

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 325

FINAL READING

Introduced by Nelson, 6.

Read first time January 15, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-328,
2 32-329, 32-914.02, 32-915, 32-930, and 32-1002, Reissue
3 Revised Statutes of Nebraska, and section 32-607, Revised
4 Statutes Supplement, 2009; to change provisions relating
5 to clerical errors on the precinct list of registered
6 voters, updates of registration records due to change of
7 address, candidate filing forms, provisional ballots, and
8 challenges to voters; to harmonize provisions; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-328, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-328 (1) The election commissioner or county clerk
4 shall, upon the personal application of any registered voter or
5 whenever informed of any error and after due investigation, correct
6 any error in the voter registration register. For such purpose,
7 the election commissioner or county clerk may summon witnesses and
8 compel their attendance to appear at the office of the election
9 commissioner or county clerk to give testimony pertaining to
10 residence, qualifications, or any other facts required to be
11 entered in the voter registration register. Such testimony shall be
12 transcribed and become a part of his or her records.

13 (2) If the name of any registered voter of any precinct
14 does not appear on the precinct list of registered voters through
15 an error and the election commissioner or county clerk informs
16 the precinct inspector or judge of election that credible evidence
17 exists that substantiates that an error has been made, the precinct
18 inspector or judge of election shall enter the correction in the
19 precinct list of registered voters, initial the correction, and
20 authorize the receiving board to issue the proper ballots to the
21 voter as directed by the election commissioner or county clerk
22 and receive his or her vote. The election commissioner or county
23 clerk shall designate whether the voter is entitled to a regular
24 ballot or a provisional ballot as provided in section 32-915. The
25 election commissioner or county clerk shall implement the policy

1 regarding designation of ballots uniformly throughout the county.

2 All corrections shall be entered on the voter registration register
3 as soon as possible after the election.

4 Sec. 2. Section 32-329, Reissue Revised Statutes of
5 Nebraska, is amended to read:

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

11 (a) The name of each registered voter appears in the
12 computerized list;

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

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

18 (2) The election commissioner or county clerk shall
19 verify the voter registration register by using (a) the National
20 Change of Address program of the United States Postal Service
21 and a confirmation notice pursuant to subsection (3) of this
22 section or (b) the biennial mailing of a nonforwardable notice
23 to each registered voter. The Secretary of State shall provide
24 biennial training for the election commissioners and county clerks
25 responsible for maintaining voter registration lists. No name shall

1 be removed from the voter registration register for the sole reason
2 that such person has not voted for any length of time.

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

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

20 (b) If you have not moved or you have moved to a
21 new residence within this county, you should return the enclosed
22 confirmation card by the regular registration deadline prescribed
23 in section 32-302. If you fail to return the card by the deadline,
24 you will be required to affirm or confirm your address prior to
25 being allowed to vote. If you are required to affirm or confirm

1 your address, it may result in a delay at your polling place; and

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

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

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

20 Sec. 3. Section 32-607, Revised Statutes Supplement,
21 2009, is amended to read:

22 32-607 All candidate filing forms shall contain the
23 following statement: I hereby swear that I will abide by the laws
24 of the State of Nebraska regarding the results of the primary and
25 general elections, that I am a registered voter and qualified to

1 be elected, and that I will serve if elected. Candidate filing
2 forms shall also contain the candidate's name; residence address;
3 mailing address if different from the residence address; telephone
4 number; office sought; and party affiliation if the office sought
5 is a partisan office. Candidate filing forms shall be filed with
6 the following filing officers:

7 (1) For candidates for national, state, or congressional
8 office, directors of public power and irrigation districts,
9 directors of reclamation districts, directors of natural resources
10 districts, members of the boards of educational service units,
11 members of governing boards of community colleges, delegates to
12 national conventions, and other offices filled by election held in
13 more than one county and judges desiring retention, in the office
14 of the Secretary of State;

15 (2) For officers elected within a county, in the office
16 of the election commissioner or county clerk. If the candidate is
17 not a resident of the county, he or she shall submit a certificate
18 of registration obtained under section 32-316 with the candidate
19 filing form;

20 (3) For officers in school districts which include land
21 in adjoining counties, in the office of the election commissioner
22 or county clerk of the county in which the greatest number of
23 registered voters entitled to vote for the officers reside. If the
24 candidate is not a resident of the county, he or she shall submit a
25 certificate of registration obtained under section 32-316 with the

1 candidate filing form; and

2 (4) For city or village officers, in the office of the
3 ~~city or village clerk, except that in the case of joint elections,~~
4 ~~the filing may be either in the office of the election commissioner~~
5 ~~or county clerk, or in the office of the city or village clerk with~~
6 ~~deputized personnel. When the city or village clerk is deputized to~~
7 ~~take filings, he or she shall return all filings to the office of~~
8 ~~the election commissioner or county clerk by the end of the next~~
9 ~~business day following the filing deadline.~~

10 Sec. 4. Section 32-914.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 32-914.02 If a person who is registered to vote moves
13 to a new residence within the same county and precinct and has
14 continuously resided in such county and precinct since registering
15 to vote but the voter registration register has not been changed
16 to reflect the move, the person shall be entitled to vote at the
17 polling place for the new residence. The election commissioner or
18 county clerk shall designate whether such a person is entitled
19 to a regular ballot upon completing a registration application
20 to update his or her voter registration record at the polling
21 place or a provisional ballot as provided in section 32-915. The
22 election commissioner or county clerk shall implement the policy
23 regarding designation of ballots uniformly throughout the county.
24 The election commissioner or county clerk shall update the voter
25 registration register to reflect the change of address.

