

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 251**

Introduced by Schimek, 27

Read first time January 5, 2001

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-560, 32-572,  
2 32-605, 32-615, 32-616, 32-625, and 85-1514, Reissue  
3 Revised Statutes of Nebraska; to change provisions  
4 relating to vacancies; to harmonize provisions; to repeal  
5 the original sections; and to outright repeal section  
6 32-626, Reissue Revised Statutes of Nebraska.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 32-560, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   32-560. Every elective office shall be vacant, except as  
4 provided in section 32-561, upon the happening of any one of the  
5 following events at any time before the expiration of the term of  
6 such office:

7                   (1) Resignation of the incumbent;

8                   (2) Death of the incumbent;

9                   (3) Removal of the incumbent from office;

10                  (4) Decision of a competent tribunal declaring the office  
11 of the incumbent vacant;

12                  (5) Incumbent ceasing to be a resident of the state,  
13 district, county, township, or precinct in which the duties of his  
14 or her office are to be exercised or for which he or she may have  
15 been elected;

16                  (6) Failure to elect at an election when there is no  
17 incumbent to continue in office until his or her successor is  
18 elected and qualified;

19                  (7) The candidate who received the highest number of  
20 votes was ineligible, disqualified, deceased, or for any other  
21 reason unable to assume the office for which he or she was a  
22 candidate at the time of the election;

23                  (8) Failure of a candidate elected to an office to  
24 qualify for such office;

25                  ~~(8)~~ (9) Forfeiture of office as provided by law;

26                  ~~(9)~~ (10) Conviction of a felony or of any public offense  
27 involving the violation of the oath of office of the incumbent; or

28                  ~~(10)~~ (11) Incumbent of a high elective office assuming

1 another elective office as provided in subsections (2) through (4)  
2 of section 32-604.

3 Sec. 2. Section 32-572, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 32-572. (1) Every officer elected or appointed for a  
6 fixed term shall hold office until his or her successor is elected  
7 or appointed and is qualified. The fixed term shall end and the  
8 successor, whether elected or appointed, shall qualify on the day  
9 for taking office as provided by law. This section shall not be  
10 construed in any way to prevent the removal or suspension of such  
11 officer during or after his or her term in cases provided by law.

12 (2) If a successful candidate or the candidate receiving  
13 the highest number of votes in an election is prevented from  
14 assuming office on account of death, disability, resignation,  
15 removal, or disqualification, the incumbent shall not be entitled  
16 to hold over the term, but the office shall automatically become  
17 vacant upon the day for taking office as provided by law. The  
18 appointment to fill any vacancy if the elective or appointive  
19 officer fails to qualify shall be made as provided in sections  
20 32-566 to 32-570. If the vacancy is created by the elective or  
21 appointive officer on or before the day for taking office, the  
22 incumbent shall remain in office until his or her successor is  
23 appointed and qualified and sworn into office, and the swearing in  
24 shall not be more than one calendar month from the day for taking  
25 office as provided by law. The appointing board or officer shall  
26 have the authority to appoint any qualified registered voter to  
27 fill the vacancy.

28 Sec. 3. Section 32-605, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           32-605. No candidate defeated at a primary election  
3 shall be permitted to file an affidavit declaring a write-in  
4 candidacy, file by petition, or file a nomination, if nominated by  
5 party convention or committee, for the following general election  
6 for the same office. ~~This section shall not be construed to~~  
7 ~~preclude a candidate who was defeated at the primary election from~~  
8 ~~being placed on the ballot at the general election pursuant to~~  
9 except as provided in section 32-616 or ~~32-626~~ 32-625.

