

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 169

Introduced by Avery, 28.

Read first time January 07, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-314, 32-929,
2 32-933, 32-935, 32-936, 32-1530, and 32-1532, Reissue
3 Revised Statutes of Nebraska, and sections 32-329,
4 32-915, and 32-1002, Revised Statutes Cumulative
5 Supplement, 2010; to authorize provisional ballots for
6 registered voters changing residence within Nebraska; to
7 harmonize provisions; to provide an operative date; and
8 to repeal the original sections.

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

1 Section 1. Section 32-314, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-314 (1) Any person going into another territory or
4 state and registering to vote or voting in that territory or state
5 shall lose his or her eligibility to vote in this state. Any person
6 going into another county of this state and registering to vote or
7 voting in that county shall lose his or her eligibility to vote in
8 the county where he or she was registered.

9 (2) A registered voter who changes his or her residence
10 in one county to a residence address in a different county in the
11 state shall register again or update his or her voter registration
12 record in order to ~~be eligible to vote.~~ avoid additional requirements
13 at the time of voting as provided in sections 32-914 and 32-915 and
14 may be entitled to vote pursuant to section 32-915.

15 (3) A registered voter who changes his or her name or
16 residence within the county and has retained legal residence in the
17 county since the date of his or her last registration shall register
18 again or update his or her voter registration record to avoid
19 additional requirements at the time of voting as provided in sections
20 32-914 and 32-915 and may be entitled to vote pursuant to section
21 32-914.01, 32-914.02, or 32-915.

22 (4) A registered voter who wants to change his or her
23 party affiliation for purposes of a primary election shall complete a
24 registration application pursuant to section 32-312.04 and submit it
25 to the election commissioner or county clerk as provided in and prior

1 to the deadline prescribed by section 32-302 or 32-321.

2 Sec. 2. Section 32-329, Revised Statutes Cumulative
3 Supplement, 2010, is amended to read:

4 32-329 (1) The Secretary of State with the assistance of
5 the election commissioners and county clerks shall perform list
6 maintenance with respect to the computerized statewide voter
7 registration list on a regular basis. The list maintenance shall be
8 conducted in a manner that ensures that:

9 (a) The name of each registered voter appears in the
10 computerized list;

11 (b) Only persons who have been entered into the register
12 in error or who are not eligible to vote are removed from the
13 computerized list; and

14 (c) Duplicate names are eliminated from the computerized
15 list.

16 (2) The election commissioner or county clerk shall
17 verify the voter registration register by using (a) the National
18 Change of Address program of the United States Postal Service and a
19 confirmation notice pursuant to subsection (3) of this section or (b)
20 the biennial mailing of a nonforwardable notice to each registered
21 voter. The Secretary of State shall provide biennial training for the
22 election commissioners and county clerks responsible for maintaining
23 voter registration lists. No name shall be removed from the voter
24 registration register for the sole reason that such person has not
25 voted for any length of time.

1 (3) When an election commissioner or county clerk
2 receives information from the National Change of Address program of
3 the United States Postal Service that a registered voter has moved
4 from the address at which he or she is registered to vote, the
5 election commissioner or county clerk shall update the voter
6 registration register to indicate that the voter may have moved and
7 mail a confirmation notice by forwardable first-class mail. If a
8 nonforwardable notice under subdivision (2)(b) of this section is
9 returned as undeliverable, the election commissioner or county clerk
10 shall mail a confirmation notice by forwardable first-class mail. ~~The~~
11 Any confirmation notice mailed pursuant to this subsection shall
12 include a confirmation letter, a voter registration application, and
13 a preaddressed, postage-paid confirmation card. The confirmation
14 letter shall contain statements substantially as follows:

15 (a) The election commissioner or county clerk has
16 received information that you have moved to a different residence
17 address from that appearing on the voter registration register;

18 (b) If you have not moved or you have moved to a new
19 residence within this ~~county, state,~~ you should return the enclosed
20 confirmation card by the regular registration deadline prescribed in
21 section 32-302. If you fail to return the card by the deadline, you
22 will be required to affirm or confirm your address prior to being
23 allowed to vote. If you are required to affirm or confirm your
24 address, it may result in a delay at your polling place; and

25 (c) If you have moved out of the ~~county, state,~~ you must

1 ~~reregister~~ comply with the law of your state of residence to be
2 eligible to vote. ~~This can be accomplished by mail or in person. For~~
3 ~~further information, contact your local election commissioner or~~
4 ~~county clerk.~~

5 (4) The election commissioner or county clerk shall
6 maintain for a period of not less than two years a record of each
7 confirmation letter indicating the date it was mailed and the person
8 to whom it was mailed.

