

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 878**

Introduced by Wallman, 30.

Read first time January 06, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-206, 32-568,  
2 and 32-809, Reissue Revised Statutes of Nebraska, section  
3 32-570, Revised Statutes Cumulative Supplement, 2010, and  
4 section 32-811, Revised Statutes Supplement, 2011; to  
5 change provisions relating to publication of the official  
6 election calendar, filling vacancies, automatic  
7 nomination of candidates for reclamation districts, and  
8 placement of names on ballots; to eliminate provisions  
9 relating to custodians and training for vote counting  
10 devices; to harmonize provisions; to repeal the original  
11 sections; and to outright repeal sections 32-1044 and  
12 32-1045, Reissue Revised Statutes of Nebraska.

13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 32-206, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           32-206 (1) The Secretary of State shall publish an  
4 official election calendar by ~~December~~November 1 prior to the  
5 statewide primary election. Such calendar, to be approved as to form  
6 by the Attorney General, shall set forth the various election  
7 deadline dates and other pertinent data as determined by the  
8 Secretary of State. The official election calendar shall be merely a  
9 guideline and shall in no way legally bind the Secretary of State or  
10 the Attorney General.

11           (2) Except as provided in sections 32-302 and 32-306, any  
12 filing or other act required to be performed by a specified day shall  
13 be performed by 5 p.m. of such day, except that if such day falls  
14 upon a Saturday, Sunday, or legal holiday, performance shall be  
15 required on the next business day.

16           Sec. 2. Section 32-568, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           32-568 (1) If any vacancy occurs in the office of city  
19 council member of a city of the metropolitan class, the remaining  
20 members of the council shall appoint a person to fill such vacancy  
21 from the district in which the vacancy occurred for the remainder of  
22 the term. The person thus appointed shall qualify and give bond as by  
23 law provided for council members elected to such office. A vacancy in  
24 the office of mayor of a city of the metropolitan class shall be  
25 filled as provided by local law.

1                   (2) The city council of a city of the primary class may  
2 provide for filling any vacancies that occur in any elective office  
3 by appointment by the mayor, with the advice and consent of the  
4 council, to hold office until the next general city election. In case  
5 of vacancy in the office of mayor of a city of the primary class or  
6 his or her absence or disability, the president of the council shall  
7 exercise the powers and duties of the office until such vacancy is  
8 filled or disability removed or, in case of temporary absence, until  
9 the mayor returns, and such acting mayor shall perform such other  
10 duties as may be required by law.

11                   (3) In a city of the first class except a city which has  
12 adopted the commissioner or city manager plan of government, any  
13 vacancy on the council resulting from causes other than expiration of  
14 the term shall be filled by appointment by the mayor with the consent  
15 of the city council to hold office for the remainder of the term.  
16 When there is a vacancy in the office of the mayor in a city of the  
17 first class, the president of the city council shall serve as mayor  
18 for the unexpired term. In case of any temporary absence or  
19 disability on the part of the mayor, the president of the council  
20 shall exercise the powers and duties of the office of mayor until  
21 such disability is removed, or in case of temporary absence until the  
22 mayor returns, and shall perform such other duties as may be required  
23 by law.

24                   (4) Any vacancy on the city council of a city of the  
25 second class shall be filled as provided in section 32-569. In the

1 case of any vacancy in the office of mayor, or in case of his or her  
2 disability or absence, the president of the council shall exercise  
3 the office of mayor for the unexpired term, until such disability is  
4 removed, or in case of temporary absence, until the mayor returns. If  
5 the president of the council assumes the office of mayor for the  
6 unexpired term, there shall be a vacancy on the council.

7 (5) A vacancy on the board of trustees of a village shall  
8 be filled as provided in section 32-569, except that the board of  
9 trustees of a village situated in more than one county shall have  
10 power to fill by appointment any vacancy that may occur in their  
11 number.

12 (6) If any vacancy occurs in the office of council member  
13 in a city under the commission plan of government, the vacancy shall  
14 be filled as provided in section 32-569. If an incumbent in a city  
15 under the commission plan of government files for a city office other  
16 than the office he or she holds, the office he or she holds shall  
17 become vacant as of the date of the commencement of the term of the  
18 office for which he or she has filed. If such vacancy results in an  
19 unexpired term, such vacancy shall be filled by election for the  
20 remainder of the unexpired term. In a city under the commission plan  
21 of government, the vice president of the city council shall perform  
22 the duties of the mayor of the city in the absence or inability of  
23 the mayor to serve. If a vacancy occurs in the office of mayor by  
24 death or otherwise, the vice president shall perform the duties of  
25 mayor of the city until such time as the council shall fill such

1 vacancy, which shall be done at the first council meeting after such  
2 vacancy occurs or as soon thereafter as may be practicable.

