

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 285

Introduced by Brewer, 43.

Read first time January 12, 2021

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to government; to amend sections 32-329,
2 32-608, 32-1005, and 70-611, Reissue Revised Statutes of Nebraska,
3 and sections 32-330, 32-404, 32-606, 32-816, and 79-1217, Revised
4 Statutes Cumulative Supplement, 2020; to change election provisions
5 relating to voter registration lists and certain notice of filing
6 deadlines, filing periods, filing forms, filing fees, and write-in
7 votes; to change a certification deadline for certain public power
8 districts; to provide a written notice of appointment requirement
9 for educational service units; to eliminate provisions relating to
10 overvoted ballots; to repeal the original sections; and to outright
11 repeal section 32-1006, Reissue Revised Statutes of Nebraska.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-329, Reissue Revised Statutes of Nebraska, is
2 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 to affirm
11 or confirm your address prior to being allowed to vote. If you are
12 required to affirm or confirm your address, it may result in a delay at
13 your polling place; and

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

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

21 (5) If information from the National Change of Address program or
22 the nonforwardable notice under subdivision (2)(b) of this section
23 indicates that the voter has moved outside the jurisdiction and the
24 election commissioner or county clerk receives no response to the
25 confirmation letter and the voter does not offer to vote at any election
26 held prior to and including the second statewide federal general election
27 following the mailing of the confirmation notice, the voter's
28 registration shall be canceled and his or her name shall be deleted from
29 the voter registration register.

30 (6) In the event that the Secretary of State becomes a member of a
31 nongovernmental entity whose purpose is to share and exchange information

1 in order to improve the accuracy and efficiency of voter registration
2 systems, information received by the Secretary of State from such
3 nongovernmental entity is exempt from disclosure as a public record
4 pursuant to sections 84-712 to 84-712.09 and any other provision of law,
5 except that the Secretary of State may provide such information to the
6 election commissioners and county clerks to conduct voter registration
7 list maintenance activities.

8 Sec. 2. Section 32-330, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 32-330 (1) Except as otherwise provided in subsection (3) of section
11 32-301, the voter registration register shall be a public record. Any
12 person may examine the register at the office of the election
13 commissioner or county clerk, but no person other than the Secretary of
14 State, the election commissioner, the county clerk, or law enforcement
15 shall be allowed to make copies of the register. Copies of the register
16 shall only be used for list maintenance as provided in section 32-329 or
17 law enforcement purposes. The electronic records of the original voter
18 registrations created pursuant to section 32-301 may constitute the voter
19 registration register. The Secretary of State, election commissioner, or
20 county clerk shall withhold information in the register designated as
21 confidential under section 32-331. No portion of the register made
22 available to the public and no list distributed pursuant to this section
23 shall include the digital signature of any voter.

24 (2) The Secretary of State, election commissioner, or county clerk
25 shall make available a list of registered voters that contains no more
26 than the information authorized in subsection (3) of this section and, if
27 requested, a list that only contains such information for registered
28 voters who have voted in an election held more than thirty days prior to
29 the request for the list. The Secretary of State, election commissioner,
30 or county clerk shall establish the price of the lists at a rate that
31 fairly covers the actual production cost of the lists, not to exceed

1 three cents per name. Lists shall be used solely for purposes related to
2 elections, political activities, voter registration, law enforcement, or
3 jury selection. Lists shall not be posted, displayed, or used for
4 commercial purposes or made accessible on the Internet.

5 (3)(a) The Secretary of State, election commissioner, or county
6 clerk shall withhold from any list of registered voters distributed
7 pursuant to subsection (2) of this section any information in the voter
8 registration records which is designated as confidential under section
9 32-331 or marked private on the voter registration application or voter
10 registration record.

11 (b) Except as otherwise provided in subdivision (a) of this
12 subsection, a list of registered voters distributed pursuant to
13 subsection (2) of this section shall contain no more than the following
14 information:

- 15 (i) The registrant's name;
- 16 (ii) The registrant's residential address;
- 17 (iii) The registrant's mailing address;
- 18 (iv) The registrant's telephone number;
- 19 (v) The registrant's voter registration status;
- 20 (vi) The registrant's voter identification number;
- 21 (vii) The registrant's date of birth;
- 22 (viii) The registrant's date of voter registration;
- 23 (ix) The registrant's voting precinct;
- 24 (x) The registrant's polling site;
- 25 (xi) The registrant's political party affiliation;
- 26 (xii) The political subdivisions in which the registrant resides;
- 27 and
- 28 (xiii) The registrant's voter history.

