

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 912

Introduced by Smith, 14.

Read first time January 12, 2016

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend sections 32-914 and
2 32-1027, Reissue Revised Statutes of Nebraska, sections 32-329 and
3 32-915, Revised Statutes Cumulative Supplement, 2014, and section
4 32-947, Revised Statutes Supplement, 2015; to provide and change
5 requirements for presentation of identification for purposes of
6 voting; to harmonize provisions; to provide an operative date; and
7 to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-329, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 32-329 (1) The Secretary of State with the assistance of the
4 election commissioners and county clerks shall perform list maintenance
5 with respect to the computerized statewide voter registration list on a
6 regular basis. The list maintenance shall be conducted in a manner that
7 ensures that:

8 (a) The name of each registered voter appears in the computerized
9 list;

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

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

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

22 (3) When an election commissioner or county clerk receives
23 information from the National Change of Address program of the United
24 States Postal Service that a registered voter has moved from the address
25 at which he or she is registered to vote, the election commissioner or
26 county clerk shall update the voter registration register to indicate
27 that the voter may have moved and mail a confirmation notice by
28 forwardable first-class mail. If a nonforwardable notice under
29 subdivision (2)(b) of this section is returned as undeliverable, the
30 election commissioner or county clerk shall mail a confirmation notice by
31 forwardable first-class mail. The confirmation notice shall include a

1 confirmation letter and a preaddressed, postage-paid confirmation card.
2 The confirmation letter shall contain statements substantially as
3 follows:

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

7 (b) If you have not moved or you have moved to a new residence
8 within this county, you should return the enclosed confirmation card by
9 the regular registration deadline prescribed in section 32-302. If you
10 fail to return the card by the deadline, you will be required, prior to
11 being allowed to receive a ballot or vote, to ~~affirm or~~ confirm your
12 address by presenting two of the following: A photographic identification
13 which is current and valid or a copy of a utility bill, bank statement,
14 paycheck, government check, or other government document which is dated
15 within sixty days immediately prior to the date of presentation and which
16 shows the same name and residence address of the person as shown on the
17 precinct list of registered voters prior to being allowed to vote. If you
18 are required to ~~affirm or~~ confirm your address, it may result in a delay
19 at your polling place; and

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

24 (4) A person who fails to return the confirmation card to the
25 election commissioner or county clerk pursuant to subdivision (3)(b) of
26 this section prior to 6 p.m. on the second Friday before the election and
27 who appears at his or her polling site as it appears on the voter's
28 registration record shall, prior to being allowed to receive a ballot or
29 vote, confirm his or her address by presenting, at the time of voting,
30 two of the following: A photographic identification which is current and
31 valid or a copy of a utility bill, bank statement, paycheck, government

1 check, or other government document which is dated within sixty days
2 immediately prior to the date of presentation and which shows the same
3 name and residence address of the person as shown on the precinct list of
4 registered voters. If a person is required to confirm his or her
5 residence address at the time of voting and does not possess two of such
6 documents, he or she may vote a provisional ballot.

7 (5 4) The election commissioner or county clerk shall maintain for a
8 period of not less than two years a record of each confirmation letter
9 indicating the date it was mailed and the person to whom it was mailed.

10 (6 5) If information from the National Change of Address program or
11 the nonforwardable notice under subdivision (2)(b) of this section
12 indicates that the voter has moved outside the jurisdiction and the
13 election commissioner or county clerk receives no response to the
14 confirmation letter and the voter does not offer to vote at any election
15 held prior to and including the second statewide federal general election
16 following the mailing of the confirmation notice, the voter's
17 registration shall be canceled and his or her name shall be deleted from
18 the voter registration register.

19 Sec. 2. Section 32-914, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 32-914 (1) Official ballots shall be used at all elections. No
22 person shall receive a ballot or be entitled to vote unless and until he
23 or she is registered as a voter except as provided in section 32-914.01,
24 32-914.02, 32-915, 32-915.01, or 32-936.