3 (7) If a vacancy occurs in the office of council member  
4 in a city under a city manager plan, a successor council member shall  
5 be elected at the next regular city election to serve for the  
6 remainder of the term, except that a majority of the remaining  
7 members of the council shall appoint a registered voter to serve as  
8 council member until the successor is so elected and has qualified.  
9 If the council members are elected by ward, the council member  
10 elected or appointed to fill the vacancy shall be a registered voter  
11 of the ward in which the vacancy exists. If for any reason the seats  
12 of ~~a majority one-half or more of the members~~ of the council become  
13 vacant, the Secretary of State shall conduct a special election to  
14 fill the vacancies for the unexpired portion of each term. A vacancy  
15 in any office to which the council elects shall be filled by the  
16 council for the unexpired term.

17 (8) Vacancies in city offices in any city under home rule  
18 charter shall be filled as provided in the home rule charter.

19 Sec. 3. Section 32-570, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21 32-570 (1) A vacancy in the membership of a school board  
22 shall occur as set forth in section 32-560 or in the case of  
23 absences, unless excused by a majority of the remaining members of  
24 the board, when a member is absent from the district for a continuous  
25 period of sixty days at one time or from more than two consecutive

1 regular meetings of the board. The resignation of a member or any  
2 other reason for a vacancy shall be made a part of the minutes of the  
3 school board. The school board shall give notice of the date the  
4 vacancy occurred, the office vacated, and the length of the unexpired  
5 term (a) in writing to the election commissioner or county clerk and  
6 (b) by a notice published in a newspaper of general circulation in  
7 the school district.

8 (2) A person appointed to fill a vacancy on the school  
9 board of a Class I school district by the remaining members of the  
10 board shall hold office until the beginning of the next school year.  
11 A board member of a Class I school district elected to fill a vacancy  
12 at a regular or special school district meeting shall serve for the  
13 remainder of the unexpired term or until a successor is elected and  
14 qualified.

15 (3) Except as provided in subsection (4) of this section,  
16 a vacancy in the membership of a school board of a Class II, III, IV,  
17 V, or VI school district resulting from any cause other than the  
18 expiration of a term shall be filled by appointment of a qualified  
19 registered voter by the remaining members of the board. If the  
20 vacancy occurs in a Class II school district prior to July 1  
21 preceding the general election in the middle of the vacated term, the  
22 appointee shall serve until a registered voter is elected at such  
23 general election for the remainder of the unexpired term. If the  
24 vacancy occurs in a Class III, IV, V, or VI school district prior to  
25 February 1 preceding the general election in the middle of the

1 vacated term, the appointee shall serve until a registered voter is  
2 nominated at the next primary election and elected at the following  
3 general election for the remainder of the unexpired term. If the  
4 vacancy occurs on or after the applicable deadline, the appointment  
5 shall be for the remainder of the unexpired term. A registered voter  
6 appointed or elected pursuant to this subsection shall meet the same  
7 requirements as the member whose office is vacant.

8 (4) Any vacancy in the membership of a school board of a  
9 school district described in section 79-549 which does not nominate  
10 candidates at a primary election and elect members at the following  
11 general election shall be filled by appointment of a qualified  
12 registered voter by the remaining members of the board. If the  
13 vacancy occurs at least twenty days prior to the first regular caucus  
14 to be held during the term that was vacated, the appointee shall  
15 serve until a registered voter is nominated and elected to fill the  
16 vacancy for the remainder of the term in the manner provided for  
17 nomination and election of board members in the district. If the  
18 vacancy occurred less than twenty days prior to the first regular  
19 caucus and at least twenty days prior to the second regular caucus to  
20 be held during the term that was vacated, the appointee shall serve  
21 until a registered voter is nominated and elected to fill the vacancy  
22 for the remainder of the term in the manner provided for nomination  
23 and election of board members in the district. If the vacancy  
24 occurred less than twenty days prior to the second regular caucus  
25 held during the term that was vacated or after such caucus, the

1 appointment shall be for the remainder of the unexpired term.

2 (5) If any school board fails to fill a vacancy on the  
3 board, the vacancy may be filled by election at a special election or  
4 school district meeting called for that purpose. Such election or  
5 meeting shall be called in the same manner and subject to the same  
6 procedures as other special elections or school district meetings.

