

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 499

Introduced by Price, 3.

Read first time January 18, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Election Act; to amend sections 32-602,
2 32-617, 32-628, 32-631, 32-632, 32-941, and 32-942,
3 Reissue Revised Statutes of Nebraska, and section 32-939,
4 Revised Statutes Cumulative Supplement, 2010; to change
5 provisions relating to filing for office, registration to
6 vote, and voting; and to repeal the original sections.

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

1 Section 1. Section 32-602, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-602 (1) Any person seeking an elective office shall be
4 a registered voter at the time of filing for the office pursuant to
5 section 32-606 or 32-611.

6 (2) Any person filing for office shall meet the
7 constitutional and statutory requirements of the office for which he
8 or she is filing. If a person is filing for a partisan office, he or
9 she shall be a registered voter affiliated with the appropriate
10 political party if required pursuant to section 32-702. If the person
11 is required to sign a contract or comply with a bonding or equivalent
12 commercial insurance policy requirement prior to holding such office,
13 he or she shall be at least nineteen years of age at the time of
14 filing for the office.

15 (3) A person shall not be eligible to file for an office
16 if he or she holds the office and his or her term of office expires
17 after the beginning of the term of office for which he or she would
18 be filing. This subsection does not apply to filing for an office to
19 represent a different district, ward, subdistrict, or subdivision of
20 the same governmental entity as the office held at the time of
21 filing.

22 ~~(3)~~(4) The governing body of the political subdivision
23 swearing in the officer shall determine whether the person meets all
24 requirements prior to swearing in the officer.

25 Sec. 2. Section 32-617, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-617 (1) Petitions for nomination for partisan and
3 nonpartisan offices shall conform to the requirements of section
4 32-628. Petitions shall state the office to be filled and the name
5 and address of the candidate. Petitions for partisan office shall
6 also indicate the party affiliation of the candidate. A sample copy
7 of the petition shall be filed with the filing officer prior to
8 circulation. Petitions shall be signed by registered voters residing
9 in the district or political subdivision in which the officer is to
10 be elected and shall be filed with the filing officer in the same
11 manner as provided for candidate filing forms in section 32-607.
12 Petition signers and petition circulators shall conform to the
13 requirements of sections 32-629 and 32-630. No petition for
14 nomination shall be filed unless there is attached thereto a receipt
15 showing the payment of the filing fee required pursuant to section
16 32-608. Such petitions shall be filed by September 1 in the year of
17 the general election.

18 (2) The filing officer shall verify the signatures
19 according to section 32-631. Within three days after the signatures
20 on a petition for nomination have been verified pursuant to such
21 section and the filing officer has determined that pursuant to
22 section 32-618 a sufficient number of registered voters signed the
23 petitions, the filing officer shall notify the candidate so nominated
24 by registered or certified mail, and the candidate shall, within five
25 days after the date of receiving such notification, file with such

1 officer his or her acceptance of the nomination or his or her name
2 will not be printed on the ballot.

3 (3) A candidate placed on the ballot by petition shall be
4 termed a candidate by petition. The words BY PETITION shall be
5 printed upon the ballot after the name of each candidate by petition.

6 Sec. 3. Section 32-628, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 32-628 (1) All petitions prepared or filed pursuant to
9 the Election Act or any petition which requires the election
10 commissioner or county clerk to verify signatures by utilizing the
11 voter registration register shall provide a space at least two and
12 one-half inches long for written signatures, a space at least two
13 inches long for printed names, and sufficient space for date of birth
14 and street name and number, city or village, and zip code. Lines on
15 each petition shall not be less than one-fourth inch apart. Petitions
16 may be designed in such a manner that lines for signatures and other
17 information run the length of the page rather than the width.
18 Petitions shall provide for no more than twenty signatures per page.

19 (2) For the purpose of preventing fraud, deception, and
20 misrepresentation, every sheet of every petition containing
21 signatures shall have upon it, above the signatures, the statements
22 contained in this subsection, except that a petition for recall of an
23 elected official shall also have the additional information specified
24 in subsection (2) of section 32-1304. The statements shall be printed
25 in boldface type in substantially the following form:

1 WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE
 2 FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL
 3 CHARGES: Any person who signs any name other than his or her own to
 4 any petition or who is not qualified to sign the petition shall be
 5 guilty of a Class I misdemeanor. Any person who falsely swears to a
 6 circulator's affidavit on a petition, who accepts money or other
 7 things of value for signing a petition, or who offers money or other
 8 things of value in exchange for a signature upon any petition shall
 9 be guilty of a Class IV felony.

