

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 451**

Introduced by Murante, 49.

Read first time January 17, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend sections 32-208,  
2 32-404, 32-566, 32-573, 32-601, 32-802, 32-939.02, and 32-947,  
3 Reissue Revised Statutes of Nebraska, and section 49-1494, Revised  
4 Statutes Cumulative Supplement, 2016; to eliminate a restriction on  
5 an election commissioner becoming a candidate for elective office;  
6 to change provisions relating to deadlines for certifications,  
7 notifications, and published notice; to change provisions relating  
8 to filling certain vacancies; to provide a voter's oath for  
9 nonresidents and change provisions relating to ballot envelope  
10 instructions; to change provisions relating to the filing of a  
11 statement of financial interests by a candidate for elective office;  
12 to harmonize provisions; and to repeal the original sections.  
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-208, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 32-208 The election commissioner in counties having a population of  
4 more than one hundred thousand inhabitants shall be a registered voter, a  
5 resident of such county for at least one year, and of good moral  
6 character and integrity and capacity. No person who is a candidate for  
7 any elective office or is a deputy, clerk, or employee of any person who  
8 is a candidate for any elective office shall be eligible for the office  
9 of election commissioner. The election commissioner shall not hold any  
10 other elective office ~~or become a candidate for an elective office during~~  
11 ~~his or her term of office or within thirty days after leaving office.~~ An  
12 election commissioner may be appointed to an elective office during his  
13 or her term of office as election commissioner, and acceptance of such  
14 appointment shall be deemed to be his or her resignation from the office  
15 of election commissioner.

16 Sec. 2. Section 32-404, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 32-404 (1) When any political subdivision holds an election in  
19 conjunction with the statewide primary or general election, the election  
20 shall be held as provided in the Election Act. Any other election held by  
21 a political subdivision shall be held as provided in the act unless  
22 otherwise provided by the charter, code, or bylaws of the political  
23 subdivision.

24 (2) No later than December 1 of each odd-numbered year, the election  
25 commissioner or county clerk shall give notice to each political  
26 subdivision of the filing deadlines for the statewide primary election.  
27 No later than January 5 of each even-numbered year, the governing board  
28 of each political subdivision which will hold an election in conjunction  
29 with a statewide primary election shall certify to the Secretary of  
30 State, the election commissioner, or the county clerk the name of the  
31 subdivision, the number of officers to be elected, the length of the

1 terms of office, the vacancies to be filled by election and length of  
2 remaining term, and the number of votes to be cast by a registered voter  
3 for each office.

4 (3) No later than June 15 ~~July 1~~ of each even-numbered year, the  
5 governing board of each reclamation district, county weed district,  
6 village, county under township organization, public power district  
7 receiving annual gross revenue of less than forty million dollars, or  
8 educational service unit which will hold an election in conjunction with  
9 a statewide general election shall certify to the Secretary of State, the  
10 election commissioner, or the county clerk the name of the subdivision,  
11 the number of officers to be elected, the length of the terms of office,  
12 the vacancies to be filled by election and length of remaining term, and  
13 the number of votes to be cast by a registered voter for each office.

14 (4) The Secretary of State shall prescribe the forms to be used for  
15 certification to him or her, and the election commissioner or county  
16 clerk shall prescribe the forms to be used for certification to him or  
17 her.

18 Sec. 3. Section 32-566, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 32-566 When a vacancy occurs in the Legislature, the office shall be  
21 filled by the Governor. The Governor shall appoint a suitable person  
22 possessing the qualifications necessary for a member of the Legislature.  
23 If the vacancy occurs on or after February 1 during a calendar year in  
24 which ~~within sixty days of~~ a regular general election will be held and if  
25 the term vacated expires on the first Tuesday following the first Monday  
26 in the following January, the appointee shall serve until the first  
27 Tuesday following the first Monday in January, and if the term extends  
28 beyond the first Tuesday following the first Monday in the following  
29 January, the appointee shall serve until the first Tuesday following the  
30 first Monday in January following the second regular general election  
31 next succeeding his or her appointment. If the vacancy occurs during the

1 first year of the term or before February 1 during a calendar year in  
2 which ~~more than sixty days~~ before a regular general election will be  
3 held, the appointee shall serve until the first Tuesday following the  
4 first Monday in January following such regular general election and at  
5 the regular general election a member of the Legislature shall be elected  
6 to serve the unexpired term.

