

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1066

Introduced by Murante, 49.

Read first time January 17, 2018

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Election Act; to amend sections 32-101,
2 32-914, and 32-1002, Reissue Revised Statutes of Nebraska, and
3 section 32-915, Revised Statutes Supplement, 2017; to require
4 photographic identification for purposes of voting; to provide for
5 provisional voting; to provide for issuance of photographic
6 identification; to harmonize provisions; to provide an operative
7 date; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

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

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

5 Sec. 2. For purposes of sections 32-914 and 32-915 and section 3 of
6 this act, the following documents qualify as photographic identification
7 if the document is current and valid at the time of the election for
8 which it is displayed, if it displays a photograph or digital image of an
9 individual, and if it displays the name of the individual depicted in the
10 photograph or digital image:

11 (1) A driver's license issued by a state or territory of the United
12 States;

13 (2) A state identification card issued by a state or territory of
14 the United States;

15 (3) An identification card issued by a postsecondary educational
16 institution accredited by an accrediting agency or state approval agency
17 recognized by the United States Secretary of Education;

18 (4) An identification card issued by an agency of the United States,
19 including a United States passport and an identification card issued by a
20 branch of the United States Armed Forces;

21 (5) An identification card issued by a political subdivision of the
22 State of Nebraska; or

23 (6) An identification card issued pursuant to section 3 of this act.

24 Sec. 3. (1) The Secretary of State shall provide an elector who
25 applies in the manner prescribed by the Secretary of State, without
26 payment of a fee, a photographic identification prescribed by the
27 Secretary of State that meets the requirements of section 2 of this act
28 solely for the purpose of compliance with sections 32-914 and 32-915.

29 (2) The Secretary of State may adopt and promulgate rules and
30 regulations necessary for the implementation of this section.

31 (3) The costs of providing the photographic identification pursuant

1 to this section shall be paid from General Fund appropriations to Program
2 Number 45 or Program Number 22 of the Secretary of State.

3 Sec. 4. Section 32-914, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 32-914 (1) Official ballots shall be used at all elections. No
6 person shall receive a ballot or be entitled to vote unless and until he
7 or she is registered as a voter except as provided in section 32-914.01,
8 32-914.02, 32-915, 32-915.01, or 32-936.

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

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

13 (b) The clerk has found that he or she is a registered voter at the
14 address as shown by the precinct list of registered voters unless
15 otherwise entitled to vote in the precinct under section 32-328,
16 32-914.01, 32-914.02, 32-915, or 32-915.01;

17 (c) The voter has presented a photographic identification which
18 meets the requirements of section 2 of this act, has confirmed the name
19 on the identification as his or her name, and has satisfied the clerk
20 that he or she resembles the photograph or digital image on the
21 identification unless choosing to vote provisionally pursuant to section
22 32-915. If the voter chooses to vote provisionally in lieu of presenting
23 photographic identification under this subdivision, the voter shall be
24 informed, verbally and in writing, that for the provisional ballot to be
25 counted, he or she must comply with subdivision (4)(a) of section
26 32-1002;

27 (d) ~~(c)~~ The voter has presented a photographic identification which
28 is current and valid at the time of the election and which shows the same
29 name and residence address of the voter that is on the precinct list of
30 registered voters, or a copy of a utility bill, bank statement, paycheck,
31 government check, or other government document which is current at the

1 time of the election and which shows the same name and residence address
2 of the voter that is on the precinct list of registered voters, if the
3 voter registered by mail after January 1, 2003, and has not previously
4 voted in an election for a federal office within the county and a
5 notation appears on the precinct list of registered voters that the voter
6 has not previously presented identification to the election commissioner
7 or county clerk;

8 ~~(e)~~ (d) As instructed by the clerk of election, the registered voter
9 has personally written his or her name (i) in the precinct sign-in
10 register on the appropriate line which follows the last signature of any
11 previous voter or (ii) in the combined document containing the precinct
12 list of registered voters and the sign-in register; and

13 ~~(f)~~ (e) The clerk has listed on the precinct list of registered
14 voters the corresponding line number and name of the registered voter or
15 has listed the name of the voter in a separate book as provided in
16 section 32-913.

17 Sec. 5. Section 32-915, Revised Statutes Supplement, 2017, is
18 amended to read:

19 32-915 (1) A person who chooses to vote provisionally in lieu of
20 presenting a photographic identification at the time of voting pursuant
21 to subdivision (2)(c) of section 32-914, whose name does not appear on
22 the precinct list of registered voters at the polling place for the
23 precinct in which he or she resides, whose name appears on the precinct
24 list of registered voters at the polling place for the precinct in which
25 he or she resides at a different residence address as described in
26 section 32-914.02, or whose name appears with a notation that he or she
27 received a ballot for early voting may vote a provisional ballot if he or
28 she:

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

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

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

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

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

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

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

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

19 (b) My name or address did not correctly appear on the precinct list
20 of registered voters or I chose to vote provisionally in lieu of
21 presenting a photographic identification at the time of voting;

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

23 (d) I registered to vote
24 in person at the election office or a voter registration site,
25 by mail,
26 by using the Secretary of State's web site,
27 through the Department of Motor Vehicles,
28 on a form through another state agency,
29 in some other way;

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

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

3 (g) I am eligible to vote in this election and I have not voted and
4 will not vote in this election except by this ballot; ~~and~~ -

5 (h) If the provisional ballot is cast in lieu of presenting a
6 photographic identification, I understand that, prior to the provisional
7 ballot being counted, I am required to present a photographic
8 identification which meets the requirements of section 2 of this act at
9 the office of the election commissioner or county clerk within seven days
10 after the election or to present a photographic identification which was
11 issued pursuant to section 3 of this act on or after the day of the
12 election at the office of the election commissioner or county clerk
13 within seven days after the election.