10 (3) Every sheet of a petition which contains signatures
 11 shall have upon it, below the signatures, an affidavit as provided in
 12 this subsection, except that the affidavit for a petition for recall
 13 of an elected official shall also include the additional language
 14 specified in subsection (3) of section 32-1304. The affidavit shall
 15 be in substantially the following form:

16 STATE OF NEBRASKA)
 17) ss.
 18 COUNTY OF)
 19 , (name of circulator) being
 20 first duly sworn, deposes and says that he or she is the circulator
 21 of this petition containing signatures, that he or she is
 22 an elector of the State of Nebraska, that each person whose name
 23 appears on the petition personally signed the petition in the
 24 presence of the affiant, that the date to the left of each signature
 25 is the correct date on which the signature was affixed to the

1 petition and that the date was personally affixed by the person
 2 signing such petition, that the affiant believes that each signer has
 3 written his or her name, street and number or voting precinct, and
 4 city, village, or post office address correctly, that the affiant
 5 believes that each signer was qualified to sign the petition, and
 6 that the affiant stated to each signer the object of the petition as
 7 printed on the petition before he or she affixed his or her signature
 8 to the petition.

9 Circulator

10 Address

11 Subscribed and sworn to before me, a notary public,
 12 this day of 20.... at, Nebraska.

13 Notary Public

14 (4) Each sheet of a petition shall have upon its face and
 15 in plain view of persons who sign the petition a statement in letters
 16 not smaller than sixteen-point type in red print on the petition. If
 17 the petition is circulated by a paid circulator, the statement shall
 18 be as follows: This petition is circulated by a paid circulator. If
 19 the petition is circulated by a circulator who is not being paid, the
 20 statement shall be as follows: This petition is circulated by a
 21 volunteer circulator.

22 (5) Each sheet of a petition shall contain signatures of
 23 registered voters registered in the same county and shall clearly
 24 indicate the county at the top of the sheet. No sheet shall contain
 25 signatures of registered voters registered in different counties.

1 Sec. 4. Section 32-631, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-631 (1) All petitions that are presented to the
4 election commissioner or county clerk for signature verification
5 shall be retained in the election office and shall be open to public
6 inspection. Completed petitions shall be submitted as one document.
7 Upon receipt of the pages of a petition, the election commissioner or
8 county clerk shall issue a written receipt indicating the number of
9 pages of the petition in his or her custody to the person presenting
10 the petition for signature verification. Petitions may be destroyed
11 twenty-two months after the election to which they apply.

12 (2) The election commissioner or county clerk shall
13 determine the validity and sufficiency of such petition by comparing
14 the names, dates of birth if applicable, and addresses of the signers
15 with the voter registration records to determine if the signers were
16 registered voters on the date of signing the petition. If it is
17 determined that a signer has affixed his or her signature more than
18 once to any petition and that only one person is registered by that
19 name, the election commissioner or county clerk shall strike from the
20 pages of the petition all but one such signature. Only one of the
21 duplicate signatures shall be added to the total number of valid
22 signatures. All signatures, dates of birth, and addresses shall be
23 presumed to be valid if the election commissioner or county clerk has
24 found the signers to be registered voters on or before the date on
25 which the petition was signed. This presumption shall not be

1 conclusive and may be rebutted by any credible evidence which the
2 election commissioner or county clerk finds sufficient.

3 (3) If the election commissioner or county clerk verifies
4 signatures in excess of one hundred ten percent of the number
5 necessary for the issue to be placed on the ballot, the election
6 commissioner or county clerk may cease verifying signatures and
7 certify the number of signatures verified to the person who delivered
8 the petitions for verification.

9 (4) If the number of signatures verified does not equal
10 or exceed the number necessary to place the issue on the ballot upon
11 completion of the comparison of names and addresses with the voter
12 registration records, the election commissioner or county clerk shall
13 prepare in writing a certification under seal setting forth the name
14 and address of each signer found not to be a registered voter and the
15 petition page number and line number where the signature is found. If
16 the signature or address is challenged for a reason other than the
17 nonregistration of the signer, the election commissioner or county
18 clerk shall set forth the reasons for the challenge of the signature.

