 nominate and elect members to its governing board by district or ward
25 shall establish districts or wards so that approximately one-half of the
26 members of its governing board may be nominated and elected from
27 districts or wards at each election. Districts or wards shall be created
28 not later than October 1 in the year following the general election at
29 which the question was voted upon. If the governing board fails to draw
30 district boundaries by October 1, the procedures set forth in section
31 32-555 shall be followed.

1 (5) The determination of the highest numbers of votes shall be made
2 by ranked-choice voting pursuant to section 19 of this act for any
3 position for which there are three or more candidates.

4 Sec. 13. Section 32-801, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 32-801 (1) At least fifty days before any statewide primary or
7 general election, the Secretary of State shall transmit in ballot form to
8 each election commissioner or county clerk a certification of the
9 candidates, offices, and issues that appear on the state ballot.

10 (2) The certification prior to the primary election shall name the
11 office to be filled, the length of the term, the number of candidates to
12 be nominated ~~voted for~~, the name of each candidate for whom candidate
13 filing forms or petitions have been filed in the office of the Secretary
14 of State and who is entitled to be voted for at such primary election,
15 and the party affiliation or nonpartisan status of each candidate. A
16 separate statement of the city or village of residence of each candidate
17 shall be included with the certification, but the city or village of
18 residence shall not appear on the official ballot.

19 (3) The certification prior to the general election shall name the
20 office to be filled, the length of the term, the number of candidates to
21 be elected ~~voted for~~, the name of each candidate who was nominated at the
22 primary election or who filed by petition as shown by the records in the
23 office of the Secretary of State and who is entitled to be voted for at
24 the general election, and the party affiliation or nonpartisan status of
25 each candidate for partisan offices.

26 Sec. 14. Section 32-812, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 32-812 The form of the official ballot at the statewide general
29 election shall be prescribed by the Secretary of State. At the top of the
30 ballot for general elections and over all else shall be printed in
31 boldface type the words Official Ballot, General Election,

1 November, 20.... . Each division containing the name ~~names~~ of
2 the office and a list of candidates nominated for such office shall be
3 separated from other groups by a bold line. The ballot shall list at-
4 large candidates and subdistrict candidates under appropriate headings.

5 Sec. 15. Section 32-813, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 32-813 (1) The names of all candidates and all proposals to be voted
8 upon at the general election shall be arranged upon the ballot in parts
9 separated from each other by bold lines in the order the offices and
10 proposals are set forth in this section. If any office is not subject to
11 the upcoming election, the office shall be omitted from the ballot and
12 the remaining offices shall move up so that the same relative order is
13 preserved. The order of any offices may be altered to allow for the best
14 utilization of ballot space in order to avoid printing a second ballot
15 when one ballot would be sufficient if an optical-scan ballot is used.
16 All proposals on the ballot submitted by a political subdivision shall
17 follow all offices on the ballot submitted by a political subdivision.
18 The ballot shall be designed to allow for ranked-choice voting if
19 applicable as provided in section 19 of this act for city or village
20 offices.

21 (2)(a) If the election is in a year in which a President of the
22 United States is to be elected, the names and spaces for voting for
23 candidates for President and Vice President shall be entitled
24 Presidential Ticket in boldface type.

25 (b) The names of candidates for President and Vice President for
26 each political party shall be grouped together, and each group shall be
27 enclosed with brackets with the political party name next to the brackets
28 and one square or oval opposite the names in which the voter indicates
29 his or her choice.

30 (c) The names of candidates for President and Vice President who
31 have successfully petitioned on the ballot for the general election shall

1 be grouped together with the candidates appearing on the same petition
2 being grouped together, and each group shall be enclosed with brackets
3 with the words "By Petition" next to the brackets and one square or oval
4 opposite the names in which the voter indicates his or her choice.

5 (d) Beneath the names of the candidates for President and Vice
6 President certified by the officers of the national political party
7 conventions pursuant to section 32-712 and beneath the names of all
8 candidates for President and Vice President placed on the general
9 election ballot by petition, two write-in lines shall be provided in
10 which the voter may fill in the names of the candidates of his or her
11 choice. The lines shall be enclosed with brackets with one square or oval
12 opposite the names in which the voter indicates his or her choice. The
13 name appearing on the top line shall be considered to be the candidate
14 for President, and the name appearing on the second line shall be
15 considered to be the candidate for Vice President.

