

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 112

Introduced by Hansen, 26.

Read first time January 06, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend sections 32-202,
2 32-314, 32-329, 32-915, 32-929, 32-933, 32-935, 32-936, 32-1002,
3 32-1530, and 32-1532, Reissue Revised Statutes of Nebraska; to
4 provide duties for the Secretary of State; to change provisions
5 relating to voter registration and provisional ballots; to authorize
6 provisional ballots for registered voters changing residence within
7 Nebraska; to harmonize provisions; to provide operative dates; and
8 to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-202, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 32-202 In addition to any other duties prescribed by law, the
4 Secretary of State shall:

5 (1) Supervise the conduct of primary and general elections in this
6 state;

7 (2) Provide training for election commissioners, county clerks, and
8 other election officials in providing for registration of voters and the
9 conduct of elections;

10 (3) Enforce the Election Act;

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

13 (5) Provide periodic training for the agencies and their agents and
14 contractors in carrying out their duties under sections 32-308 to 32-310;

15 (6) Develop and print forms for use as required by sections 32-308,
16 32-310, 32-320, 32-329, 32-947, 32-956, and 32-958;

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

19 (8) Require reporting to ensure compliance with sections 32-308 to
20 32-310;

21 (9) Prepare and transmit reports as required by the National Voter
22 Registration Act of 1993, 42 U.S.C. 1973gg et seq.;

23 (10) Develop and print a manual describing the requirements of the
24 initiative and referendum process and distribute the manual to election
25 commissioners and county clerks for distribution to the public upon
26 request;

27 (11) Develop and print pamphlets described in section 32-1405.01;

28 (12) Adopt and promulgate rules and regulations for elections
29 conducted under sections 32-952 to 32-959; ~~and~~

30 (13) Adopt and promulgate rules and regulations establishing
31 procedures for election commissioners and county clerks to (a) verify

1 that a person voting by provisional ballot has not voted anywhere else in
2 Nebraska or been issued a ballot for early voting, (b) investigate
3 whether any credible evidence exists that the person was properly
4 registered to vote in Nebraska before the deadline for registration for
5 the election, (c) investigate whether any information has been received
6 pursuant to section 32-308, 32-309, 32-310, or 32-324 that the person has
7 resided, registered, or voted in any other state since registering to
8 vote in Nebraska, and (d) upon determining that credible evidence exists
9 that the person was properly registered to vote in Nebraska, make the
10 appropriate changes to the voter registration register by entering the
11 information contained in the registration application completed by the
12 voter at the time of voting a provisional ballot; and

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

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

25 32-314 (1) Any person who goes going into another territory or state
26 and registers registering to vote or votes voting in that territory or
27 state shall lose his or her eligibility to vote in this state. Any person
28 who goes going into another county of this state and registers
29 registering to vote or votes voting in that county shall lose his or her
30 eligibility to vote in the county where he or she was registered except
31 as provided in subsection (2) of this section.

1 (2) A registered voter who changes his or her residence in the state
2 ~~one county~~ to a different residence address in ~~a different county~~ in the
3 state and has retained legal residence in the state since the date of his
4 or her last registration shall register again or update his or her voter
5 registration record to avoid additional requirements at the time of
6 voting as provided in sections 32-914 and 32-915 and may be entitled to
7 vote pursuant to section 32-914.02 or 32-915 ~~in order to be eligible to~~
8 ~~vote.~~

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

16 (4) A registered voter who wants to change his or her party
17 affiliation for purposes of a primary election shall complete a
18 registration application pursuant to section 32-312.04 and submit it to
19 the election commissioner or county clerk as provided in and prior to the
20 deadline prescribed by section 32-302 or 32-321.

21 Sec. 3. Section 32-329, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 32-329 (1) The Secretary of State with the assistance of the
24 election commissioners and county clerks shall perform list maintenance
25 with respect to the computerized statewide voter registration list on a
26 regular basis. The list maintenance shall be conducted in a manner that
27 ensures that:

28 (a) The name of each registered voter appears in the computerized
29 list;

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

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

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

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

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

27 (b) If you have not moved or you have moved to a new residence
28 within this state ~~county~~, you should return the enclosed confirmation
29 card by the regular registration deadline prescribed in section 32-302.
30 If you fail to return the card by the deadline, you will be required to
31 affirm or confirm your address prior to being allowed to vote. If you are