29 (4) Any person who acquires a list of registered voters under
30 subsection (2) of this section shall provide his or her name, address,
31 telephone number, email address, and campaign committee name or

1 organization name, if applicable, and the state of organization, if
2 applicable, and shall take and subscribe to an oath in substantially the
3 following form:

4 I hereby swear that I will use the list of registered voters
5 of County, Nebraska, (or the State of Nebraska) only for the
6 purposes prescribed in section 32-330 and for no other purpose, ~~and~~ that
7 I will not permit the use or copying of such list for unauthorized
8 purposes, and that I will not distribute such list or post, display, or
9 make it accessible on the Internet.

10 I hereby declare under the penalty of election falsification that
11 the statements above are true to the best of my knowledge.

12 The penalty for election falsification is a Class IV felony.

13 (Signature of person acquiring list)

14 Subscribed and sworn to before me this day of 20.. .

15 (Signature of officer)

16 (Name and official title of officer)

17 (5) The Secretary of State, election commissioner, or county clerk
18 shall provide, upon request and free of charge, a complete and current
19 listing of all registered voters and their addresses to the Clerk of the
20 United States District Court for the District of Nebraska. Such list
21 shall be provided no later than December 31 of each even-numbered year.

22 (6) The Secretary of State, election commissioner, or county clerk
23 shall provide, upon request and free of charge, a complete and current
24 listing of all registered voters containing only the information
25 authorized under subsection (3) of this section to the state party
26 headquarters of each political party and to the county chairperson of
27 each political party.

28 Sec. 3. Section 32-404, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 32-404 (1) When any political subdivision holds an election in
31 conjunction with the statewide primary or general election, the election

1 shall be held as provided in the Election Act. Any other election held by
2 a political subdivision shall be held as provided in the act unless
3 otherwise provided by the charter, code, or bylaws of the political
4 subdivision.

5 (2) No later than December 1 of each odd-numbered year, the
6 Secretary of State, election commissioner, or county clerk shall give
7 notice to each political subdivision of the filing deadlines for the
8 statewide primary election. No later than January 5 of each even-numbered
9 year, the governing board of each political subdivision which will hold
10 an election in conjunction with a statewide primary election shall
11 certify to the Secretary of State, the election commissioner, or the
12 county clerk the name of the subdivision, the number of officers to be
13 elected, the length of the terms of office, the vacancies to be filled by
14 election and length of remaining term, and the number of votes to be cast
15 by a registered voter for each office.

16 (3) No later than June 15 of each even-numbered year, the governing
17 board of each reclamation district, county weed district, village, county
18 under township organization, public power district receiving annual gross
19 revenue of less than forty million dollars, or educational service unit
20 which will hold an election in conjunction with a statewide general
21 election shall certify to the Secretary of State, the election
22 commissioner, or the county clerk the name of the subdivision, the number
23 of officers to be elected, the length of the terms of office, the
24 vacancies to be filled by election and length of remaining term, and the
25 number of votes to be cast by a registered voter for each office.

26 (4) The Secretary of State shall prescribe the forms to be used for
27 certification to him or her, and the election commissioner or county
28 clerk shall prescribe the forms to be used for certification to him or
29 her.