7 Sec. 4. Section 32-573, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 32-573 (1) When a vacancy occurs in the Board of Regents of the  
10 University of Nebraska, the office shall be filled by the Governor. The  
11 Governor shall appoint a suitable person possessing the qualifications  
12 necessary for a member of the Board of Regents.

13 (2)(a) If the vacancy occurs during the first year of the term or  
14 before February 1 during a calendar year in which ~~more than seventy-five~~  
15 days ~~before~~ a statewide general election will be held, the appointee  
16 shall serve until the first Thursday following the first Tuesday in  
17 January following such general election and at such general election a  
18 member of the Board of Regents shall be elected to serve the unexpired  
19 term if any.

20 (b) If the vacancy occurs on or after February 1 during a calendar  
21 year in which ~~within seventy-five days~~ before a statewide general  
22 election will be held and if the term vacated expires on the first  
23 Thursday following the first Tuesday in January following such general  
24 election, the appointee shall serve the unexpired term.

25 (c) If the vacancy occurs on or after February 1 during a calendar  
26 year in which ~~within seventy-five days~~ before a statewide general  
27 election will be held and if the term vacated extends beyond the first  
28 Thursday following the first Tuesday in January following such general  
29 election, the appointee shall serve until the first Thursday following  
30 the first Tuesday in January following the second general election next  
31 succeeding his or her appointment and at such election a member of the

1 Board of Regents shall be elected to serve the unexpired term if any.

2 Sec. 5. Section 32-601, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 32-601 (1) Each political subdivision shall notify the election  
5 commissioner or county clerk of the offices to be filled no later than:

6 (a) January 5 of any election year as provided in subsection (2) of  
7 section 32-404; or -

8 (b) June 15 of any election year as provided in subsection (3) of  
9 section 32-404.

10 (2) The election commissioner or county clerk shall give notice of  
11 the offices to be filled by election and the filing deadlines for such  
12 offices by publication in at least one newspaper of general circulation  
13 in the county once at least fifteen days prior to such deadlines.

14 Sec. 6. Section 32-802, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 32-802 The notice of election for any election shall state the date  
17 on which the election is to be held and the hours the polls will be open  
18 and list all offices, candidates, and issues that will appear on the  
19 ballots. The notice of election shall be printed in English and in any  
20 other language required pursuant to the Voting Rights Act Language  
21 Assistance Amendments of 1992. In the case of a primary election, the  
22 notice of election shall list all offices and candidates that are being  
23 forwarded to the general election. The notice of election shall only  
24 state that amendments or referendums will be voted upon and that the  
25 Secretary of State will publish a true copy of the title and text of any  
26 amendments or referendums once each week for three consecutive weeks  
27 preceding the election. Such notice of election shall appear in at least  
28 one newspaper designated by the election commissioner, county clerk, city  
29 council, or village board no later than forty-five ~~forty~~ days prior to  
30 the election. The election commissioner or county clerk shall, not later  
31 than forty-five ~~forty~~ days prior to the election, (1) post in his or her

1 office the same notice of election published in the newspaper and (2)  
2 provide a copy of the notice to the political subdivisions appearing on  
3 the ballot. The election commissioner or county clerk shall correct the  
4 ballot to reflect any corrections received within five ~~ten~~ days after  
5 mailing the notice as provided in section 32-819. The notice of election  
6 shall be posted in lieu of sample ballots until such time as sample  
7 ballots are printed. If joint elections are held in conjunction with the  
8 statewide primary or general election by a county, city, or village, only  
9 one notice of election need be published and signed by the election  
10 commissioner or county clerk.

11 Sec. 7. Section 32-939.02, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 32-939.02 (1) Upon request for a ballot, a ballot for early voting  
14 shall be forwarded to each voter meeting the criteria of section 32-939  
15 at least forty-five days prior to any election.

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

27 (3) A person described in section 32-939 may register to vote  
28 through the use of the Federal Post Card Application or a personal letter  
29 which includes the same information as appears on the Federal Post Card  
30 Application and may simultaneously make application for ballots for all  
31 elections in a calendar year. The person may indicate a preference for

1 ballots and other election materials to be delivered via facsimile  
2 transmission or electronic mail by indicating such preference on the  
3 Federal Post Card Application. If the person indicates such a preference,  
4 the election commissioner or county clerk shall accommodate the voter's  
5 preference.

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

19 (5) Any person meeting the criteria in section 32-939 may cast a  
20 ballot by the use of the Federal Write-In Absentee Ballot. The Federal  
21 Write-In Absentee Ballot may be used for all elections. If a person  
22 casting a ballot using the Federal Write-In Absentee Ballot is not a  
23 registered voter, the information submitted in the Federal Write-In  
24 Absentee Ballot transmission envelope shall be treated as a voter  
25 registration application.