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

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

29 (b) The clerk has found that he or she is a registered voter at the
30 address as shown by the precinct list of registered voters unless
31 otherwise entitled to vote in the precinct under section 32-328,

1 32-914.01, 32-914.02, 32-915, or 32-915.01;

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

12 (d) The voter has presented two of the following: A photographic
13 identification which is current and valid or a copy of a utility bill,
14 bank statement, paycheck, government check, or other government document
15 which is dated within sixty days immediately prior to the date of
16 presentation and which shows the same name and residence address of the
17 person as shown on the precinct list of registered voters, if the voter
18 failed to return a confirmation card as required under section 32-329 and
19 a notation appears on the precinct list of registered voters that the
20 voter has not returned the confirmation card or otherwise responded to a
21 confirmation notice under section 32-329;

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

27 (f) The clerk has listed on the precinct list of registered voters
28 the corresponding line number and name of the registered voter or has
29 listed the name of the voter in a separate book as provided in section
30 32-913.

31 Sec. 3. Section 32-915, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 32-915 (1) A person whose name does not appear on the precinct list
3 of registered voters at the polling place for the precinct in which he or
4 she resides, whose name appears on the precinct list of registered voters
5 at the polling place for the precinct in which he or she resides at a
6 different residence address as described in section 32-914.02, or whose
7 name appears with a notation that he or she received a ballot for early
8 voting may vote a provisional ballot if he or she:

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

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

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

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

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

19 (2) A voter whose name appears on the precinct list of registered
20 voters for the polling place with a notation that the voter is required
21 to present identification pursuant to section 32-318.01 or 32-329 but
22 fails to present such identification may vote a provisional ballot if he
23 or she completes and signs a registration application before voting.

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

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

29 (b) My name or address did not correctly appear on the precinct list
30 of registered voters or I was unable to provide required identification;

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

1 (d) I registered to vote
2 in person at the election office or a voter registration site,
3 by mail,
4 by using the Secretary of State's web site,
5 through the Department of Motor Vehicles,
6 on a form through another state agency,
7 in some other way;

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

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

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

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

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

27 Sec. 4. Section 32-947, Revised Statutes Supplement, 2015, is
28 amended to read:

29 32-947 (1) Upon receipt of an application or other request for a
30 ballot to vote early, the election commissioner or county clerk shall
31 determine whether the applicant is a registered voter and is entitled to

1 vote as requested. If the election commissioner or county clerk
2 determines that the applicant is a registered voter entitled to vote
3 early and the application was received at or before 4 p.m. on the
4 Wednesday preceding the election, the election commissioner or county
5 clerk shall deliver a ballot to the applicant in person or by mail,
6 postage paid. The election commissioner or county clerk or any employee
7 of the election commissioner or county clerk shall write or cause to be
8 affixed his or her customary signature or initials on the ballot.

9 (2) An unsealed identification envelope shall be delivered with the
10 ballot, and upon the back of the envelope shall be printed a form
11 substantially as follows:

12 VOTER'S OATH

13 I, the undersigned voter, declare that the enclosed ballot or
14 ballots contained no voting marks of any kind when I received them, and I
15 caused the ballot or ballots to be marked, enclosed in the identification
16 envelope, and sealed in such envelope.

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

19 (a) I,, am a registered voter
20 in County;

21 (b) I reside in the State of Nebraska at

22 (c) I have voted the enclosed ballot and am returning it in
23 compliance with Nebraska law; and

24 (d) I have not voted and will not vote in this election except by
25 this ballot.

26 ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION
27 IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS
28 IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY
29 FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE
30 NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

31 I also understand that failure to sign below will invalidate my

1 ballot.

2 Signature

3 (3) If the ballot and identification envelope will be returned by
4 mail or by someone other than the voter, the election commissioner or
5 county clerk shall include with the ballot an identification envelope
6 upon the face of which shall be printed the official title and post
7 office address of the election commissioner or county clerk.