30 Sec. 4. Section 32-606, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 32-606 (1) Any candidate may place his or her name on the primary
2 election ballot by filing a candidate filing form prescribed by the
3 Secretary of State as provided in section 32-607. Except as otherwise
4 provided in subsection (4) of this section, if a candidate for an
5 elective office is an incumbent of any elective office, the filing period
6 for filing the candidate filing form shall be between January 5 ~~December~~
7 ~~1~~ and February 15 prior to the date of the primary election. No incumbent
8 who resigns from elective office prior to the expiration of his or her
9 term shall file for any office after February 15 of that election year.
10 All other candidates shall file for office between January 5 ~~December 1~~
11 and March 1 prior to the date of the primary election. A candidate filing
12 form and a copy of payment of the filing fee, if applicable, may be
13 transmitted by facsimile for the offices listed in subdivision (1) of
14 section 32-607 if (a) the transmission is received in the office of the
15 filing officer by the filing deadline and (b) the original filing form
16 and payment of the filing fee, if applicable, is mailed to the filing
17 officer with a legible postmark bearing a date on or prior to the filing
18 deadline and is in the office of the filing officer no later than seven
19 days after the filing deadline.

20 (2) Any candidate for a township office in a county under township
21 organization, the board of trustees of a village, the board of directors
22 of a reclamation district, the county weed district board, the board of
23 directors of a public power district receiving annual gross revenue of
24 less than forty million dollars, or the board of an educational service
25 unit may place his or her name on the general election ballot by filing a
26 candidate filing form prescribed by the Secretary of State as provided in
27 section 32-607. Except as otherwise provided in subsection (4) of this
28 section, if a candidate for an elective office is an incumbent of any
29 elective office, the filing period for filing the candidate filing form
30 shall be between January 5 ~~December 1~~ and July 15 prior to the date of
31 the general election. No incumbent who resigns from elective office prior

1 to the expiration of his or her term shall file for any office after July
2 15 of that election year. All other candidates shall file for office
3 between January 5 ~~December 1~~ and August 1 prior to the date of the
4 general election. A candidate filing form may be transmitted by facsimile
5 for the offices listed in subdivision (1) of section 32-607 if (a) the
6 transmission is received in the office of the filing officer by the
7 filing deadline and (b) the original filing form is mailed to the filing
8 officer with a legible postmark bearing a date on or prior to the filing
9 deadline and is in the office of the filing officer no later than seven
10 days after the filing deadline.

11 (3) Any city having a home rule charter may provide for filing
12 deadlines for any person desiring to be a candidate for the office of
13 council member or mayor.

14 (4) If a candidate for an elective office was appointed to an
15 elective office to fill a vacancy after the deadline for an incumbent to
16 file a candidate filing form in subsection (1) or (2) of this section but
17 before the deadline for all other candidates, the candidate may file a
18 candidate filing form for any office on or before the deadline for all
19 other candidates.

20 Sec. 5. Section 32-608, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 32-608 (1) Except as provided in subsection (4) or (5) of this
23 section, a filing fee shall be paid by or on behalf of each candidate
24 prior to filing for office. For candidates who file in the office of the
25 Secretary of State as provided in subdivision (1) of section 32-607, the
26 filing fee shall be paid to the Secretary of State who shall remit the
27 fee to the State Treasurer for credit to the Election Administration
28 Fund. For candidates for any city or village office, the filing fee shall
29 be paid to the city or village treasurer of the city or village in which
30 the candidate resides. For candidates who file in the office of the
31 election commissioner or county clerk, the filing fee shall be paid to

1 the election commissioner or county clerk in the county in which the
2 office is sought. The election commissioner or county clerk shall remit
3 the fee to the county treasurer. The fee shall be placed in the general
4 fund of the county, city, or village. No candidate filing forms shall be
5 filed until the proper payment or the proper receipt showing the payment
6 of such filing fee is presented to the filing officer. On the day of the
7 filing deadline, the city or village treasurer's office shall remain open
8 to receive filing fees until the hour of the filing deadline.

9 (2) Except as provided in subsection (4) or (5) of this section, the
10 filing fees shall be as follows:

11 (a) For the office of United States Senator, state officers,
12 including members of the Legislature, Representatives in Congress, county
13 officers, and city or village officers, except the mayor or council
14 members of cities having a home rule charter, a sum equal to one percent
15 of the annual salary as of November 30 of the year preceding the election
16 for the office for which he or she files as a candidate;

17 (b) For directors of public power and irrigation districts in
18 districts receiving annual gross revenue of forty million dollars or
19 more, twenty-five dollars, and in districts receiving annual gross
20 revenue of less than forty million dollars, ten dollars;

21 (c) For directors of reclamation districts, ten dollars; and

22 (d) For Regents of the University of Nebraska, members of the State
23 Board of Education, and directors of metropolitan utilities districts,
24 twenty-five dollars.