9 (5) If information from the National Change of Address
10 program or the nonforwardable notice under subdivision (2)(b) of this
11 section indicates that the voter has moved outside the jurisdiction
12 and the election commissioner or county clerk receives no response to
13 the confirmation letter and the voter does not offer to vote at any
14 election held prior to and including the second statewide federal
15 general election following the mailing of the confirmation notice,
16 the voter's registration shall be canceled and his or her name shall
17 be deleted from the voter registration register.

18 Sec. 3. Section 32-915, Revised Statutes Cumulative
19 Supplement, 2010, is amended to read:

20 32-915 (1) A person whose name does not appear on the
21 precinct list of registered voters at the polling place for the
22 precinct in which he or she resides, whose name appears on the
23 precinct list of registered voters at the polling place for the
24 precinct in which he or she resides at a different residence address
25 as described in section 32-914.02, or whose name appears with a

1 notation that he or she received a ballot for early voting may vote a
2 provisional ballot if he or she:

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

6 (b) Is not entitled to vote under section 32-914.01 or
7 32-914.02;

8 (c) Has not registered to vote or voted in ~~any other~~
9 ~~county another state~~ since registering to vote in ~~the county in which~~
10 ~~the precinct is located~~; Nebraska;

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

14 (e) Completes and signs a registration application before
15 voting.

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

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

1 facts:

2 (a) I am a registered voter in ~~.....County;~~
3 Nebraska;

4 (b) My name or address did not correctly appear on the
5 precinct list of registered voters;

6 (c) I registered to vote on or about this
7 date

8 (d) I registered to vote
9 in person at the election office or a voter
10 registration site,

11 by mail,
12 on a form through the Department of Motor Vehicles,
13 on a form through another state agency,
14 in some other way;

15 (e) I have not resided outside of ~~this county-Nebraska~~ or
16 voted outside of ~~this county-Nebraska~~ since registering to vote in
17 ~~this county;~~ Nebraska;

18 (f) My current address is shown on the registration
19 application completed as a requirement for voting by provisional
20 ballot; and

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

23 (4) The voter shall sign the certification under penalty
24 of election falsification. The following statements shall be on the
25 front of the envelope or on the attached form: By signing the front

1 of this envelope or the attached form you are certifying to the
2 information contained on this envelope or the attached form under
3 penalty of election falsification. Election falsification is a Class
4 IV felony and may be punished by up to five years imprisonment, a
5 fine of up to ten thousand dollars, or both.

6 (5) If the person's name does not appear on the precinct
7 list of registered voters for the polling place and the judge or
8 clerk of election determines that the person's residence address is
9 located in another precinct within the same county, the judge or
10 clerk of election shall direct the person to his or her correct
11 polling place to vote.

12 Sec. 4. Section 32-929, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 32-929 If a person is challenged on the ground that he or
15 she is not a resident of this state, the county, or the precinct, the
16 person shall answer the following questions on the form provided by
17 the election commissioner or county clerk:

18 Do you have a residence in this state: Yes or No?

19 Do you have a residence in this county: Yes or No?

20 Do you have a residence in this precinct: Yes or No?

21 If a person has moved from one residence to another
22 within the precinct in which he or she is registered to vote, such
23 voter shall be entitled to vote as provided in section 32-914.02. If
24 a person has moved from one residence to another within the ~~county in~~
25 ~~which he or she is registered to vote, state,~~ such voter shall be

1 entitled to vote a provisional ballot as provided in section 32-915.

