

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 168

Introduced by Avery, 28.

Read first time January 07, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-312,
2 32-312.05, 32-318.01, 32-321, 32-323, 32-325, 32-902,
3 32-914, and 60-484.02, Reissue Revised Statutes of
4 Nebraska, and sections 32-101 and 32-915, Revised
5 Statutes Cumulative Supplement, 2010; to provide for
6 voter registration on the Secretary of State's web site;
7 to harmonize provisions; to provide an operative date;
8 and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-101, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 32-101 Sections 32-101 to 32-1551 and section 2 of this
4 act shall be known and may be cited as the Election Act.

5 Sec. 2. (1) The Secretary of State shall prescribe a
6 registration application which may be used statewide to register to
7 vote and update voter registration records electronically using the
8 Secretary of State's web site. An applicant who has a valid Nebraska
9 motor vehicle operator's license or state identification card may use
10 the application to register to vote or to update his or her voter
11 registration record with changes in his or her personal information
12 or other information related to his or her eligibility to vote. For
13 each electronic application, the Secretary of State shall obtain a
14 copy of the applicant's digital signature from the Department of
15 Motor Vehicle's records of his or her motor vehicle operator's
16 license or state identification card for purposes of voter
17 registration and forward the signature to the election commissioner
18 or county clerk. The Secretary of State may employ additional
19 security measures to ensure the accuracy and integrity of voter
20 registration applications submitted electronically. Every election
21 commissioner or county clerk shall accept such an application for
22 registration.

23 (2) The application shall contain substantially all the
24 information provided in section 32-312 and the following
25 informational statements:

1 (a) An applicant who submits this application
2 electronically is affirming that the information in the application
3 is true. Any applicant who submits this application electronically
4 knowing that any of the information in the application is false shall
5 be guilty of a Class IV felony under section 32-1502 of the statutes
6 of Nebraska. The penalty for a Class IV felony is up to five years
7 imprisonment, a fine of up to ten thousand dollars, or both;

8 (b) An applicant who submits this application
9 electronically is agreeing to the use of his or her digital signature
10 from the Department of Motor Vehicle's records of his or her motor
11 vehicle operator's license or state identification card for purposes
12 of voter registration;

13 (c) If the application is submitted electronically and
14 the applicant is registering in the state for the first time and has
15 not previously voted within the state, the applicant must submit a
16 copy of a photo identification which is current and valid or a copy
17 of a utility bill, bank statement, government check, paycheck, or
18 other government document that is current and that shows the name and
19 address of the applicant as they appear on the application when
20 voting for the first time;

21 (d) To vote at the polling place on election day, the
22 completed application must be submitted electronically on or before
23 the third Friday before the election; and

24 (e) The election commissioner or county clerk will, upon
25 receipt of the application for registration, send an acknowledgment

1 of registration to the applicant indicating whether the application
2 is proper or not.

3 Sec. 3. Section 32-312, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 32-312 The registration application prescribed by the
6 Secretary of State pursuant to section 32-311.01 or section 2 of this
7 act shall provide the instructional statements and request the
8 information from the applicant as provided in this section.

9 CITIZENSHIP—"Are you a citizen of the United States of
10 America?" with boxes to check to indicate whether the applicant is or
11 is not a citizen of the United States.

12 AGE—"Are you at least eighteen years of age or will you
13 be eighteen years of age on or before the first Tuesday following the
14 first Monday of November of this year?" with boxes to check to
15 indicate whether or not the applicant will be eighteen years of age
16 or older on election day.

17 WARNING—"If you checked 'no' in response to either of
18 these questions, do not complete this application.".

19 NAME—the name of the applicant giving the first and last
20 name in full, the middle name in full or the middle initial, and the
21 maiden name of the applicant, if applicable.

22 RESIDENCE—the name and number of the street, avenue, or
23 other location of the dwelling where the applicant resides if there
24 is a number. If the registrant resides in a hotel, apartment,
25 tenement house, or institution, such additional information shall be

1 included as will give the exact location of such registrant's place
2 of residence. If the registrant lives in an incorporated or
3 unincorporated area not identified by the use of roads, road names,
4 or house numbers, the registrant shall state the section, township,
5 and range of his or her residence and the corporate name of the
6 school district as described in section 79-405 in which he or she is
7 located.