1 required to affirm or confirm your address, it may result in a delay at
2 your polling place and you may have to vote a provisional ballot; and

3 (c) If you have moved out of the state county, you must comply with
4 the law of your state of residence ~~reregister~~ to be eligible to vote.
5 ~~This can be accomplished by mail or in person. For further information,~~
6 ~~contact your local election commissioner or county clerk.~~

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

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

19 Sec. 4. Section 32-915, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 32-915 (1) A person whose name does not appear on the precinct list
22 of registered voters at the polling place for the precinct in which he or
23 she resides, whose name appears on the precinct list of registered voters
24 at the polling place for the precinct in which he or she resides at a
25 different residence address as described in section 32-914.02, or whose
26 name appears with a notation that he or she received a ballot for early
27 voting may vote a provisional ballot if he or she:

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

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

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

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

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

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

13 (3) Each person voting by provisional ballot shall enclose his or
14 her ballot in an envelope marked Provisional Ballot and shall, by signing
15 the certification on the front of the envelope or a separate form
16 attached to the envelope, certify to the following facts:

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

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

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

21 (d) I registered to vote
22 in person at the election office or a voter registration site,
23 by mail,
24 by using the Secretary of State's web site,
25 through the Department of Motor Vehicles,
26 on a form through another state agency,
27 in some other way;

28 (e) I have not resided outside of Nebraska ~~this county~~ or voted
29 outside of Nebraska ~~this county~~ since registering to vote in Nebraska
30 ~~this county~~;

31 (f) My current address is shown on the registration application

1 completed as a requirement for voting by provisional ballot; and

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

4 (4) The voter shall sign the certification under penalty of election
5 falsification. The following statements shall be on the front of the
6 envelope or on the attached form: By signing the front of this envelope
7 or the attached form you are certifying to the information contained on
8 this envelope or the attached form under penalty of election
9 falsification. Election falsification is a Class IV felony and may be
10 punished by up to two five years imprisonment and twelve months post-
11 release supervision, a fine of up to ten thousand dollars, or both.

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

17 Sec. 5. Section 32-929, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 32-929 If a person is challenged on the ground that he or she is not
20 a resident of this state, the county, or the precinct, the person shall
21 answer the following questions on the form provided by the election
22 commissioner or county clerk:

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

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

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

26 If a person has moved from one residence to another within the
27 precinct in which he or she is registered to vote, such voter shall be
28 entitled to vote as provided in section 32-914.02. If a person has moved
29 out of the precinct in which he or she is registered to vote in Nebraska
30 and has moved from one residence to another within Nebraska ~~the county in~~
31 ~~which he or she is registered to vote~~, such voter shall be entitled to

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

2 Sec. 6. Section 32-933, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 32-933 (1) ~~A~~ Any person ~~listed in this subsection~~ shall be eligible
5 as a new resident to vote for President and Vice President of the United
6 States at the statewide general election but for no other offices if he
7 or she is a ÷

8 ~~(a) Any~~ citizen of the United States who is at least the constitutionally
9 prescribed age of a voter and ~~who~~ comes into Nebraska after the voter
10 registration period is closed pursuant to section 32-302 for the purpose
11 of making Nebraska his or her place of residence. ~~;~~ ~~and~~

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

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

20 (3) Any person described in subsection (1) of this section shall
21 cast his or her ballot in the office of the election commissioner or
22 county clerk at any time between the close of the voter registration
23 period and the close of the polls on election day. Such ballots shall be
24 available after the close of the voter registration period. Ballots for
25 former residents under subsection (2) of this section shall be available
26 thirty days prior to the election. The ballots may be voted in the office
27 of the election commissioner or county clerk at any time between thirty
28 days prior to the election and the close of the polls on election day, or
29 the ballots may be mailed to the office and counted if they arrive before
30 the close of the polls on election day.

31 Sec. 7. Section 32-935, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 32-935 The election commissioner or county clerk shall immediately
3 mail the duplicate of the affidavit described in section 32-934 to the
4 appropriate official of the state ~~or county in Nebraska~~ in which the
5 applicant last resided. Upon receipt, the election commissioner or county
6 clerk shall file each duplicate application or other official information
7 from another state ~~or county in Nebraska~~ or the District of Columbia
8 indicating that a former resident of this state ~~or county in Nebraska~~ has
9 made application to vote at a presidential election in another state ~~or~~
10 ~~county in Nebraska~~ or the District of Columbia and shall maintain an
11 alphabetical index of such information for a period of twenty-two months
12 after the election.