16 (3) The names and spaces for voting for candidates for United States
17 Senator if any are to be elected shall be entitled United States
18 Senatorial Ticket in boldface type.

19 (4) The names and spaces for voting for candidates for
20 Representatives in Congress shall be entitled Congressional Ticket in
21 boldface type. Above the candidates' names, the office shall be
22 designated For Representative in Congress District.

23 (5) The names and spaces for voting for candidates for the various
24 state officers shall be entitled State Ticket in boldface type. Each set
25 of candidates shall be separated by lines across the column, and above
26 each set of candidates shall be designated the office for which they are
27 candidates, arranged in the order prescribed by the Secretary of State.
28 The candidates for Governor of each political party receiving the highest
29 number of votes in the primary election shall be grouped together with
30 their respective candidates for Lieutenant Governor. Each group shall be
31 enclosed with brackets with the political party name next to the brackets

1 and one square or oval opposite the names in which the voter indicates
2 his or her choice for Governor and Lieutenant Governor jointly. The
3 candidates for Governor and Lieutenant Governor who have successfully
4 petitioned on the general election ballot shall be grouped together with
5 the candidates appearing on the same petition being grouped together.
6 Each group shall be enclosed with brackets with the words "By Petition"
7 next to the brackets and one square or oval opposite the names in which
8 the voter indicates his or her choice for Governor and Lieutenant
9 Governor jointly. Beneath the names of the candidates for Governor
10 nominated at a primary election by political party and their respective
11 candidates for Lieutenant Governor and beneath the names of all
12 candidates for Governor and Lieutenant Governor placed on the general
13 election ballot by petition, one write-in line shall be provided in which
14 the registered voter may fill in the name of the candidate for Governor
15 of his or her choice and one square or oval opposite the line in which
16 the voter indicates his or her choice for Governor.

17 (6) The names and spaces for voting for nonpartisan candidates shall
18 be entitled Nonpartisan Ticket in boldface type. The names of all
19 nonpartisan candidates shall appear in the order listed in this
20 subsection, except that when using an optical-scan ballot, the order of
21 offices may be altered to allow for the best utilization of ballot space
22 to avoid printing a second ballot when one ballot would be sufficient:

- 23 (a) Legislature;
- 24 (b) State Board of Education;
- 25 (c) Board of Regents of the University of Nebraska;
- 26 (d) Chief Justice of the Supreme Court;
- 27 (e) Judge of the Supreme Court;
- 28 (f) Judge of the Court of Appeals;
- 29 (g) Judge of the Nebraska Workers' Compensation Court;
- 30 (h) Judge of the District Court;
- 31 (i) Judge of the Separate Juvenile Court;

1 (j) Judge of the County Court; and

2 (k) County officers in the order prescribed by the election
3 commissioner or county clerk.

4 (7) The names and spaces for voting for the various county offices
5 and for measures submitted to the county vote only or in only a part of
6 the county shall be entitled County Ticket in boldface type. If the
7 election commissioner or county clerk deems it advisable, the measures
8 may be submitted on a separate ballot if using a paper ballot or on
9 either side of an optical-scan ballot if the ballot is placed in a ballot
10 envelope or sleeve before being deposited in a ballot box.

11 (8) Subject to section 19 of this act, the ~~The~~ candidates for office
12 in the precinct only or in the city or village only shall be printed on
13 the ballot, except that if the election commissioner or county clerk
14 deems it advisable, candidates for these offices may be submitted on a
15 separate ballot if using a paper ballot or on either side of an optical-
16 scan ballot if the ballot is placed in a ballot envelope or sleeve before
17 being deposited in a ballot box.