10           Sec. 4. Section 32-615, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           32-615. Any candidate engaged in or pursuing a write-in  
13 campaign shall file a notarized affidavit of his or her intent  
14 together with the treasurer's receipt for any filing fee with the  
15 filing officer as provided in section 32-608 no later than ten days  
16 prior to the election. A candidate who has been defeated as a  
17 candidate in the primary election or defeated as a write-in  
18 candidate in the primary election shall not be eligible as a  
19 write-in candidate for the same office in the general election  
20 unless a vacancy on the ballot exists pursuant to section 32-625.

21 A candidate who files a notarized affidavit shall be entitled to  
22 all write-in votes for the candidate even if only the last name of  
23 the candidate has been written if such last name is reasonably  
24 close to the proper spelling.

25           Sec. 5. Section 32-616, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           32-616. (1) Any registered voter who was not a candidate  
28 in the primary election may have his or her name placed on the

1 general election ballot for a partisan office by filing petitions  
2 as prescribed in sections 32-617 to 32-621 or by nomination by  
3 political party convention or committee.

4         (2) Any candidate who was defeated in the primary  
5 election and any registered voter who was not a candidate in the  
6 primary election may have his or her name placed on the general  
7 election ballot if a vacancy exists on the ballot under subsection  
8 ~~(1)~~ (2) of section ~~32-626~~ 32-625 and the candidate files for the  
9 office by petition as prescribed in sections 32-617 and 32-618 or  
10 files as a write-in candidate as prescribed in section 32-615.

11         Sec. 6. Section 32-625, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13         32-625. (1) If there is a vacancy on the ballot for a  
14 nonpartisan office after the time for filing and before the primary  
15 election, the vacancy may only be filled by a petition candidate  
16 after the primary election pursuant to sections 32-617 and 32-618.

17         (2) A vacancy shall exist on the ballot for the general  
18 election when (a) any person ceases to be a candidate for the  
19 office for which he or she filed a candidate filing form in the  
20 primary election and the number of candidates for office is less  
21 than twice the number of positions to be filled, ~~or~~ (b) no person  
22 was nominated for the office in the primary election, or (c) one of  
23 the candidates who received a certificate of nomination for a  
24 nonpartisan office as a result of a primary election is ineligible,  
25 disqualified, deceased, or for any other reason unable to assume  
26 the office for which he or she was a candidate. If such a vacancy  
27 exists for a nonpartisan office, such vacancy may be filled by  
28 filing petitions for nomination pursuant to such sections no later

1 than September 1 prior to the general election.

2           Sec. 7.     Section 85-1514, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           85-1514. (1) In addition to the events listed in section  
5 32-560, a vacancy on any board shall exist in the event of the  
6 removal of a board member from the community college area for board  
7 members elected at large or community college district for board  
8 members elected by district. After notice and hearing, a vacancy  
9 shall also exist when any board member is absent from more than  
10 three consecutive regular meetings of the board unless such  
11 absences are excused by a majority of the remaining board members.  
12 In the event of a vacancy from any of such causes or otherwise,  
13 such vacancy shall be filled by the remaining board members for the  
14 balance of the unexpired term. Any person so named to fill a  
15 vacancy shall have the same qualifications as his or her immediate  
16 predecessor. Such appointment shall be made in writing and  
17 certified to the office of the Secretary of State.

18           (2) If after ~~an~~ a primary election there is a vacancy  
19 upon the ballot, such vacancy shall be filled by a petition  
20 candidate pursuant to section 32-625.

21           (3) An incumbent shall not be permitted to hold over the  
22 term, but such office shall automatically become vacant and an  
23 appointment shall be made within one calendar month to fill such  
24 vacancy for the ensuing term. If there are vacancies in the  
25 offices of a majority of the members of the board, the Secretary of  
26 State shall conduct a special election to fill such vacancies.

27           Sec. 8.     Original sections 32-560, 32-572, 32-605,  
28 32-615, 32-616, 32-625, and 85-1514, Reissue Revised Statutes of

1 Nebraska, are repealed.

2           Sec. 9.    The following section is outright repealed:

3 Section 32-626, Reissue Revised Statutes of Nebraska.