26 ~~(6)(a)~~ (6) Any person requesting a ballot under this section may  
27 receive and return the ballot and the oath prescribed in subdivision (b)  
28 of this subsection ~~(2) of section 32-947~~ using any method of transmission  
29 authorized by the Secretary of State.

30 (b) An unsealed identification envelope shall be delivered with the  
31 ballot, and upon the back of the envelope shall be printed a form

1 substantially as follows:

2 VOTER'S OATH

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

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

9 (a) I, ....., am a registered voter  
10 in ..... County;

11 (b) I have voted the enclosed ballot and am returning it in  
12 compliance with Nebraska law; and

13 (c) I have not voted and will not vote in this election except by  
14 this ballot.

15 ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION  
16 IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS  
17 IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY  
18 FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE  
19 MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND  
20 DOLLARS, OR BOTH.

21 I also understand that failure to sign below will invalidate my  
22 ballot.

23 Signature .....

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

27 Sec. 8. Section 32-947, Reissue Revised Statutes of Nebraska, 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 not later than the close of  
4 business on the second Friday preceding the election, the election  
5 commissioner or county clerk shall deliver a ballot to the applicant in  
6 person or by mail, postage paid. The election commissioner or county  
7 clerk or any employee of the election commissioner or county clerk shall  
8 write or cause to be affixed his or her customary signature or initials  
9 on the ballot.

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

13 VOTER'S OATH

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

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

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

22 (b) I reside in the State of Nebraska at .....

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

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

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

1 THOUSAND DOLLARS, OR BOTH.

2 I also understand that failure to sign below will invalidate my  
3 ballot.

4 Signature .....

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

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

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

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

27 (c) Written instructions directing the voter to submit a copy of an  
28 identification document pursuant to section 32-318.01 if the voter is  
29 required to present identification under such section and advising the  
30 voter that failure to submit identification to the election commissioner  
31 or county clerk by the close of the polls on election day will result in

1 the ballot not being counted.

2 (5) The election commissioner or county clerk may enclose with the  
3 ballot materials a separate return envelope for the voter's use in  
4 returning his or her identification envelope containing the voted ballot,  
5 registration application, and other materials that may be required.

6 Sec. 9. Section 49-1494, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8 49-1494 (1) An individual who files to appear on the ballot for  
9 election to an elective office specified in section 49-1493 shall file a  
10 statement of financial interests for the preceding calendar year with the  
11 commission as provided in this section.

12 (2) Candidates for the elective offices specified in section 49-1493  
13 who qualify other than by filing shall file a statement for the preceding  
14 calendar year with the commission within five days after becoming a  
15 candidate or being appointed to that elective office.

16 ~~(3) A statement of financial interests shall be preserved for a~~  
17 ~~period of not less than five years by the commission.~~

18 (3) (4) If the candidate for an elective office specified in section  
19 49-1493 files to appear on the ballot for election prior to January 1 of  
20 the year in which the election is held, the candidate shall file  
21 supplementary statements, covering the preceding calendar year, with the  
22 commission on or before March 1 of the year in which the election is held  
23 or, if the filing deadline for the elective office is after March 1 of  
24 the year in which the election is held, the candidate shall file such  
25 supplementary statements on or before the filing deadline for the  
26 elective office.

27 (4) If the candidate for an elective office specified in section  
28 49-1493 files to appear on the ballot for election during the calendar  
29 year in which the election is held, the candidate shall file a statement  
30 of financial interests for the preceding calendar year with the  
31 commission on or before March 1 of the year in which the election is held

1 or, if the filing deadline for the elective office is after March 1 of  
2 the year in which the election is held, the candidate shall file such  
3 statement on or before the filing deadline for the elective office.

4 (5) A candidate for an elective office specified in section 49-1493  
5 who fails to file a statement of financial interests as required in  
6 subsection (1) or (2) of this section within five days after the deadline  
7 in subsection (3) or (4) of this section and section 49-1493 shall not  
8 appear on the ballot.

9 (6) A statement of financial interests shall be preserved for a  
10 period of not less than five years by the commission.

11 Sec. 10. Original sections 32-208, 32-404, 32-566, 32-573, 32-601,  
12 32-802, 32-939.02, and 32-947, Reissue Revised Statutes of Nebraska, and  
13 section 49-1494, Revised Statutes Cumulative Supplement, 2016, are  
14 repealed.