18 (9) All proposals submitted by initiative or referendum and
19 proposals for constitutional amendments shall be placed on a separate
20 ballot when a paper ballot is used which requires that the ballot after
21 being voted be folded before being deposited in a ballot box. When an
22 optical-scan ballot is used which requires a ballot envelope or sleeve in
23 which the ballot after being voted is placed before being deposited in a
24 ballot box, initiative or referendum proposals and proposals for
25 constitutional amendments may be placed on either side of the ballot,
26 shall be separated by a bold line, and shall follow all other offices
27 placed on the same side of the ballot. Initiative or referendum proposals
28 and constitutional amendments so arranged shall constitute a separate
29 ballot. Proposals for constitutional amendments proposed by the
30 Legislature shall be placed on the ballot as provided in sections 49-201
31 to 49-211.

1 Sec. 16. Section 32-816, Revised Statutes Supplement, 2021, is
2 amended to read:

3 32-816 (1)(a) ~~(1)~~ A blank space shall be provided at the end of
4 each office division on the ballot for registered voters to fill in the
5 name of any person for whom they wish to vote and whose name is not
6 printed upon the ballot.

7 (b) Except as otherwise provided in subdivision (c) of this
8 subsection, a A square or oval shall be printed opposite each write-in
9 space similar to the square or oval placed opposite other candidates and
10 issues on the ballot. The square or oval shall be marked to vote for a
11 write-in candidate whose name appears in the write-in space provided.

12 (c) If ranked-choice voting applies, the ballot shall be designed to
13 allow the voter to rank the write-in candidate in the same manner as
14 other candidates as provided in section 32-901. The rank shall be marked
15 to constitute a valid vote for the write-in candidate whose name appears
16 in the write-in space provided.

17 (2) The Secretary of State shall approve write-in space for optical-
18 scan ballots and any other voting system authorized for use under the
19 Election Act. Adequate provision shall be made for write-in votes
20 sufficient to allow one write-in space for each office to be elected at
21 any election except offices for which write-in votes are specifically
22 prohibited. The write-in ballot shall clearly identify the office for
23 which such write-in vote is cast. The write-in space shall be a part of
24 the official ballot, may be on the envelope or a separate piece of paper
25 from the printed portion of the ballot, and shall allow the voter
26 adequate space to fill in the name of the candidate for whom the voter he
27 ~~or she~~ desires to cast the his or her ballot and, if ranked-choice voting
28 applies, to indicate the voter's rank for the candidate.

29 Sec. 17. Section 32-817, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 32-817 The names of the candidates shall be set in boldface type

1 using capital and lowercase letters. A square or oval shall be printed
2 opposite the name of each candidate, except that if ranked-choice voting
3 applies, the ballot shall be designed to allow the voter to rank the
4 candidates, including any candidate who has filed an affidavit as a
5 write-in candidate pursuant to section 32-615, by providing as many ovals
6 or other spaces as there are candidates for the position to be filled and
7 placing numerals in the ovals or other spaces beginning with the numeral
8 "1" and continuing through the number of candidates, including any
9 candidate who has filed an affidavit as a write-in candidate pursuant to
10 section 32-615. At the general election, the name of the party
11 represented by a candidate for partisan office shall be printed in
12 capital and lowercase letters next to the name. Proposals submitted by
13 initiative or referendum or for constitutional amendments shall be
14 printed in capital and lowercase letters, but the title heading and
15 number thereof shall be in boldface type, and the square or oval for
16 voting thereon shall be printed opposite the text so that it is clear for
17 which issue the voter is casting a vote. Ballots shall be printed with
18 substantially the same appearance, including type and form, as the sample
19 ballot furnished by the Secretary of State.

20 Sec. 18. Section 32-901, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 32-901 (1) To vote for a candidate or on a ballot question using a
23 paper ballot that is to be manually counted, the registered voter shall
24 make a cross or other clear, discernable mark in the square opposite the
25 name of every candidate, including write-in candidates, for whom the
26 voter ~~he or she~~ desires to vote and, in the case of a ballot question,
27 opposite the answer the voter ~~he or she~~ wishes to give. Making a cross or
28 other clear, discernable mark in the square constitutes a valid vote.
29 This subsection does not apply to ranked-choice voting.

