

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 325

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 32-228,
2 32-235, 32-314, 32-325, 32-328, 32-329, 32-607, 32-914,
3 32-914.02, 32-915, 32-929, and 32-930, Reissue Revised
4 Statutes of Nebraska; to change provisions relating
5 to notification of election workers, clerical errors
6 on the precinct list of registered voters, updates
7 of registration records due to change of address,
8 provisional ballots, and challenges to voters; to
9 harmonize provisions; and to repeal the original
10 sections.

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

1 Section 1. Section 32-228, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-228 (1) The election commissioner shall notify each
4 person appointed as a judge or clerk of election, precinct
5 inspector, district inspector, member of a counting board, or
6 member of a canvassing board of the appointment by letter. Such
7 letter shall be mailed at least ~~fifteen~~ seven days prior to the
8 required reporting date for each statewide primary and general
9 election. Each appointee shall, at the time fixed in the notice of
10 appointment, report to the office of the election commissioner or
11 other designated location to complete any informational forms and
12 receive training regarding his or her duties. The training shall
13 include instruction as required by the Secretary of State and any
14 other training deemed necessary by the election commissioner. Each
15 appointee, if found qualified and unless excused by reason of ill
16 health or other good and sufficient reason, shall serve for the
17 term of his or her appointment.

18 (2) An appointee who fails to serve for such term,
19 unless excused by reason of ill health or other good and
20 sufficient reason, is guilty of a Class V misdemeanor. The election
21 commissioner shall submit the names of appointees violating this
22 subsection to the local law enforcement agency for citation
23 pursuant to sections 32-1549 and 32-1550.

24 Sec. 2. Section 32-235, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 32-235 (1) The county clerk shall, by mail, notify judges
2 and clerks of election, district inspectors, members of counting
3 boards, and members of canvassing boards of their appointment. The
4 notice shall inform the appointee of his or her appointment and of
5 the date and time he or she is required to report to the office
6 of the county clerk or other designated location and the polling
7 place. The notice shall be mailed at least ~~fifteen~~ seven days prior
8 to each statewide primary and general election. The county clerk
9 shall order the members of the receiving board to appear at their
10 respective polling place on the day and at the hour specified in
11 the notice of appointment.

12 (2) Each appointee shall, at the time fixed in the notice
13 of appointment, report to the office or other location to complete
14 any informational forms and receive training regarding his or her
15 duties. The training shall include instruction as required by the
16 Secretary of State and any other training deemed necessary by the
17 county clerk.

18 Sec. 3. Section 32-314, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 32-314 (1) Any person going into another territory or
21 state and registering to vote or voting in that territory or state
22 shall lose his or her eligibility to vote in this state. Any person
23 going into another county of this state and registering to vote or
24 voting in that county shall lose his or her eligibility to vote in
25 the county where he or she was registered.

1 (2) A registered voter who changes his or her residence
2 in one county to a residence address in a different county in the
3 state shall register again or update his or her voter registration
4 record in order to be eligible to vote.

5 (3) A registered voter who changes his or her name or
6 residence within the county and has retained legal residence in
7 the county since the date of his or her last registration shall
8 register again or update his or her voter registration record to
9 avoid additional requirements at the time of voting as provided in
10 sections 32-914 and 32-915 and may be entitled to vote pursuant to
11 section 32-914.01~~7~~, ~~32-914.02~~~~7~~, or 32-915.

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

17 Sec. 4. Section 32-325, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 32-325 (1) A registration application completed and
20 signed by a registered voter seeking to update his or her voter
21 registration record shall be completed in person at or delivered or
22 mailed to the office of the election commissioner or county clerk.
23 To avoid additional requirements at the polling place pursuant to
24 section 32-914.01~~7~~, ~~32-914.02~~, or 32-915, an application to update a
25 voter registration record must be:

1 (a) Completed or delivered by the applicant in person
2 at the office of the election commissioner or county clerk on or
3 before the deadline prescribed in section 32-302; or

4 (b) Delivered by a personal messenger or personal agent
5 or mailed so that it is received by the election commissioner
6 or county clerk on or before the deadline prescribed in section
7 32-321.

8 (2) After verifying the signature on the previous
9 registration of the registered voter, the election commissioner or
10 county clerk shall make the change of name, party affiliation,
11 or address on all pertinent election records. The election
12 commissioner or county clerk shall send an acknowledgment card to
13 the registered voter indicating that the change of registration
14 has been completed and shall include the address of the registered
15 voter's new polling place.