8 (4) The election commissioner or county clerk shall also enclose
9 with the ballot materials:

10 (a) A registration application, if the election commissioner or
11 county clerk has determined that the applicant is not a registered voter
12 pursuant to section 32-945, with instructions that failure to return the
13 completed and signed application indicating the residence address as it
14 appears on the voter's request for a ballot to the election commissioner
15 or county clerk by the close of the polls on election day will result in
16 the ballot not being counted;

17 (b) A registration application and the oath pursuant to section
18 32-946, if the voter is without a residence address, with instructions
19 that the residence address of the voter shall be deemed that of the
20 office of the election commissioner or county clerk of the county of the
21 voter's prior residence and that failure to return the completed and
22 signed application and oath to the election commissioner or county clerk
23 by the close of the polls on election day will result in the ballot not
24 being counted; or

25 (c) Written instructions directing the voter to submit a copy of an
26 identification ~~document~~ pursuant to section 32-318.01 or 32-329 if the
27 voter is required to present identification under such sections ~~section~~
28 and advising the voter that failure to submit such identification to the
29 election commissioner or county clerk by the close of the polls on
30 election day will result in the ballot not being counted.

31 (5) The election commissioner or county clerk may enclose with the

1 ballot materials a separate return envelope for the voter's use in
2 returning his or her identification envelope containing the voted ballot,
3 registration application, and other materials that may be required.

4 Sec. 5. Section 32-1027, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 32-1027 (1) The election commissioner or county clerk shall appoint
7 two or more registered voters to the counting board for early voting. One
8 registered voter shall be appointed from the political party casting the
9 highest number of votes for Governor or for President of the United
10 States in the county in the immediately preceding general election, and
11 one registered voter shall be appointed from the political party casting
12 the next highest vote for such office. The election commissioner or
13 county clerk may appoint additional registered voters to serve on the
14 counting board and may appoint registered voters to serve in case of a
15 vacancy among any of the members of the counting board. Such appointees
16 shall be balanced between the political parties and may include
17 registered voters unaffiliated with any political party. The counting
18 board may begin carrying out its duties not earlier than the second
19 Monday before the election and shall meet as directed by the election
20 commissioner or county clerk.

21 (2) The counting board shall place all identification envelopes in
22 order and shall review each returned identification envelope pursuant to
23 verification procedures prescribed in subsections (3) and (4) of this
24 section.

25 (3) In its review, the counting board shall determine if:

26 (a) The voter has provided his or her name, residence address, and
27 signature on the voter identification envelope;

28 (b) The ballot has been received from the voter who requested it and
29 the residence address is the same address provided on the voter's request
30 for a ballot for early voting, by comparing the information provided on
31 the identification envelope with information recorded in the record of

1 early voters or the voter's request;

2 (c) A completed and signed registration application has been
3 received from the voter by the deadline in section 32-302, 32-321, or
4 32-325 or by the close of the polls pursuant to section 32-945;

5 (d) Identification ~~An identification document~~ has been received from
6 the voter not later than the close of the polls on election day if
7 required pursuant to section 32-318.01 or 32-329; and

8 (e) A completed and signed registration application and oath has
9 been received from the voter by the close of the polls on election day if
10 required pursuant to section 32-946.

11 (4) On the basis of its review, the counting board shall determine
12 whether the ballot shall be counted or rejected as follows:

13 (a) A ballot received from a voter who was properly registered on or
14 prior to the deadline for registration pursuant to section 32-302 or
15 32-321 shall be accepted for counting without further review if:

16 (i) The name on the identification envelope appears to be that of a
17 registered voter to whom a ballot for early voting has been issued or
18 sent;

19 (ii) The residence address provided on the identification envelope
20 is the same residence address at which the voter is registered or is in
21 the same precinct and subdivision of a precinct, if any; and

22 (iii) The identification envelope has been signed by the voter;

23 (b) In the case of a ballot received from a voter who was not
24 properly registered prior to the deadline for registration pursuant to
25 section 32-302 or 32-321, the ballot shall be accepted for counting if:

26 (i) A valid registration application completed and signed by the
27 voter has been received by the election commissioner or county clerk
28 prior to the close of the polls on election day;

29 (ii) The name on the identification envelope appears to be that of
30 the person who requested the ballot;

31 (iii) The residence address provided on the identification envelope

1 and on the registration application is the same as the residence address
2 as provided on the voter's request for a ballot for early voting; and

3 (iv) The identification envelope has been signed by the voter;

4 (c) In the case of a ballot received from a voter without a
5 residence address who requested a ballot pursuant to section 32-946, the
6 ballot shall be accepted for counting if:

7 (i) The name on the identification envelope appears to be that of a
8 registered voter to whom a ballot has been sent;

9 (ii) A valid registration application completed and signed by the
10 voter, for whom the residence address is deemed to be the address of the
11 office of the election commissioner or county clerk pursuant to section
12 32-946, has been received by the election commissioner or county clerk
13 prior to the close of the polls on election day;

14 (iii) The oath required pursuant to section 32-946 has been
15 completed and signed by the voter and received by the election
16 commissioner or county clerk by the close of the polls on election day;
17 and

18 (iv) The identification envelope has been signed by the voter; and

19 (d) In the case of a ballot received from a registered voter
20 required to present identification before voting pursuant to section
21 32-318.01 or 32-329, the ballot shall be accepted for counting if:

22 (i) The name on the identification envelope appears to be that of a
23 registered voter to whom a ballot has been issued or sent;

24 (ii) The residence address provided on the identification envelope
25 is the same address at which the voter is registered or is in the same
26 precinct and subdivision of a precinct, if any;

27 (iii) A copy of ~~an~~ identification ~~document~~ authorized in section
28 32-318.01 or 32-329 has been received by the election commissioner or
29 county clerk prior to the close of the polls on election day; and

30 (iv) The identification envelope has been signed by the voter.

31 (5) In opening the identification envelope or the return envelope to

1 determine if registration applications, oaths, or identification
2 documents have been enclosed by the voters from whom they are required,
3 the counting board shall make a good faith effort to ensure that the
4 ballot remains folded and that the secrecy of the vote is preserved.

5 (6) The counting board may, on the second Monday before the
6 election, open all identification envelopes which are approved, and if
7 the signature of the election commissioner or county clerk or his or her
8 employee is on the ballot, the ballot shall be unfolded, flattened for
9 purposes of using the optical scanner, and placed in a sealed container
10 for counting as directed by the election commissioner or county clerk. At
11 the discretion of the election commissioner or county clerk, the counting
12 board may begin counting early ballots no earlier than twenty-four hours
13 prior to the opening of the polls on the day of the election.

14 (7) If an identification envelope is rejected, the counting board
15 shall not open the identification envelope. The counting board shall
16 write Rejected on the identification envelope and the reason for the
17 rejection. If the ballot is rejected after opening the identification
18 envelope because of the absence of the official signature on the ballot,
19 the ballot shall be reinserted in the identification envelope which shall
20 be resealed and marked Rejected, no official signature. The counting
21 board shall place the rejected identification envelopes and ballots in a
22 container labeled Rejected Ballots and seal it.

23 (8) As soon as all ballots have been placed in the sealed container
24 and rejected identification envelopes or ballots have been sealed in the
25 Rejected Ballots container, the counting board shall count the ballots
26 the same as all other ballots and an unofficial count shall be reported
27 to the election commissioner or county clerk. No results shall be
28 released prior to the closing of the polls on election day.

29 Sec. 6. This act becomes operative on January 1, 2017.

30 Sec. 7. Original sections 32-914 and 32-1027, Reissue Revised
31 Statutes of Nebraska, sections 32-329 and 32-915, Revised Statutes

- 1 Cumulative Supplement, 2014, and section 32-947, Revised Statutes
- 2 Supplement, 2015, are repealed.