30 (2)(a) Except as otherwise provided in subdivision (b) of this
31 subsection, to (2) To vote for a candidate or on a ballot question using

1 a ballot that is to be counted by optical scanner, the registered voter
2 shall fill in the oval or other space provided opposite the name of every
3 candidate, including write-in candidates, for whom the voter ~~he or she~~
4 desires to vote and, in the case of a ballot question, opposite the
5 answer the voter ~~he or she~~ wishes to give. A mark in the oval or provided
6 space that is discernable by the scanner constitutes a valid vote.

7 (b) To rank a candidate for an office which is subject to ranked-
8 choice voting using a ballot that is to be counted by optical scanner,
9 the registered voter shall fill in the oval or other space provided
10 opposite the name of every candidate, including write-in candidates,
11 indicating the rank of each candidate for whom the voter desires to
12 indicate a ranking. A mark in an oval or provided space that is
13 discernable by the scanner constitutes a valid vote. Marking the same
14 rank for more than one candidate constitutes an overvote for that ranking
15 which shall not be counted. Failing to mark a rank for any candidate
16 shall not disqualify the ballot except as provided in section 19 of this
17 act.

18 (3)(a) Except as otherwise provided in subdivision (b) of this
19 subsection, to ~~(3)~~ To vote for a candidate or on a ballot question using
20 a voting system with an electronic aspect authorized for use under the
21 Election Act, the registered voter shall follow the instructions for
22 using the voting system to cause a mark to be recorded opposite the
23 candidate or ballot question response for which the voter wishes to vote.
24 Causing such mark to be recorded does not constitute a valid vote. A
25 paper ballot printed to reflect the voter's choices constitutes a valid
26 vote.

27 (b) To vote for a candidate for an office which is subject to
28 ranked-choice voting using a voting system with an electronic aspect
29 authorized for use under the Election Act, the registered voter shall
30 follow the instructions for using the voting system to cause a mark to be
31 recorded indicating the rank of each candidate opposite the candidate for

1 which the voter wishes to indicate a ranking. Causing such mark to be
2 recorded does not constitute a valid vote. A paper ballot printed to
3 reflect the voter's choices constitutes a valid vote. Marking the same
4 rank for more than one candidate constitutes an overvote for that ranking
5 which shall not be counted. Failing to mark a rank for any candidate
6 shall not disqualify the ballot except as provided in section 19 of this
7 act.

8 Sec. 19. (1) For purposes of this section:

9 (a) Batch elimination means the simultaneous defeat of multiple
10 candidates for whom it is mathematically impossible to be elected;

11 (b) Continuing ballot means a ballot that is not an exhausted
12 ballot;

13 (c) Continuing candidate means a candidate who has not been
14 defeated;

15 (d) Exhausted ballot means a ballot that does not rank any
16 continuing candidate, contains an overvote at the highest continuing
17 ranking, or contains two or more sequential skipped rankings before its
18 highest continuing ranking;

19 (e) Highest continuing ranking means the highest ranking on a
20 voter's ballot for a continuing candidate;

21 (f) Last-place candidate means the candidate with the fewest votes
22 in a round of the ranked-choice voting count;

23 (g) Mathematically impossible to be elected, with respect to a
24 candidate, means either:

25 (i) The candidate cannot be elected because the candidate's vote
26 total in a round of the ranked-choice voting count plus all votes that
27 could possibly be transferred to the candidate in future rounds from
28 candidates with fewer votes or an equal number of votes would not be
29 enough to surpass the candidate with the next-higher vote total in the
30 round; or

31 (ii) The candidate has a lower vote total than a candidate described

1 in subdivision (i) of this subdivision;

2 (h) Overvote means a circumstance in which a voter has ranked more
3 than one candidate at the same ranking;

4 (i) Ranked-choice voting count means the ranked-choice counting
5 process described in this section and the rules and regulations adopted
6 and promulgated by the Secretary of State;

7 (j) Ranking means the number assigned on a ballot by a voter to a
8 candidate to express the voter's preference for that candidate. Ranking
9 number "1" is the highest ranking, ranking number "2" is the next-highest
10 ranking, and so on;

11 (k) Round means an instance of the sequence of vote counting steps
12 established pursuant to subsection (2) of this section; and

13 (l) Skipped ranking means a circumstance in which a voter has left a
14 ranking blank and ranks a candidate at a subsequent ranking.