16 Sec. 5. Section 32-328, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-328 (1) The election commissioner or county clerk
19 shall, upon the personal application of any registered voter or
20 whenever informed of any error and after due investigation, correct
21 any error in the voter registration register. For such purpose,
22 the election commissioner or county clerk may summon witnesses and
23 compel their attendance to appear at the office of the election
24 commissioner or county clerk to give testimony pertaining to
25 residence, qualifications, or any other facts required to be

1 entered in the voter registration register. Such testimony shall be
2 transcribed and become a part of his or her records.

3 (2) If the name of any registered voter of any precinct
4 does not appear on the precinct list of registered voters through
5 an error and the election commissioner or county clerk informs
6 the precinct inspector or judge of election that credible evidence
7 exists that substantiates that an error has been made, the ~~precinct~~
8 ~~inspector or judge of election shall enter the correction in the~~
9 ~~precinct list of registered voters,~~ initial the correction, and
10 authorize the receiving board to issue the proper ballots to the
11 voter and receive his or her vote. All corrections shall be entered
12 on the voter registration register as soon as possible after the
13 election. voter shall be entitled to vote a provisional ballot as
14 provided in section 32-915.

15 Sec. 6. Section 32-329, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 32-329 (1) The Secretary of State with the assistance
18 of the election commissioners and county clerks shall perform
19 list maintenance with respect to the computerized statewide voter
20 registration list on a regular basis. The list maintenance shall be
21 conducted in a manner that ensures that:

22 (a) The name of each registered voter appears in the
23 computerized list;

24 (b) Only persons who have been entered into the register
25 in error or who are not eligible to vote are removed from the

1 computerized list; and

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

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

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

1 confirmation card. The confirmation letter shall contain statements
2 substantially as follows:

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

6 (b) If you have not moved or you have moved to a
7 new residence within this county, you should return the enclosed
8 confirmation card by the regular registration deadline prescribed
9 in section 32-302. If you fail to return the card by the deadline,
10 you will be required to affirm or confirm your address prior to
11 being allowed to vote. If you are required to affirm or confirm
12 your address, it may result in a delay at your polling place; and

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

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

21 (5) If information from the National Change of Address
22 program or the nonforwardable notice under subdivision (2)(b)
23 of this section indicates that the voter has moved outside the
24 jurisdiction and the election commissioner or county clerk receives
25 no response to the confirmation letter and the voter does not offer

1 to vote at any election held prior to and including the second
2 statewide federal general election following the mailing of the
3 confirmation notice, the voter's registration shall be canceled
4 and his or her name shall be deleted from the voter registration
5 register.

6 Sec. 7. Section 32-607, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 32-607 All candidate filing forms shall contain the
9 following statement: I hereby swear that I will abide by the laws
10 of the State of Nebraska regarding the results of the primary and
11 general elections, that I am a registered voter and qualified to be
12 elected, and that I will serve if elected. Candidate filing forms
13 shall be filed with the following filing officers:

14 (1) For candidates for national, state, or congressional
15 office, directors of public power and irrigation districts,
16 directors of reclamation districts, directors of natural resources
17 districts, members of the boards of educational service units,
18 members of governing boards of community colleges, delegates to
19 national conventions, and other offices filled by election held in
20 more than one county and judges desiring retention, in the office
21 of the Secretary of State;

22 (2) For officers elected within a county, in the office
23 of the election commissioner or county clerk. If the candidate is
24 not a resident of the county, he or she shall submit a certificate
25 of registration obtained under section 32-316 with the candidate

1 filing form;

2 (3) For officers in school districts which include land
3 in adjoining counties, in the office of the election commissioner
4 or county clerk of the county in which the greatest number of
5 registered voters entitled to vote for the officers reside. If the
6 candidate is not a resident of the county, he or she shall submit a
7 certificate of registration obtained under section 32-316 with the
8 candidate filing form; and

9 (4) For city or village officers, in the office of the
10 city or village clerk, except that in the case of joint elections,
11 the filing may be either in the office of the election commissioner
12 or county clerk, or in the office of the city or village clerk with
13 deputized personnel. When the city or village clerk is deputized to
14 take filings, he or she shall return all filings to the office of
15 the election commissioner or county clerk by the end of the next
16 business day following the filing deadline.

17 Sec. 8. Section 32-914, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 32-914 (1) Official ballots shall be used at all
20 elections. No person shall receive a ballot or be entitled to
21 vote unless and until he or she is registered as a voter except
22 as provided in section 32-914.01, ~~32-914.02~~, 32-915, 32-915.01, or
23 32-936.

