

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 951

FINAL READING

Introduced by Avery, 28; Krist, 10; Cook, 13.

Read first time January 14, 2010

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-101, 32-604,
2 32-808, 32-915, and 32-939, Reissue Revised Statutes
3 of Nebraska; to change provisions relating to holding
4 multiple offices, early voting, and provisional ballots;
5 to require postsecondary educational institutions to
6 provide information on early voting; to harmonize
7 provisions; to repeal the original sections; and to
8 outright repeal section 32-939.01, Reissue Revised
9 Statutes of Nebraska.

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

1 Section 1. Section 32-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-101 Sections 32-101 to 32-1551 and section 6 of this
4 act shall be known and may be cited as the Election Act.

5 Sec. 2. Section 32-604, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 32-604 (1) Except as provided in subsection (2) or (4) of
8 this section, no person shall be precluded from being elected or
9 appointed to or holding an elective office for the reason that he
10 or she has been elected or appointed to or holds another elective
11 office.

12 (2) No person serving as a member of the Legislature or
13 in an elective office described in Article IV, section 1 or 20,
14 or Article VII, section 3 or 10, of the Constitution of Nebraska
15 shall simultaneously serve in any other elective office, except
16 that such a person may simultaneously serve in another elective
17 office which is filled at an election held in conjunction with the
18 annual meeting of a public body.

19 (3) Whenever an incumbent serving as a member of the
20 Legislature or in an elective office described in Article IV,
21 section 1 or 20, or Article VII, section 3 or 10, of the
22 Constitution of Nebraska assumes another elective office, except
23 an elective office filled at an election held in conjunction with
24 the annual meeting of a public body, the office first held by the
25 incumbent shall be deemed vacant.

1 (4) No person serving in a high elective office shall
2 simultaneously serve in any other high elective office, except that
3 a county attorney may serve as the county attorney for more than
4 one county if appointed under subsection (2) of section 23-1201.01.

5 (5) Notwithstanding ~~subsections (2) through~~ subsection
6 (4) of this section, any person holding more than one high elective
7 office upon ~~September 13, 1997,~~ the effective date of this act,
8 shall be entitled to serve the remainder of all terms for which he
9 or she was elected or appointed.

10 (6) For purposes of this section, (a) elective office has
11 the meaning found in section 32-109 and includes an office which is
12 filled at an election held in conjunction with the annual meeting
13 of a public body created by an act of the Legislature but does
14 not include a member of a learning community coordinating council
15 appointed pursuant to subsection (5) or (7) of section 32-546.01
16 and (b) high elective office means a member of the Legislature,
17 an elective office described in Article IV, section 1 or 20, or
18 Article VII, section 3 or 10, of the Constitution of Nebraska, or a
19 county, city, community college area, learning community, or school
20 district elective office.

21 Sec. 3. Section 32-808, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 32-808 (1) ~~Ballets~~ Except as otherwise provided in
24 section 6 of this act, ballots for early voting and applications
25 shall be ready for delivery to registered voters at least

1 thirty-five days prior to each statewide primary or general
2 election and at least fifteen days prior to all other elections. ~~(2)~~
3 Notwithstanding subsection ~~(1)~~ of this section, upon request for a
4 ballot, a ballot for early voting shall be forwarded to each voter
5 meeting the criteria of section 32-939 at least forty-five days
6 prior to any election. The election commissioner or county clerk
7 shall not forward any ballot for early voting if the election to
8 which such ballot pertains has already been held. If the ballot
9 has not been printed in sufficient time to meet the requirements
10 of this subsection, the election commissioner or county clerk shall
11 issue a special ballot at least sixty days prior to an election to
12 each voter meeting the criteria of section 32-939 upon the written
13 request by such voter requesting the special ballot. A complete
14 list of the nominated candidates and issues to be voted upon by a
15 voter meeting the criteria of such section shall be included with
16 the special ballot by the election commissioner or county clerk. A
17 notice shall be sent with the primary election ballot stating that
18 the voter must request a general election ballot unless such voter
19 has requested both the primary and general election ballots. If the
20 voter has requested both ballots, a notice shall be sent with the
21 primary election ballot stating that the general election ballot
22 will be sent to the same address unless otherwise notified.