8 POSTAL ADDRESS—the address at which the applicant
9 receives mail if different from the residence address.

10 ADDRESS OF LAST REGISTRATION—the name and number of the
11 street, avenue, or other location of the dwelling from which the
12 applicant last registered.

13 TELEPHONE NUMBERS—the telephone number of the applicant
14 at work and at home. At the request of the applicant, a designation
15 shall be made that the telephone number is an unlisted number, and
16 such designation shall preclude the listing of the applicant's
17 telephone number on any list of voter registrations.

18 DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL
19 SECURITY NUMBER—if the applicant has a Nebraska driver's license, the
20 license number, and if the applicant does not have a Nebraska
21 driver's license, the last four digits of the applicant's social
22 security number.

23 DATE OF APPLICATION FOR REGISTRATION—the month, day, and
24 year when the applicant presented himself or herself for
25 registration, ~~or~~—when the applicant completed and signed the

1 registration application if the application was submitted by mail or
2 delivered to the election official by the applicant's personal
3 messenger or personal agent, or when the application was submitted if
4 the registration application was completed electronically.

5 PLACE OF BIRTH—show the state, country, kingdom, empire,
6 or dominion where the applicant was born.

7 DATE OF BIRTH—show the date of the applicant's birth. The
8 applicant shall be at least eighteen years of age or attain eighteen
9 years of age on or before the first Tuesday after the first Monday in
10 November to have the right to register and vote in any election in
11 the present calendar year.

12 REGISTRATION TAKEN BY—show the signature of the
13 authorized official or staff member accepting the application
14 pursuant to section 32-309 or 32-310 or at least one of the deputy
15 registrars taking the application pursuant to section 32-306, if
16 applicable.

17 PARTY AFFILIATION—show the party affiliation of the
18 applicant as Democrat, Republican, or Other or show no party
19 affiliation as Nonpartisan. (Note: If you wish to vote in both
20 partisan and nonpartisan primary elections for state and local
21 offices, you must indicate a political party affiliation on the
22 registration application. If you register without a political party
23 affiliation (nonpartisan), you will receive only the nonpartisan
24 ballots for state and local offices at primary elections. If you
25 register without a political party affiliation, you may vote in

1 partisan primary elections for congressional offices.)

2 OTHER-information the Secretary of State determines will
3 assist in the proper and accurate registration of the voter.

4 Immediately following the spaces for inserting
5 information as provided in this section, the following statement
6 shall be printed:

7 To the best of my knowledge and belief, I declare under
8 penalty of election falsification that:

9 (1) I live in the State of Nebraska at the address
10 provided in this application;

11 (2) I have not been convicted of a felony or, if
12 convicted, it has been at least two years since I completed my
13 sentence for the felony, including any parole term;

14 (3) I have not been officially found to be non compos
15 mentis (mentally incompetent); and

16 (4) I am a citizen of the United States.

17 Any registrant who signs this application knowing that
18 any of the information in the application is false shall be guilty of
19 a Class IV felony under section 32-1502 of the statutes of Nebraska.
20 The penalty for a Class IV felony is up to five years imprisonment, a
21 fine of up to ten thousand dollars, or both.

22 APPLICANT'S SIGNATURE-require the applicant to affix his
23 or her signature to the application.

24 Sec. 4. Section 32-312.05, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 32-312.05 The date that a person's voter registration
2 record or an update of his or her voter registration record becomes
3 effective is the date the person presented himself or herself in
4 person to register, the date the registration application was
5 delivered to the election commissioner or county clerk, or the date
6 the registration application was received by the election
7 commissioner or county clerk if the person submitted the registration
8 application by mail or electronically.