19 Sec. 5. Section 32-632, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 32-632 Any person may remove his or her name from a
22 petition by an affidavit signed and sworn to by such person before
23 the election commissioner, the county clerk, or a notary public. The
24 affidavit shall be presented to the Secretary of State, election
25 commissioner, or county clerk prior to or on the day ~~of~~ the petition

1 ~~filing deadline.~~ is filed for verification with the election
2 commissioner or county clerk.

3 Sec. 6. Section 32-939, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 32-939 (1) As provided in section 32-939.02, the persons
6 listed in this subsection who are residents of Nebraska but who
7 reside outside of Nebraska or the United States shall be allowed to
8 simultaneously register to vote and make application for ballots for
9 all elections in a calendar year through the use of the Federal Post
10 Card Application or a personal letter which includes the same
11 information as appears on the Federal Post Card Application:

12 (a) Members of the armed forces of the United States or
13 the United States Merchant Marine, and their spouses and dependents
14 residing with them who are absent from the state;

15 (b) Citizens temporarily residing outside of the United
16 States and the District of Columbia; and

17 (c) Overseas citizens.

18 (2)(a) As provided in section 32-939.02, a person who is
19 the age of an elector and a citizen of the United States residing
20 outside the United States, who has never resided in the United
21 States, who has not registered to vote in any other state of the
22 United States, and who has a parent registered to vote within this
23 state shall be eligible to register to vote and vote in one county in
24 which either one of his or her parents is a registered voter.

25 (b) A person registering to vote or voting pursuant to

1 this subsection shall sign and enclose with the registration
 2 application and with the ballot being voted a form provided by the
 3 election commissioner or county clerk substantially as follows: I am
 4 the age of an elector and a citizen of the United States residing
 5 outside the United States, I have never resided in the United States,
 6 I have not registered to vote in any other state of the United
 7 States, and I have a parent registered to vote in County,
 8 Nebraska. I hereby declare, under penalty of election falsification,
 9 a Class IV felony, that the statements above are true to the best of
 10 my knowledge.

11 THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT
 12 FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR
 13 BOTH.

14 (Signature of Voter)

15 Sec. 7. Section 32-941, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 32-941 Any registered voter permitted to vote early
 18 pursuant to section 32-938 may, not more than one hundred twenty days
 19 before any election and not later than 4 p.m. on the Wednesday
 20 preceding the election, request a ballot for the election to be
 21 mailed to a specific address. A registered voter shall request a
 22 ballot in writing to the election commissioner or county clerk in the
 23 county where the registered voter has established his or her home and
 24 shall indicate his or her residence address, the address to which the
 25 ballot is to be mailed if different, and his or her political party,

1 telephone number if available, and precinct if known. The registered
2 voter may use the form published by the election commissioner or
3 county clerk pursuant to section 32-808. The registered voter shall
4 sign the request. A registered voter may use a facsimile machine for
5 the submission of a request for a ballot. The election commissioner
6 or county clerk shall include a registration application with the
7 ballots if the person is not registered. Registration applications
8 shall not be ~~issued or mailed~~ after the ~~second~~ third Friday preceding
9 the election. If the person is not registered to vote, the
10 registration application shall be returned not later than the closing
11 of the polls on the day of the election. No ballot issued under this
12 section shall be counted unless such registration application is
13 properly completed and processed.

14 Sec. 8. Section 32-942, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 32-942 Any registered voter of this state who anticipates
17 being absent from the county of his or her residence on the day of
18 any election but who is present in the county after ballots are
19 available may appear in person before the election commissioner or
20 county clerk and obtain his or her ballot. The registered voter shall
21 vote in the office of the election commissioner or county clerk or
22 shall return the ballot to the office not later than the closing of
23 the polls on the day of the election. A registered voter who is
24 present in the county on the day of the election and who chooses to
25 vote on the day of the election shall vote at the polling place

1 assigned to the precinct in which he or she resides unless he or she
2 is returning a ballot for early voting or voting pursuant to section
3 32-943.

4 Sec. 9. Original sections 32-602, 32-617, 32-628, 32-631,
5 32-632, 32-941, and 32-942, Reissue Revised Statutes of Nebraska, and
6 section 32-939, Revised Statutes Cumulative Supplement, 2010, are
7 repealed.