25 (3) All declared write-in candidates shall pay the filing fees that
26 are required for the office at the time that they present the write-in
27 affidavit to the filing officer. ~~Any undeclared write-in candidate who is~~
28 ~~nominated or elected by write-in votes shall pay the filing fee required~~
29 ~~for the office within ten days after the canvass of votes by the county~~
30 ~~canvassing board and shall file the receipt with the person issuing the~~
31 ~~certificate of nomination or the certificate of election prior to the~~

1 ~~certificate being issued.~~

2 (4) No filing fee shall be required for any candidate filing for an
3 office in which a per diem is paid rather than a salary or for which
4 there is a salary of less than five hundred dollars per year. No filing
5 fee shall be required for any candidate for membership on a school board,
6 on the board of an educational service unit, on the board of governors of
7 a community college area, on the board of directors of a natural
8 resources district, or on the board of trustees of a sanitary and
9 improvement district.

10 (5) No filing fee shall be required of any candidate completing an
11 affidavit requesting to file for elective office in forma pauperis. A
12 pauper shall mean a person whose income and other resources for
13 maintenance are found under assistance standards to be insufficient for
14 meeting the cost of his or her requirements and whose reserve of cash or
15 other available resources does not exceed the maximum available resources
16 that an eligible individual may own. Available resources shall include
17 every type of property or interest in property that an individual owns
18 and may convert into cash except:

19 (a) Real property used as a home;

20 (b) Household goods of a moderate value used in the home; and

21 (c) Assets to a maximum value of three thousand dollars used by a
22 recipient in a planned effort directed towards self-support.

23 (6) If any candidate dies prior to an election, the spouse of the
24 candidate may file a claim for refund of the filing fee with the proper
25 governing body prior to the date of the election. Upon approval of the
26 claim by the proper governing body, the filing fee shall be refunded.

27 Sec. 6. Section 32-816, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 32-816 (1) A blank space shall be provided at the end of each office
30 division on the ballot for registered voters to fill in the name of any
31 person for whom they wish to vote and whose name is not printed upon the

1 ~~ballot, except that at the primary election there shall be no write-in~~
2 ~~space for delegates to the county political party convention or delegates~~
3 ~~to the national political party convention.~~ A square or oval shall be
4 printed opposite each write-in space similar to the square or oval placed
5 opposite other candidates and issues on the ballot. The square or oval
6 shall be marked to vote for a write-in candidate whose name appears in
7 the write-in space provided.

8 (2) The Secretary of State shall approve write-in space for optical-
9 scan ballots and any other voting system authorized for use under the
10 Election Act. Adequate provision shall be made for write-in votes
11 sufficient to allow one write-in space for each office to be elected at
12 any election except offices for which write-in votes are specifically
13 prohibited. The write-in ballot shall clearly identify the office for
14 which such write-in vote is cast. The write-in space shall be a part of
15 the official ballot, may be on the envelope or a separate piece of paper
16 from the printed portion of the ballot, and shall allow the voter
17 adequate space to fill in the name of the candidate for whom he or she
18 desires to cast his or her ballot.

19 Sec. 7. Section 32-1005, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 32-1005 If the last name or a reasonably close spelling of the last
22 name of a person engaged in or pursuing a write-in campaign pursuant to
23 section 32-615 or 32-633 is written or printed on a line provided for
24 that purpose and the square or oval opposite such line has been marked
25 with a cross or other clear, intelligible mark, the vote shall be valid
26 and the ballot shall be counted. ~~A Except as provided in section 32-1007,~~
27 ~~a write-in vote for a person who is not engaged in or pursuing a write-in~~
28 ~~campaign pursuant to section 32-615 or 32-633 shall not be counted.~~

29 Sec. 8. Section 70-611, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 70-611 (1) Not later than January 5 in each even-numbered year, the

1 secretary of the district in districts grossing forty million dollars or
2 more annually shall certify to the Secretary of State on forms prescribed
3 by the Secretary of State the names of the counties in which all
4 registered voters are eligible to vote for public power district
5 candidates and for other counties the names of the election precincts
6 within each county excluding the municipalities in which voters are not
7 eligible to vote on public power district candidates. The secretary shall
8 also certify the number of directors to be elected and the length of
9 terms for which each is to be elected.