9 Sec. 5. Section 32-318.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 32-318.01 (1)(a) Except as provided by subsection (2) of
12 this section, a person who registers to vote electronically or by
13 mail after January 1, 2003, and has not previously voted in an
14 election within the state shall present a photographic identification
15 which is current and valid or a copy of a utility bill, bank
16 statement, government check, paycheck, or other government document
17 which is dated within the sixty days immediately prior to the date of
18 presentation and which shows the same name and residence address of
19 the person provided on the registration application in order to avoid
20 identification requirements at the time of voting pursuant to section
21 32-914 or 32-947.

22 (b) Such documentation may be presented at the time of
23 application for registration, after submission of the application for
24 registration, or at the time of voting. The documentation must be
25 received by the election commissioner or county clerk not later than

1 6 p.m. on the second Friday preceding the election to avoid
2 additional identification requirements at the time of voting at the
3 polling place if the voter votes in person. If the voter is voting
4 using a ballot for early voting, the documentation must be received
5 by the election commissioner or county clerk prior to the date on
6 which the ballot is mailed to the voter to avoid additional
7 identification requirements at the time of voting. Documentation
8 received after the ballot has been mailed to the voter but not later
9 than 8 p.m. on election day will be considered timely for purposes of
10 determining the applicant's eligibility to vote in the election.

11 (c) Such documentation may be presented in person, by
12 mail, or by facsimile transmission.

13 (d) Failure to present such documentation may result in
14 the ballot not being counted pursuant to verification procedures
15 prescribed in sections 32-1002 and 32-1027.

16 (2) A person who registers to vote electronically or by
17 mail after January 1, 2003, and has not previously voted in an
18 election within the state shall not be required to present
19 identification if he or she:

20 (a) Has provided his or her Nebraska driver's license
21 number or the last four digits of his or her social security number
22 and the election commissioner or county clerk verifies the number
23 provided pursuant to subsection (2) of section 32-312.03;

24 (b) Is a member of the armed forces of the United States
25 who by reason of active duty is absent from his or her place of

1 residence where the member is otherwise eligible to vote;

2 (c) Is a member of the United States Merchant Marine who
3 by reason of service is away from his or her place of residence where
4 the member is otherwise eligible to vote;

5 (d) Is a spouse or dependent of a member of the armed
6 forces of the United States or United States Merchant Marine who is
7 absent from his or her place of residence due to the service of that
8 member;

9 (e) Resides outside the United States and but for such
10 residence would be qualified to vote in the state if the state was
11 the last place in which the person was domiciled before leaving the
12 United States; or

13 (f) Is elderly or handicapped and has requested to vote
14 by alternative means other than by casting a ballot at his or her
15 polling place on election day.

16 Sec. 6. Section 32-321, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-321 (1) Any elector may request a voter registration
19 application from the office of the Secretary of State or the election
20 commissioner or county clerk. The Secretary of State and the election
21 commissioner or county clerk shall make registration applications
22 prescribed by the Secretary of State available and may place the
23 applications in public places. The Secretary of State and the
24 election commissioner or county clerk may require that all unused
25 applications be returned to his or her office and may place

1 reasonable limits on the amount of applications requested.

2 (2) If an elector returns the completed application to
3 the office of the Secretary of State or submits an application to the
4 Secretary of State electronically, the office shall deliver the
5 application to the election commissioner or county clerk of the
6 county in which the elector resides not later than ten days after
7 receipt by the office, except that if the application is returned to
8 the office or submitted electronically within five days prior to the
9 third Friday preceding any election, it shall be delivered not later
10 than five days after the date it is returned. The deadline for
11 returning a completed application to the office of the Secretary of
12 State or submitting an application electronically is the close of
13 business on the third Friday preceding an election to be registered
14 to vote at such election. A registration application received after
15 the deadline shall not be processed by the election commissioner or
16 county clerk until after the election. The office of the Secretary of
17 State shall be a designated voter registration agency for purposes of
18 section 7 of the National Voter Registration Act of 1993, 42 U.S.C.
19 1973gg-5, as such section existed on March 11, 2008.