2 Sec. 5. Section 32-933, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 32-933 (1) Any person listed in this subsection shall be
5 eligible as a new resident to vote for President and Vice President
6 of the United States at the statewide general election but for no
7 other offices: ~~(a)~~ Any citizen of the United States who is at least
8 the constitutionally prescribed age of a voter and who comes into
9 Nebraska after the voter registration period is closed pursuant to
10 section 32-302 for the purpose of making Nebraska his or her place of
11 residence. ~~;~~ and

12 ~~(b) Any registered voter who moves from one county to~~
13 ~~another county within Nebraska after the close of the voter~~
14 ~~registration period.~~

15 (2) Any registered voter who moves from Nebraska to
16 another state or to the District of Columbia for the purpose of
17 making such new location his or her place of residence after the
18 close of the voter registration period for such location shall be
19 eligible as a former resident to vote for President and Vice
20 President of the United States at the statewide general election but
21 for no other offices.

22 (3) Any person described in subsection (1) of this
23 section shall cast his or her ballot in the office of the election
24 commissioner or county clerk at any time between the close of the
25 voter registration period and the close of the polls on election day.

1 Such ballots shall be available after the close of the voter
2 registration period. Ballots for former residents under subsection
3 (2) of this section shall be available thirty-five days prior to the
4 election. The ballots may be voted in the office of the election
5 commissioner or county clerk at any time between thirty-five days
6 prior to the election and the close of the polls on election day, or
7 the ballots may be mailed to the office and counted if they arrive
8 before the close of the polls on election day.

9 Sec. 6. Section 32-935, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 32-935 The election commissioner or county clerk shall
12 immediately mail the duplicate of the affidavit described in section
13 32-934 to the appropriate official of the state ~~or county in Nebraska~~
14 in which the applicant last resided. Upon receipt, the election
15 commissioner or county clerk shall file each duplicate application or
16 other official information from another state ~~or county in Nebraska~~
17 or the District of Columbia indicating that a former resident of this
18 state ~~or county in Nebraska~~ has made application to vote at a
19 presidential election in another state ~~or county in Nebraska~~ or the
20 District of Columbia and shall maintain an alphabetical index of such
21 information for a period of twenty-two months after the election.

22 Sec. 7. Section 32-936, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 32-936 If satisfied that the application is proper and
25 that the applicant is qualified to vote under section 32-933, the

1 election commissioner or county clerk shall deliver to the applicant
2 a ballot for President and Vice President of the United States. After
3 voting the ballot, the voter shall securely seal the ballot in an
4 envelope furnished by the election commissioner or county clerk. On
5 the back of the envelope shall be imprinted a statement substantially
6 as follows:

7 Certification of New (or Former) Resident Voter

8 I have qualified as a new (or former) resident voter in
9 this state, ~~or county~~. I have not applied nor do I intend to apply
10 for a ballot for early voting from the state, ~~county in Nebraska~~, or
11 District of Columbia from which (or to which) I have moved. I have
12 not voted and I will not vote otherwise than by this ballot.

13 The voter shall sign and date the certification upon the
14 envelope. The election commissioner or county clerk shall keep the
15 envelope in his or her office until delivered by him or her to the
16 counting board under section 32-1027.

17 Sec. 8. Section 32-1002, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 32-1002 (1) As the ballots are removed from the ballot
20 box pursuant to sections 32-1012 to 32-1018, the receiving board
21 shall separate the envelopes containing the provisional ballots from
22 the rest of the ballots and deliver them to the election commissioner
23 or county clerk.

24 (2) Upon receipt of a provisional ballot, the election
25 commissioner or county clerk shall verify that the certificate on the

1 front of the envelope or the form attached to the envelope is in
2 proper form and that the certification has been signed by the voter.

3 (3) The election commissioner or county clerk shall also
4 (a) verify that such person has not voted anywhere else in ~~the county~~
5 Nebraska or been issued a ballot for early voting, (b) investigate
6 whether any credible evidence exists that the person was properly
7 registered to vote in ~~the county~~ Nebraska before the deadline for
8 registration for the election, (c) investigate whether any
9 information has been received pursuant to section 32-309, 32-310, or
10 32-324 that the person has resided, registered, or voted in any other
11 ~~county or state~~ since registering to vote in ~~the county,~~ Nebraska,
12 and (d) upon determining that credible evidence exists that the
13 person was properly registered to vote in ~~the county,~~ Nebraska, make
14 the appropriate changes to the voter registration register by
15 entering the information contained in the registration application
16 completed by the voter at the time of voting a provisional ballot.