23 ~~(3)~~ For purposes of this section, a special ballot means
24 a ballot prescribed by the Secretary of State which contains
25 the titles of all offices being contested at such election and

1 ~~permits the voter to vote by writing in the names of the specific~~
2 ~~candidates or the decision on any issue.~~

3 ~~(4)~~ (2) The election commissioner or county clerk shall
4 publish in a newspaper of general circulation in the county an
5 application form to be used by registered voters in making an
6 application for a ballot for early voting after the ballots become
7 available. The publication of the application shall not be required
8 if the election is held by mail pursuant to sections 32-952 to
9 32-959.

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

12 32-915 (1) A person whose name does not appear on the
13 precinct list of registered voters at the polling place for the
14 precinct in which he or she resides or whose name appears with a
15 notation that he or she received a ballot for early voting may vote
16 a provisional ballot if he or she:

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

20 (b) Is not entitled to vote under section 32-914.01 or
21 32-914.02;

22 (c) Has not registered to vote or voted in any other
23 county since registering to vote in the county in which the
24 precinct is located;

25 (d) Has appeared to vote at the polling place for the

1 precinct to which the person would be assigned based on his or her
2 residence address; and

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

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

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

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

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

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

21 (d) I registered to vote
22 in person at the election office or a voter
23 registration site,

24 by mail,

25 on a form through the Department of Motor Vehicles,

1 on a form through another state agency,

2 in some other way;

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

5 (f) My current address is shown on the registration
6 application completed as a requirement for voting by provisional
7 ballot; and

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

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

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

24 Sec. 5. Section 32-939, Reissue Revised Statutes of
25 Nebraska, is amended to read:

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

8 (a) Members of the armed forces of the United States or
9 the United States Merchant Marine, and their spouses and dependents
10 residing with them;

11 (b) Citizens temporarily residing outside of the United
12 States and the District of Columbia; and

13 (c) Overseas citizens.

14 ~~(2) An omission of required information, except the~~
15 ~~political party affiliation of the applicant, may prevent the~~
16 ~~processing of an application and mailing of ballots. The request~~
17 ~~for any ballots and a registration application shall be sent to~~
18 ~~the election commissioner or county clerk of the county of the~~
19 ~~applicant's residence. The request may be sent at any time in~~
20 ~~the same calendar year as the election, except that the request~~
21 ~~shall be received by the election commissioner or county clerk not~~
22 ~~later than the third Friday preceding an election to vote in that~~
23 ~~election. If so requested, ballots may be sent for all subsequent~~
24 ~~elections held in the county in that calendar year.~~

25 ~~(3) Any person meeting the criteria in subsection (1) of~~

1 this section may cast a ballot by the use of the Federal Write-In
2 Absentee Ballot. The Federal Write-In Absentee Ballot may be used
3 for all elections. If a person casting a ballot using the Federal
4 Write-In Absentee Ballot is not a registered voter, the information
5 submitted in the Federal Write-In Absentee Ballot transmission
6 envelope shall be treated as a voter registration application.

7 ~~(4) Any person meeting the criteria in subsection (1)~~
8 ~~of this section requesting a ballot under this section or the~~
9 ~~special ballot described in section 32-808 may receive and return~~
10 ~~the ballot and the oath prescribed in subsection (2) of section~~
11 ~~32-947 using any method of transmission authorized by the Secretary~~
12 ~~of State.~~

13 (2) (a) As provided in section 6 of this act, a person
14 who is the age of an elector and a citizen of the United States
15 residing outside the United States, who has never resided in the
16 United States, who has not registered to vote in any other state of
17 the United States, and who has a parent registered to vote within
18 this state shall be eligible to register to vote and vote in one
19 county in which either one of his or her parents is a registered
20 voter.