20 (3) If an elector mails the registration application to
21 the election commissioner or county clerk:

22 (a)(i) The application shall be postmarked on or before
23 the third Friday before the next election; or

24 (ii) The application shall be received not later than the
25 second Tuesday before the next election if the postmark is

1 unreadable; and

2 (b) The application shall be processed by the election
3 office as a proper registration for the voter to be entitled to vote
4 on the day of the next election.

5 (4) If the registration application arrives after the
6 registration deadline, the application shall not be processed until
7 after the election. Written notice shall be given to any applicant
8 whose registration application failed to meet the registration
9 deadline or was found to be incorrect or incomplete and shall state
10 the specific reason for rejection. If the application is incomplete,
11 the election commissioner or county clerk shall notify the applicant
12 of the failure to provide the required information, including failure
13 to provide identification if required, and provide the applicant with
14 the opportunity to submit an identification document as described in
15 section 32-318.01 prior to the deadline for voter registration or to
16 complete and submit a corrected registration application in a timely
17 manner to allow for the proper registration of the applicant prior to
18 the next election. All postage costs related to returning
19 registration applications to the election commissioner or county
20 clerk shall be paid by the registrant.

21 Sec. 7. Section 32-323, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 32-323 (1) Registration by mail shall not constitute a
24 valid registration for purposes of signing any type of petition
25 requiring the validation of the signatures of registered voters until

1 a complete and correct registration application has been received by
2 the election commissioner or county clerk. A signature on a petition
3 shall be considered a valid signature as of the date that the
4 election commissioner or county clerk receives the registration
5 application of the registrant.

6 (2) Submitting a registration application electronically
7 shall not constitute a valid registration for purposes of signing any
8 type of petition requiring the validation of the signatures of
9 registered voters until a complete and correct registration
10 application has been received by the election commissioner or county
11 clerk. A signature on a petition shall be considered a valid
12 signature as of the date that the election commissioner or county
13 clerk receives the registration application and digital signature of
14 the registrant.

15 Sec. 8. Section 32-325, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 32-325 (1) A registration application completed and
18 signed by a registered voter seeking to update his or her voter
19 registration record shall be completed in person at or delivered or
20 mailed to the office of the election commissioner or county clerk or
21 submitted electronically to the Secretary of State. To avoid
22 additional requirements at the polling place pursuant to section
23 32-914.01, 32-914.02, or 32-915, an application to update a voter
24 registration record must be:

25 (a) Completed or delivered by the applicant in person at

1 the office of the election commissioner or county clerk on or before
2 the deadline prescribed in section 32-302; or

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

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

15 Sec. 9. Section 32-902, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 32-902 (1) The election commissioner or county clerk
18 shall cause instructions for the guidance of registered voters in
19 preparing their ballots to be printed in large, clear type on cards
20 in English. He or she shall furnish at least five such cards to each
21 polling place in each precinct at the same time and in the same
22 manner as the printed ballots. The judges or clerks of election shall
23 post such cards in each voting booth on the day of election. The card
24 shall contain full instructions on preparing and casting ballots,
25 including how to cast a write-in vote. The form and contents of the

1 cards shall be approved by the Secretary of State.

2 (2) The election commissioner or county clerk shall cause
3 voting information to be posted in each polling place on the day of
4 election. The voting information shall include the following
5 information as approved by the Secretary of State:

6 (a) Information regarding the date of the election and
7 the hours during which polling places will be open;

8 (b) Instructions for voters who registered to vote
9 electronically or by mail and first-time voters;

10 (c) General information on voting rights under applicable
11 federal and state laws, including information on the right of an
12 individual to cast a provisional ballot and instructions on how to
13 contact the appropriate officials if these rights are alleged to have
14 been violated; and

15 (d) General information on federal and state laws
16 regarding prohibitions on acts of fraud and misrepresentation.