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

19 (a) Credible evidence exists that the voter was properly
20 registered in ~~the county~~ Nebraska before the deadline for
21 registration for the election;

22 (b) The voter has resided in ~~the county~~ Nebraska
23 continuously since registering to vote in ~~the county;~~ Nebraska;

24 (c) The voter has not voted anywhere else in ~~the county~~
25 Nebraska or has not otherwise voted early using a ballot for early

1 voting;

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

4 (i) The residence address provided on the registration
5 application completed pursuant to subdivision (1)(e) of section
6 32-915 is located within the precinct in which the person voted; and

7 (ii) If the voter is voting in a primary election, the
8 party affiliation provided on the registration application completed
9 prior to voting the provisional ballot is the same party affiliation
10 that appears on the voter's voter registration record based on his or
11 her previous registration application; and

12 (e) The certification on the front of the envelope or
13 form attached to the envelope is in the proper form and signed by the
14 voter.

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

17 (a) The voter was not properly registered in ~~the county~~
18 Nebraska before the deadline for registration for the election;

19 (b) Information has been received pursuant to section
20 32-309, 32-310, or 32-324 that the voter has resided, registered, or
21 voted in ~~any other county or another~~ state since registering to vote
22 in ~~the county in which he or she cast the provisional ballot;~~
23 Nebraska;

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

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

4 (e) The residence address provided on the registration
5 application completed pursuant to subdivision (1)(e) of section
6 32-915 is ~~in a different county or~~ in a different precinct than the
7 ~~county or~~ precinct in which the voter voted;

8 (f) If the voter is voting in a primary election, the
9 party affiliation on the registration application completed prior to
10 voting the provisional ballot is different than the party affiliation
11 that appears on the voter's voter registration record based on his or
12 her previous registration application; or

13 (g) The voter failed to complete and sign the
14 certification on the envelope or form attached to the envelope
15 pursuant to subsection (3) of section 32-915.

16 (6) An error or omission of information on the
17 registration application or the certification required under section
18 32-915 shall not result in the provisional ballot not being counted
19 if:

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

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

24 (b) Both the registration application and the
25 certification are signed by the voter.

1 (7) Upon determining that the voter's provisional ballot
2 is eligible to be counted, the election commissioner or county clerk
3 shall remove the ballot from the envelope without exposing the marks
4 on the ballot and shall place the ballot with the ballots to be
5 counted by the county canvassing board.

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

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

12 Sec. 9. Section 32-1530, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 32-1530 Any person who votes (1) who is not a resident of
15 this state or registered in ~~the county~~ this state or who at the time
16 of election is not of the constitutionally prescribed age of a
17 registered voter, (2) who is not a citizen of the United States, or
18 (3) after being disqualified by law by reason of his or her
19 conviction of a felony and prior to the end of the two-year period
20 after completing the sentence, including any parole term, shall be
21 guilty of a Class IV felony.

22 Sec. 10. Section 32-1532, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 32-1532 Any person who procures, aids, assists, counsels,
25 or advises another to give his or her vote, knowing that such other

1 person is not a resident of this state or a registered voter of ~~the~~
2 ~~county~~ this state as required by law at the time of election, is not
3 of the constitutionally prescribed age of a registered voter, is not
4 a citizen of the United States, or is not duly qualified as a result
5 of any other disability to vote at the place where and the time when
6 the vote is to be given shall be guilty of a Class IV felony.

7 Sec. 11. This act becomes operative on January 1, 2012.

8 Sec. 12. Original sections 32-314, 32-929, 32-933,
9 32-935, 32-936, 32-1530, and 32-1532, Reissue Revised Statutes of
10 Nebraska, and sections 32-329, 32-915, and 32-1002, Revised Statutes
11 Cumulative Supplement, 2010, are repealed.