24 (2) Except as otherwise specifically provided, no ballot
25 shall be handed to any voter at any election until:

1 (a) He or she announces his or her name and address to
2 the clerk of election;

3 (b) The clerk has found that he or she is a registered
4 voter at the address as shown by the precinct list of registered
5 voters unless otherwise entitled to vote in the precinct under
6 section ~~32-328~~, 32-914.01, ~~32-914.02~~, 32-915, or 32-915.01;

7 (c) The voter has presented a photographic identification
8 which is current and valid at the time of the election, or a
9 copy of a utility bill, bank statement, paycheck, government check,
10 or other government document which is current at the time of the
11 election and which shows the same name and residence address of
12 the voter that is on the precinct list of registered voters, if
13 the voter registered by mail after January 1, 2003, and has not
14 previously voted in an election for a federal office within the
15 county and a notation appears on the precinct list of registered
16 voters that the voter has not previously presented identification
17 to the election commissioner or county clerk;

18 (d) As instructed by the clerk of election, the
19 registered voter has personally written his or her name (i) in the
20 precinct sign-in register on the appropriate line which follows
21 the last signature of any previous voter or (ii) in the combined
22 document containing the precinct list of registered voters and the
23 sign-in register; and

24 (e) The clerk has listed on the precinct list of
25 registered voters the corresponding line number and name of the

1 registered voter or has listed the name of the voter in a separate
2 book as provided in section 32-913.

3 Sec. 9. Section 32-914.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 32-914.02 If a person who is registered to vote moves
6 to a new residence within the same county and precinct and has
7 continuously resided in such county and precinct since registering
8 to vote but the voter registration register has not been changed
9 to reflect the move, the person shall be entitled to vote at the
10 polling place for the new residence upon completing a registration
11 application to update his or her voter registration record at the
12 polling place. The election commissioner or county clerk shall
13 update the voter registration register to reflect the change of
14 address. a provisional ballot as provided in section 32-915.

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

17 32-915 (1) A person whose name does not appear on the
18 precinct list of registered voters at the polling place for the
19 precinct in which he or she resides, whose name appears on the
20 precinct list of registered voters at the polling place for the
21 precinct in which he or she resides at a different residence
22 address as described in section 32-914.02, or whose name appears
23 with a notation that he or she received a ballot for early voting
24 may vote a provisional ballot if he or she:

25 (a) Claims that he or she is a registered voter who has

1 continuously resided in the county in which the precinct is located
2 since registering to vote;

3 (b) Is not entitled to vote under section 32-914.01; ~~ex~~
4 ~~32-914.02;~~

5 (c) Has not registered to vote or voted in any other
6 county since registering to vote in the county in which the
7 precinct is located;

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

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

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

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

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

25 (b) My name did not appear on the precinct list of

1 registered voters;

2 (c) I registered to vote on or about this date
3

4 (d) I registered to vote
5 in person at the election office or a voter
6 registration site,
7 by mail,
8 on a form through the Department of Motor Vehicles,
9 on a form through another state agency,
10 in some other way;

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

13 (f) My current address is shown on the registration
14 application completed as a requirement for voting by provisional
15 ballot; and

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

18 (4) The voter shall sign the certification under penalty
19 of election falsification. The following statements shall be on
20 the front of the envelope or on the attached form: By signing the
21 front of this envelope or the attached form you are certifying to
22 the information contained on this envelope or the attached form
23 under penalty of election falsification. Election falsification
24 is a Class IV felony and may be punished by up to five years
25 imprisonment, a fine of up to ten thousand dollars, or both.

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

7 Sec. 11. Section 32-929, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 32-929 If a person is challenged on the ground that
10 he or she is not a resident of this state, the county, or the
11 precinct, the person shall answer the following questions on the
12 form provided by the election commissioner or county clerk:

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

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

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

16 ~~If a person has moved from one residence to another~~
17 ~~within the precinct in which he or she is registered to vote, such~~
18 ~~voter shall be entitled to vote as provided in section 32-914.02.~~

19 If a person has moved from one residence to another within the
20 county in which he or she is registered to vote, such voter shall
21 be entitled to vote a provisional ballot as provided in section
22 32-915.

23 Sec. 12. Section 32-930, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 32-930 If a person is challenged on the ground that he

1 or she is not eighteen years of age or, during the years in which
2 a statewide general election is held, that he or she will not be
3 eighteen years of age by the first Tuesday after the first Monday
4 in November of such year, the person shall answer the following
5 question on the form provided by the election commissioner or
6 county clerk: Will you be ~~eighteen years of age to the best of~~
7 ~~your knowledge and belief by the statewide general election of this~~
8 year? at least eighteen years of age on or before the first Tuesday
9 following the first Monday in November of this year?

10 Sec. 13. Original sections 32-228, 32-235, 32-314,
11 32-325, 32-328, 32-329, 32-607, 32-914, 32-914.02, 32-915, 32-929,
12 and 32-930, Reissue Revised Statutes of Nebraska, are repealed.