1 Sec. 5. Section 32-915, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-915 (1) A person whose name does not appear on the
4 precinct list of registered voters at the polling place for the
5 precinct in which he or she resides, whose name appears on the
6 precinct list of registered voters at the polling place for the
7 precinct in which he or she resides at a different residence
8 address as described in section 32-914.02, or whose name appears
9 with a notation that he or she received a ballot for early voting
10 may vote a provisional ballot if he or she:

11 (a) Claims that he or she is a registered voter who has
12 continuously resided in the county in which the precinct is located
13 since registering to vote;

14 (b) Is not entitled to vote under section 32-914.01 or
15 32-914.02;

16 (c) Has not registered to vote or voted in any other
17 county since registering to vote in the county in which the
18 precinct is located;

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

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

24 (2) A voter whose name appears on the precinct list
25 of registered voters for the polling place with a notation

1 that the voter is required to present identification pursuant
2 to section 32-318.01 but fails to present identification may vote a
3 provisional ballot if he or she completes and signs a registration
4 application before voting.

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

10 (a) I am a registered voter in County;

11 (b) My name did not appear on the precinct list of
12 registered voters;

13 (c) I registered to vote on or about this date
14

15 (d) I registered to vote
16 in person at the election office or a voter
17 registration site,
18 by mail,
19 on a form through the Department of Motor Vehicles,
20 on a form through another state agency,
21 in some other way;

22 (e) I have not resided outside of this county or voted
23 outside of this county since registering to vote in this county;

24 (f) My current address is shown on the registration
25 application completed as a requirement for voting by provisional

1 ballot; and

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

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

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

18 Sec. 6. Section 32-930, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 32-930 If a person is challenged on the ground that he
21 or she is not eighteen years of age or, during the years in which
22 a statewide general election is held, that he or she will not be
23 eighteen years of age by the first Tuesday after the first Monday
24 in November of such year, the person shall answer the following
25 question on the form provided by the election commissioner or

1 county clerk: Will you be ~~eighteen years of age to the best of~~
 2 ~~your knowledge and belief by the statewide general election of this~~
 3 ~~year? at least eighteen years of age on or before the first Tuesday~~
 4 ~~following the first Monday in November of this year?~~

5 Sec. 7. Section 32-1002, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 32-1002 (1) As the ballots are removed from the ballot
 8 box pursuant to sections 32-1012 to 32-1018, the receiving board
 9 shall separate the envelopes containing the provisional ballots
 10 from the rest of the ballots and deliver them to the election
 11 commissioner or county clerk.

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

17 (3) The election commissioner or county clerk shall
 18 also (a) verify that such person has not voted anywhere else
 19 in the county or been issued a ballot for early voting, (b)
 20 investigate whether any credible evidence exists that the person
 21 was properly registered to vote in the county before the deadline
 22 for registration for the election, (c) investigate whether any
 23 information has been received pursuant to section 32-309, 32-310,
 24 or 32-324 that the person has resided, registered, or voted in
 25 any other county or state since registering to vote in the county,

1 and (d) upon determining that credible evidence exists that the
2 person was properly registered to vote in the county, make the
3 appropriate changes to the voter registration register by entering
4 the information contained in the registration application completed
5 by the voter at the time of voting a provisional ballot.

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

8 (a) Credible evidence exists that the voter was properly
9 registered in the county before the deadline for registration for
10 the election;

11 (b) The voter has resided in the county continuously
12 since registering to vote in the county;

13 (c) The voter has not voted anywhere else in the county
14 or has not otherwise voted early using a ballot for early voting;

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

18 (i) The residence address provided on the registration
19 application completed pursuant to subdivision (1)(e) of section
20 32-915 is located within the precinct in which the person voted;
21 and

22 (ii) If the voter is voting in a primary election,
23 the party affiliation provided on the registration application
24 completed prior to voting the provisional ballot is the same party
25 affiliation that appears on the voter's voter registration record

1 based on his or her previous registration application; and

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

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

7 (a) The voter was not properly registered in the county
8 before the deadline for registration for the election;

9 (b) Information has been received pursuant to section
10 32-309, 32-310, or 32-324 that the voter has resided, registered,
11 or voted in any other county or state since registering to vote in
12 the county in which he or she cast the provisional ballot;

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

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

18 (e) The residence address provided on the registration
19 application completed pursuant to subdivision (1)(e) of section
20 32-915 is in a different county or in a different precinct than the
21 county or precinct in which the voter voted;

22 (f) If the voter is voting in a primary election, the
23 party affiliation on the registration application completed prior
24 to voting the provisional ballot is different than the party
25 affiliation that appears on the voter's voter registration record

1 based on his or her previous registration application; or

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

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

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

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

13 (b) Both the registration application and the
14 certification are signed by the voter.

15 ~~(6)~~ (7) Upon determining that the voter's provisional
16 ballot is eligible to be counted, the election commissioner or
17 county clerk shall remove the ballot from the envelope without
18 exposing the marks on the ballot and shall place the ballot with
19 the ballots to be counted by the county canvassing board.

20 ~~(7)~~ (8) The election commissioner or county clerk shall
21 notify the system administrator of the system created pursuant to
22 section 32-202 as to whether the ballot was counted and, if not,
23 the reason the ballot was not counted.

24 ~~(8)~~ (9) The verification and investigation shall be
25 completed within seven days after the election.

1 Sec. 8. Original sections 32-328, 32-329, 32-914.02,
2 32-915, 32-930, and 32-1002, Reissue Revised Statutes of Nebraska,
3 and section 32-607, Revised Statutes Supplement, 2009, are
4 repealed.