21 (b) A person registering to vote or voting pursuant
22 to this subsection shall sign and enclose with the registration
23 application and with the ballot being voted a form provided by
24 the election commissioner or county clerk substantially as follows:
25 I am the age of an elector and a citizen of the United States

1 residing outside the United States, I have never resided in the
 2 United States, I have not registered to vote in any other state
 3 of the United States, and I have a parent registered to vote
 4 in County, Nebraska. I hereby declare, under penalty
 5 of election falsification, a Class IV felony, that the statements
 6 above are true to the best of my knowledge.

7 THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT
 8 FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS,
 9 OR BOTH.

10 (Signature of Voter)

11 Sec. 6. (1) Upon request for a ballot, a ballot for early
 12 voting shall be forwarded to each voter meeting the criteria of
 13 section 32-939 at least forty-five days prior to any election.

14 (2) An omission of required information, except the
 15 political party affiliation of the applicant, may prevent the
 16 processing of an application for and mailing of ballots. The
 17 request for any ballots and a registration application shall be
 18 sent to the election commissioner or county clerk of the county of
 19 the applicant's residence. The request may be sent at any time in
 20 the same calendar year as the election, except that the request
 21 shall be received by the election commissioner or county clerk
 22 not later than the third Friday preceding an election to vote
 23 in that election. If an applicant fails to indicate his or her
 24 political party affiliation on the application, the applicant shall
 25 be registered as nonpartisan.

1 (3) A person described in section 32-939 may register
2 to vote through the use of the Federal Post Card Application
3 or a personal letter which includes the same information as
4 appears on the Federal Post Card Application and may simultaneously
5 make application for ballots for all elections in a calendar
6 year. The person may indicate a preference for ballots and other
7 election materials to be delivered via facsimile transmission or
8 electronic mail by indicating such preference on the Federal Post
9 Card Application. If the person indicates such a preference, the
10 election commissioner or county clerk shall accommodate the voter's
11 preference.

12 (4) If the ballot for early voting has not been printed
13 in sufficient time to meet the request and special requirements
14 of a voter meeting the criteria of section 32-939, the election
15 commissioner or county clerk may issue a special ballot at least
16 sixty days prior to an election to such a voter upon a written
17 request by such voter requesting the special ballot. For purposes
18 of this subsection, a special ballot means a ballot prescribed by
19 the Secretary of State which contains the titles of all offices
20 being contested at such election and permits the voter to vote by
21 writing in the names of the specific candidates or the decision on
22 any issue. The election commissioner or county clerk shall include
23 with the special ballot a complete list of the nominated candidates
24 and issues to be voted upon by the voter which are known at the
25 time of the voter's request.

1 (5) Any person meeting the criteria in section 32-939 may
2 cast a ballot by the use of the Federal Write-In Absentee Ballot.
3 The Federal Write-In Absentee Ballot may be used for all elections.
4 If a person casting a ballot using the Federal Write-In Absentee
5 Ballot is not a registered voter, the information submitted in
6 the Federal Write-In Absentee Ballot transmission envelope shall be
7 treated as a voter registration application.

8 (6) Any person requesting a ballot under this section may
9 receive and return the ballot and the oath prescribed in subsection
10 (2) of section 32-947 using any method of transmission authorized
11 by the Secretary of State.

12 (7) The Secretary of State shall develop a process for a
13 person casting a ballot under this section to check the status of
14 his or her ballot via the Internet or a toll-free telephone call.

15 Sec. 7. In addition to the requirements of 20 U.S.C.
16 1094(a)(23), the University of Nebraska, each state college, and
17 each community college shall provide information furnished by
18 the Secretary of State on early voting prior to each statewide
19 primary and general election to each student enrolled in a
20 degree or certificate program and physically in attendance at
21 the institution. The information shall include instructions on
22 early voting and an application to request a ballot for early
23 voting. The institution may provide the information electronically.

24 Sec. 8. Original sections 32-101, 32-604, 32-808, 32-915,
25 and 32-939, Reissue Revised Statutes of Nebraska, are repealed.

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

2 Section 32-939.01, Reissue Revised Statutes of Nebraska.