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 two years imprisonment and twelve months post-release
21 supervision, a fine of up to ten thousand 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. 6. Section 32-1002, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 32-1002 (1) As the ballots are removed from the ballot box pursuant
30 to sections 32-1012 to 32-1018, the receiving board shall separate the
31 envelopes containing the provisional ballots from the rest of the ballots

1 and deliver them to the election commissioner or county clerk.

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

6 (3) The election commissioner or county clerk shall also (a) verify
7 that such person has not voted anywhere else in the county or been issued
8 a ballot for early voting, (b) investigate whether any credible evidence
9 exists that the person was properly registered to vote in the county
10 before the deadline for registration for the election, (c) investigate
11 whether any information has been received pursuant to section 32-308,
12 32-309, 32-310, or 32-324 that the person has resided, registered, or
13 voted in any other county or state since registering to vote in the
14 county, and (d) upon determining that credible evidence exists that the
15 person was properly registered to vote in the county, make the
16 appropriate changes to the voter registration register by entering the
17 information contained in the registration application completed by the
18 voter at the time of voting a provisional ballot.

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

21 (a) The voter presented photographic identification which meets the
22 requirements of section 2 of this act at the time of voting or at the
23 office of the election commissioner or county clerk within seven days
24 after the election or the voter presented photographic identification
25 which was issued pursuant to section 3 of this act on or after the day of
26 the election and which was presented at the office of the election
27 commissioner or county clerk within seven days after the election;

28 (b) (a) Credible evidence exists that the voter was properly
29 registered in the county before the deadline for registration for the
30 election;

31 (c) (b) The voter has resided in the county continuously since

1 registering to vote in the county;

2 ~~(d)~~ ~~(e)~~ The voter has not voted anywhere else in the county or has
3 not otherwise voted early using a ballot for early voting;

4 ~~(e)~~ ~~(d)~~ The voter has completed a registration application prior to
5 voting as prescribed in subsection (6) of this section and:

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

9 (ii) If the voter is voting in a primary election, the party
10 affiliation provided on the registration application completed prior to
11 voting the provisional ballot is the same party affiliation that appears
12 on the voter's voter registration record based on his or her previous
13 registration application; and

14 ~~(f)~~ ~~(e)~~ The certification on the front of the envelope or form
15 attached to the envelope is in the proper form and signed by the voter.

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

18 (a) There is no record of the voter presenting photographic
19 identification which meets the requirements of section 2 of this act at
20 the time of voting or at the office of the election commissioner or
21 county clerk within seven days after the election or of the voter
22 presenting photographic identification which was issued pursuant to
23 section 3 of this act on or after the day of the election and which was
24 presented at the office of the election commissioner or county clerk
25 within seven days after the election;

26 ~~(b)~~ ~~(a)~~ The voter was not properly registered in the county before
27 the deadline for registration for the election;

28 ~~(c)~~ ~~(b)~~ Information has been received pursuant to section 32-308,
29 32-309, 32-310, or 32-324 that the voter has resided, registered, or
30 voted in any other county or state since registering to vote in the
31 county in which he or she cast the provisional ballot;

1 (d) ~~(e)~~ Credible evidence exists that the voter has voted elsewhere
2 or has otherwise voted early;

3 (e) ~~(d)~~ The voter failed to complete and sign a registration
4 application pursuant to subsection (6) of this section and subdivision
5 (1)(e) of section 32-915;

6 (f) ~~(e)~~ The residence address provided on the registration
7 application completed pursuant to subdivision (1)(e) of section 32-915 is
8 in a different county or in a different precinct than the county or
9 precinct in which the voter voted;

10 (g) ~~(f)~~ If the voter is voting in a primary election, the party
11 affiliation on the registration application completed prior to voting the
12 provisional ballot is different than the party affiliation that appears
13 on the voter's voter registration record based on his or her previous
14 registration application; or

15 (h) ~~(g)~~ The voter failed to complete and sign the certification on
16 the envelope or form attached to the envelope pursuant to subsection (3)
17 of section 32-915.

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

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

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

25 (b) Both the registration application and the certification are
26 signed by the voter.

27 (7) Upon determining that the voter's provisional ballot is eligible
28 to be counted, the election commissioner or county clerk shall remove the
29 ballot from the envelope without exposing the marks on the ballot and
30 shall place the ballot with the ballots to be counted by the county
31 canvassing board.

1 (8) The election commissioner or county clerk shall notify the
2 system administrator of the system created pursuant to section 32-202 as
3 to whether the ballot was counted and, if not, the reason the ballot was
4 not counted.

5 (9) The verification and investigation shall be completed within
6 seven days after the election.

7 Sec. 7. This act becomes operative on January 1, 2019.

8 Sec. 8. Original sections 32-101, 32-914, and 32-1002, Reissue
9 Revised Statutes of Nebraska, and section 32-915, Revised Statutes
10 Supplement, 2017, are repealed.