15 (2)(a) Except as provided in subsections (3) and (4) of this
16 section, the procedures in this subsection shall be used to determine the
17 winner of an election determined by ranked-choice voting. Ranked-choice
18 voting shall be used to determine the winner of an election to nominate
19 candidates for or elect candidates to a city or village office, except
20 that ranked-choice voting shall only be used if there are three or more
21 candidates for the position to be filled, including any candidate who has
22 filed an affidavit as a write-in candidate pursuant to section 32-615.

23 (b) The ranked-choice voting count shall proceed in rounds. In each
24 round, the number of votes for each continuing candidate shall be
25 counted. Each continuing ballot counts as one vote for its highest-ranked
26 continuing candidate for that round. Exhausted ballots are not counted
27 for any continuing candidate. The round then ends with one of the
28 following two potential outcomes:

29 (i) If there are two or fewer continuing candidates, the candidate
30 with the most votes is declared the winner of the election; and

31 (ii) If there are more than two continuing candidates, the last-

1 place candidate is defeated and a new round begins.

2 (3)(a) A tie between candidates for the most votes in the final
3 round shall be decided as provided in section 32-1122.

4 (b) A tie between last-place candidates in any round shall be
5 decided by lot, and the candidate chosen by lot is defeated. The result
6 of the tie resolution shall be recorded and reused in the event of a
7 recount.

8 (4) Modification of a ranked-choice voting ballot and ranked-choice
9 voting count is permitted in accordance with the following:

10 (a) The number of allowable rankings may be limited to no fewer than
11 five; and

12 (b) Two or more candidates may be defeated simultaneously by batch
13 elimination in any round of counting.

14 Sec. 20. Section 32-1003, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 32-1003 All valid votes shall be counted. No ballot shall be
17 rejected because the voter did not vote for every possible office or
18 position or rank every candidate.

19 Sec. 21. Section 32-1004, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 32-1004 If a ballot has been overvoted for any office, the ballot
22 shall be rejected for that office only, except that if the overvote is
23 for an office subject to ranked-choice voting, section 19 of this act
24 applies. No overvoted ballot shall be judged for voter intent by any
25 member of the counting board or any official involved in the counting
26 process.

27 Sec. 22. Section 32-1005, Revised Statutes Supplement, 2021, is
28 amended to read:

29 32-1005 If the last name or a reasonably close spelling of the last
30 name of a person engaged in or pursuing a write-in campaign pursuant to
31 section 32-615 or 32-633 is written or printed on a line provided for

1 that purpose and the square or oval opposite such line has been marked
2 with a cross or other clear, intelligible mark or, for ranked-choice
3 voting, a ranking has been clearly marked, the vote shall be valid and
4 the ballot shall be counted. A write-in vote for a person who is not
5 engaged in or pursuing a write-in campaign pursuant to section 32-615 or
6 32-633 shall not be counted.

7 Sec. 23. Section 32-1008, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 32-1008 If the write-in vote in the county for a person pursuing a
10 write-in campaign pursuant to section 32-615 or 32-633 totals less than
11 five percent of the vote for such office in the county and the election
12 commissioner or county clerk believes that such vote will not impact the
13 outcome of the election, the number of write-in votes for that office may
14 be counted and listed together as one total. This section does not apply
15 to ranked-choice voting.

16 Sec. 24. Section 32-1119, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 32-1119 (1) If it appears as evidenced by the abstract of votes that
19 any candidate failed to be nominated or elected for an office which is
20 not subject to ranked-choice voting at that election by a margin of (a)
21 one percent or less of the votes received by the candidate who received
22 the highest number of votes for the office at an election in which more
23 than five hundred total votes were cast or (b) two percent or less of the
24 votes received by the candidate who received the highest number of votes
25 for the office at an election in which five hundred or less total votes
26 were cast, then such candidate shall be entitled to a recount. Any losing
27 candidate may waive his or her right to a recount by filing a written
28 statement with the Secretary of State, election commissioner, or county
29 clerk with whom he or she made his or her filing. All expenses of a
30 recount under this section shall be paid by those political subdivisions
31 involved in the recount.