17 Sec. 10. 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 vote
21 unless and until he or she is registered as a voter except as
22 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 copy of
9 a utility bill, bank statement, paycheck, government check, or other
10 government document which is current at the time of the election and
11 which shows the same name and residence address of the voter that is
12 on the precinct list of registered voters, if the voter registered
13 electronically or if the voter registered by mail after January 1,
14 2003, and has not previously voted in an election for a federal
15 office within the county and if a notation appears on the precinct
16 list of registered voters that the voter has not previously presented
17 identification 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 the
21 last signature of any previous voter or (ii) in the combined document
22 containing the precinct list of registered voters and the sign-in
23 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. 11. Section 32-915, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

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

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

16 (b) Is not entitled to vote under section 32-914.01 or
17 32-914.02;

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

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

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

1 (2) A voter whose name appears on the precinct list of
2 registered voters for the polling place with a notation that the
3 voter is required to present identification pursuant to section
4 32-318.01 but fails to present identification may vote a provisional
5 ballot if he or she completes and signs a registration application
6 before voting.

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

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

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

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

17 (d) I registered to vote
18 in person at the election office or a voter
19 registration site,

20 by mail,

21 electronically,

22 on a form through the Department of Motor Vehicles,

23 on a form through another state agency,

24 in some other way;

25 (e) I have not resided outside of this county or voted

1 outside of this county since registering to vote in this county;

2 (f) My current address is shown on the registration
3 application completed as a requirement for voting by provisional
4 ballot; and

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

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

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

21 Sec. 12. Section 60-484.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-484.02 (1) Each applicant for an operator's license or
24 state identification card shall have his or her digital image taken.
25 Digital images shall be preserved for use as prescribed in sections

1 60-4,119, 60-4,151, and 60-4,180. The images shall be used for
2 issuing operators' licenses and state identification cards. The
3 images may be retrieved only by the Department of Motor Vehicles for
4 issuing renewal, duplicate, and replacement operators' licenses and
5 state identification cards and may not be otherwise released except
6 in accordance with subsection (3) of this section.

7 (2) Upon application for an operator's license or state
8 identification card, each applicant shall provide his or her
9 signature in a form prescribed by the department. Digital signatures
10 shall be preserved for use on original, renewal, duplicate, and
11 replacement operators' licenses and state identification cards and
12 may not be otherwise released except in accordance with subsection
13 ~~(3)~~(4) of this section.

14 (3) No officer, employee, agent, or contractor of the
15 department or law enforcement officer shall release a digital image
16 ~~or a digital signature~~ except to a federal, state, or local law
17 enforcement agency, a certified law enforcement officer employed in
18 an investigative position by a federal, state, or local agency, or a
19 driver licensing agency of another state for the purpose of carrying
20 out the functions of the agency or assisting another agency in
21 carrying out its functions upon the verification of the identity of
22 the person requesting the release of the information and the
23 verification of the purpose of the requester in requesting the
24 release. Any officer, employee, agent, or contractor of the
25 department or law enforcement officer that knowingly discloses or

1 knowingly permits disclosure of a digital image or digital signature
2 in violation of this section shall be guilty of a Class I
3 misdemeanor.

4 (4) No officer, employee, agent, or contractor of the
5 department, law enforcement officer, or employee or official in the
6 office of the Secretary of State shall release a digital signature
7 except to a federal, state, or local law enforcement agency, a
8 certified law enforcement officer employed in an investigative
9 position by a state or federal agency, a driver licensing agency of
10 another state, or the office of the Secretary of State for the
11 purpose of carrying out the functions of the agency or assisting
12 another agency in carrying out its functions upon the verification of
13 the identity of the person requesting the release of the information
14 and the verification of the purpose of the requester in requesting
15 the release. Any officer, employee, agent, or contractor of the
16 department, law enforcement officer, or employee or official in the
17 office of the Secretary of State that knowingly discloses or
18 knowingly permits disclosure of a digital signature in violation of
19 this section shall be guilty of a Class I misdemeanor.

20 Sec. 13. This act becomes operative on January 1, 2012.

21 Sec. 14. Original sections 32-312, 32-312.05, 32-318.01,
22 32-321, 32-323, 32-325, 32-902, 32-914, and 60-484.02, Reissue
23 Revised Statutes of Nebraska, and sections 32-101 and 32-915, Revised
24 Statutes Cumulative Supplement, 2010, are repealed.