10 (2) Districts grossing less than forty million dollars annually
11 shall prepare the same type of certification as districts grossing over
12 forty million dollars annually and file such certification with the
13 Secretary of State not later than June 15 ~~July 1~~ of each even-numbered
14 year.

15 (3) The secretary of each district shall, at the time of filing the
16 certification, cause to be published once in a newspaper or newspapers of
17 general circulation within the district a list of the incumbent directors
18 and naming the counties or election precincts excluding those
19 municipalities in which voters are not eligible to vote for public power
20 district candidates in the same general form as the certification filed
21 with the Secretary of State. A certified copy of the published notice
22 shall be filed with the Secretary of State within ten days after such
23 publication.

24 Sec. 9. Section 79-1217, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 79-1217 (1) All educational service units shall be governed by a
27 board to be known as the Board of Educational Service Unit No.
28 Until the first Thursday after the first Tuesday in January 2009, the
29 educational service unit board, except the board of an educational
30 service unit with only one member school district, shall be composed of
31 one member from each county and four members at large, all of whom shall

1 reside within the geographical boundaries of the educational service
2 unit, but no more than two of the members at large shall be appointed or
3 elected from the same county unless any one county within the educational
4 service unit has a population in excess of one hundred fifty thousand
5 inhabitants or the educational service unit consists of only one county.
6 Beginning on the first Thursday after the first Tuesday in January 2009,
7 the educational service unit board, except the board of an educational
8 service unit with only one member school district, shall be composed of
9 one member elected to represent each election district established
10 pursuant to section 79-1217.01. Successors to the members initially
11 appointed pursuant to section 79-1212 shall be elected pursuant to
12 section 32-515.

13 (2) Vacancies in office shall occur as set forth in section 32-560,
14 except as otherwise provided in section 79-1212 regarding the requirement
15 to live in the district represented, or in the case of absences, unless
16 excused by a majority of the remaining members of the board, when a
17 member is absent from the geographical boundaries of the educational
18 service unit for a continuous period of sixty days at one time or from
19 more than two consecutive regular meetings of the board. Whenever any
20 vacancy occurs on the board, the remaining members of such board shall
21 appoint an individual residing within the election district of the
22 educational service unit for which the vacancy exists and meeting the
23 qualifications for the office to fill such vacancy for the balance of the
24 unexpired term. The board shall file written notice of such appointment
25 with the Secretary of State.

26 (3) Members of the board shall receive no compensation for their
27 services but shall be reimbursed for the expenses incurred in the
28 performance of their duties under the Educational Service Units Act as
29 provided in sections 81-1174 to 81-1177.

30 (4) Any joint school district located in two or more counties shall
31 be considered a part of the educational service unit in which the greater

1 number of school-age children of such joint school district reside.

2 (5) The administrator of each educational service unit, prior to
3 July 1 of each year in which a statewide primary election is to be held,
4 shall certify to the election commissioner or county clerk of each county
5 located within the unit the corporate name of each school district, as
6 described in section 79-405, located within the county. If a school
7 district is a joint school district located in two or more counties, the
8 administrator shall certify to each election commissioner or county clerk
9 the educational service unit of which the school district is considered
10 to be a part.

11 (6) An educational service unit may consist of a single school
12 district if the single school district is either a Class IV or Class V
13 school district. An educational service unit with only one member school
14 district shall be governed by the school board of such school district
15 and shall participate in one or more of the statewide projects managed by
16 the Educational Service Unit Coordinating Council.

17 Sec. 10. Original sections 32-329, 32-608, 32-1005, and 70-611,
18 Reissue Revised Statutes of Nebraska, and sections 32-330, 32-404,
19 32-606, 32-816, and 79-1217, Revised Statutes Cumulative Supplement,
20 2020, are repealed.

21 Sec. 11. The following section is outright repealed: Section
22 32-1006, Reissue Revised Statutes of Nebraska.