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

6 (3) Recounts for candidates who filed with the Secretary of State
7 shall be made on the fifth Wednesday after the election and shall
8 commence at 9 a.m. The Secretary of State shall inform each election
9 commissioner or county clerk of the names of the candidates for which the
10 board of state canvassers deems a recount to be necessary.

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

17 (5) The Secretary of State, election commissioner, or county clerk
18 shall notify all candidates whose ballots will be recounted of the time,
19 date, and place of the recount. Candidates whose ballots will be
20 recounted may be present or be represented by an agent appointed by the
21 candidate.

22 (6) The procedures for the recounting of ballots shall be the same
23 as those used for the counting of ballots on election day. The recount
24 shall be conducted at the county courthouse, except that if vote counting
25 devices are used for the counting or recounting, such counting or
26 recounting may be accomplished at the site of the devices. Counties
27 counting ballots by using a vote counting device shall first recount the
28 ballots by use of the device. If substantial changes are found, the
29 ballots shall then be counted using such device in any precinct which
30 might reflect a substantial change.

31 Sec. 25. Section 32-1122, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 32-1122 (1) If, ~~a recount~~ after a primary election, a recount or the
3 final round of a ranked-choice voting count pursuant to section 19 of
4 this act results in any two or more persons having an equal and the
5 highest number of votes for the same nomination for the same county,
6 city, village, or school district office, the county canvassing board
7 shall, in the presence of the candidates or their representatives,
8 determine by lot which of the candidates shall be nominated. The election
9 commissioner or county clerk shall notify such candidates by certified
10 mail to appear at his or her office on a given day and hour to determine
11 the same before the county canvassing board. The election commissioner or
12 county clerk shall make a certificate of nomination for the person so
13 nominated and shall cause such certificate to be delivered to the person
14 entitled thereto.

15 (2) If, ~~a recount~~ after a general or special election, a recount or
16 the final round of a ranked-choice voting count results in any two or
17 more persons having an equal and the highest number of votes for the same
18 county, city, village, or school district office, the county canvassing
19 board shall, in the presence of the candidates or their representatives,
20 determine by lot which of the candidates shall be elected. The election
21 commissioner or county clerk shall notify such candidates by certified
22 mail to appear at his or her office on a given day and hour to determine
23 the same before the county canvassing board. The election commissioner or
24 county clerk shall make a certificate of election for the person so
25 elected and shall cause such certificate to be delivered to the person
26 entitled thereto.

27 (3) If a recount after a primary election results in any two or more
28 persons having an equal and the highest number of votes for nomination to
29 an office canvassed by the board of state canvassers, the board shall
30 decide by lot which of such persons is nominated.

31 (4) If a recount after a general or special election results in any

1 two or more persons having an equal and the highest number of votes for
2 the office of the Governor, Secretary of State, Auditor of Public
3 Accounts, State Treasurer, Attorney General, or other officer elected to
4 an executive department, the Legislature shall choose one of such persons
5 for the office. If the office involved in the recount is the office of
6 the Governor, the Lieutenant Governor shall be the candidate for
7 Lieutenant Governor chosen by the person selected by the Legislature as
8 Governor.

9 (5) If a recount after a general or special election results in any
10 two or more persons having an equal and the highest number of votes for
11 an office canvassed by the board of state canvassers, the board shall
12 decide by lot which of such persons is elected, except officers elected
13 to the executive department.

14 Sec. 26. Original sections 14-205, 14-206, 14-207, 32-554, 32-801,
15 32-812, 32-813, 32-817, 32-1003, 32-1004, 32-1119, and 32-1122, Reissue
16 Revised Statutes of Nebraska, sections 16-104, 17-527, 19-409, 32-101,
17 32-103, 32-202, 32-538, 32-901, and 32-1008, Revised Statutes Cumulative
18 Supplement, 2020, and sections 32-816 and 32-1005, Revised Statutes
19 Supplement, 2021, are repealed.