13 Sec. 8. Section 32-936, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 32-936 If satisfied that the application is proper and that the
16 applicant is qualified to vote under section 32-933, the election
17 commissioner or county clerk shall deliver to the applicant a ballot for
18 President and Vice President of the United States. After voting the
19 ballot, the voter shall securely seal the ballot in an envelope furnished
20 by the election commissioner or county clerk. On the back of the envelope
21 shall be imprinted a statement substantially as follows:

22 Certification of New (or Former) Resident Voter

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

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

1 Sec. 9. Section 32-1002, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 32-1002 (1) As the ballots are removed from the ballot box pursuant
4 to sections 32-1012 to 32-1018, the receiving board shall separate the
5 envelopes containing the provisional ballots from the rest of the ballots
6 and deliver them to the election commissioner or county clerk.

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

11 (3) The election commissioner or county clerk shall, in accordance
12 with the procedures established by the Secretary of State, also (a)
13 verify that (a) verify that a person voting by provisional ballot such
14 person has not voted anywhere else in Nebraska ~~the county~~ or been issued
15 a ballot for early voting, (b) investigate whether any credible evidence
16 exists that the person was properly registered to vote in Nebraska ~~the~~
17 ~~county~~ before the deadline for registration for the election, (c)
18 investigate whether any information has been received pursuant to section
19 32-308, 32-309, 32-310, or 32-324 that the person has resided,
20 registered, or voted in any other ~~county~~ ~~or~~ state since registering to
21 vote in Nebraska ~~the county~~, and (d) upon determining that credible
22 evidence exists that the person was properly registered to vote in
23 Nebraska ~~the county~~, make the appropriate changes to the voter
24 registration register by entering the information contained in the
25 registration application completed by the voter at the time of voting a
26 provisional ballot.

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

29 (a) Credible evidence exists that the voter was properly registered
30 in Nebraska ~~the county~~ before the deadline for registration for the
31 election;

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

3 (c) The voter has not voted anywhere else in Nebraska ~~the county~~ or
4 has not otherwise voted early using a ballot for early voting;

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

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

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

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

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

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

21 (b) Information has been received pursuant to section 32-308,
22 32-309, 32-310, or 32-324 that the voter has resided, registered, or
23 voted in another ~~any other county or state~~ since registering to vote in
24 Nebraska ~~the county in which he or she cast the provisional ballot~~;

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

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

30 (e) The residence address provided on the registration application
31 completed pursuant to subdivision (1)(e) of section 32-915 is ~~in a~~

1 ~~different county or~~ in a different precinct than the ~~county or~~ precinct
2 in which the voter voted;

3 (f) If the voter is voting in a primary election, the party
4 affiliation on the registration application completed prior to voting the
5 provisional ballot is different than the party affiliation that appears
6 on the voter's voter registration record based on his or her previous
7 registration application; or

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

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

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

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

18 (b) Both the registration application and the certification are
19 signed by the voter.

20 (7) Upon determining that the voter's provisional ballot is eligible
21 to be counted, the election commissioner or county clerk shall remove the
22 ballot from the envelope without exposing the marks on the ballot and
23 shall place the ballot with the ballots to be counted by the county
24 canvassing board.

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

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

31 Sec. 10. Section 32-1530, Reissue Revised Statutes of Nebraska, is

1 amended to read:

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

9 Sec. 11. Section 32-1532, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 32-1532 Any person who procures, aids, assists, counsels, or advises
12 another to give his or her vote, knowing that such other person is not a
13 resident of this state or a registered voter of this state ~~the county~~ as
14 required by law at the time of election, is not of the constitutionally
15 prescribed age of a registered voter, is not a citizen of the United
16 States, or is not duly qualified as a result of any other disability to
17 vote at the place where and the time when the vote is to be given shall
18 be guilty of a Class IV felony.

19 Sec. 12. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 14 of this
20 act become operative on January 1, 2018. The other sections of this act
21 become operative on their effective date.

22 Sec. 13. Original sections 32-202, Reissue Revised Statutes of
23 Nebraska, is repealed.

24 Sec. 14. Original sections 32-314, 32-329, 32-915, 32-929, 32-933,
25 32-935, 32-936, 32-1002, 32-1530, and 32-1532, Reissue Revised Statutes
26 of Nebraska, are repealed.