7 (6) If there are vacancies in the offices of a ~~majority~~  
8 one-half or more of the members of a school board, the Secretary of  
9 State shall conduct a special school district election to fill such  
10 vacancies.

11 Sec. 4. Section 32-809, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 32-809 (1) The form of the official ballot at the  
14 statewide primary election shall be prescribed by the Secretary of  
15 State. At the top of the ballot and over all else shall be printed in  
16 boldface type the name of the political party, ..... Official  
17 Ballot, Primary Election 20.. . Each division containing the names of  
18 the office and a list of candidates for such office shall be  
19 separated from other groups by a bold line. The ballot shall list at-  
20 large candidates and subdistrict candidates under appropriate  
21 headings.

22 (2) All proposals for constitutional amendments,  
23 candidates for delegates to the national political party conventions,  
24 and candidates on the nonpartisan ballot shall be submitted on a  
25 ballot where bold lines separate one office or issue from another.



1 Proposals for constitutional amendments proposed by the Legislature  
2 shall be placed on the ballot as provided in sections 49-201 to  
3 49-211. Each candidate for delegate to the national political party  
4 convention shall have his or her preference for the candidacy for the  
5 office of President of the United States or the fact that he or she  
6 is uncommitted shown on the ballot in parenthesis and indented on the  
7 line immediately below the name of the candidate. All constitutional  
8 amendments shall be placed on a separate ballot when a paper ballot  
9 is used which requires the ballot after being voted to be folded  
10 before being deposited in a ballot box. When an optical-scan ballot  
11 is used which requires a ballot envelope or sleeve in which the  
12 ballot after being voted is placed before being deposited in a ballot  
13 box, constitutional amendments may be printed on either side of the  
14 ballot and shall be separated from other offices or issues by a bold  
15 line. Constitutional amendments so arranged shall constitute a  
16 separate ballot.

17 (3) ~~The~~ Except as otherwise provided in section 32-811,  
18 the statewide primary election ballot shall contain the name of every  
19 candidate filing or recognized under subsection (1) of section 32-606  
20 and sections 32-606, 32-611, and 32-613, and 32-614 and no other  
21 names. No name of a candidate for member of the Legislature or an  
22 elective office described in Article IV, section 1, of the  
23 Constitution of Nebraska shall appear on any ballot or any series of  
24 ballots at any primary election more than once except for the names  
25 of candidates for the office of delegate to a county, state, or

1 national political party convention. When two or more of the last  
2 names of candidates for the same office at the primary election are  
3 the same in spelling or sound, the official ballots may, on the  
4 request of any such candidate, have his or her address printed  
5 immediately below his or her name in capital and lowercase letters in  
6 lightface type of the same size as the type in which the name of the  
7 candidate is printed.

8           Sec. 5. Section 32-811, Revised Statutes Supplement,  
9 2011, is amended to read:

10           32-811 (1) If the names of candidates properly filed for  
11 nomination at the primary election for directors of natural resources  
12 districts, directors of public power districts, ~~directors of~~  
13 ~~reclamation districts,~~ members of the boards of governors of  
14 community college areas, members of the boards of Class III or Class  
15 V school districts which nominate candidates at a primary election,  
16 and officers of cities of the first or second class and cities having  
17 a city manager plan of government do not exceed two candidates for  
18 each position to be filled, any such candidates shall be declared  
19 nominated and their names shall not appear on any primary election  
20 ballots. The official abstract of votes kept by the county or state  
21 shall show the names of such candidates with the statement Nominated  
22 Without Opposition. The election commissioner or county clerk shall  
23 place the names of such automatically nominated candidates on the  
24 general election ballot as provided in section 32-814.

25           (2) Candidates shall not appear on the ballot in the

1 primary election for the ~~board of directors in public power districts~~  
2 ~~receiving annual gross revenue of less than forty million dollars,~~  
3 ~~for county weed district boards, and for the board of trustees in~~  
4 ~~villages.~~ offices listed in subsection (2) of section 32-606.

5 (3) If the number of candidates for delegates to a county  
6 or national political party convention are the same in number or less  
7 than the number of candidates to be elected, the names shall not  
8 appear on the primary election ballot and those so filed shall  
9 receive a certificate of election.

10 Sec. 6. Original sections 32-206, 32-568, and 32-809,  
11 Reissue Revised Statutes of Nebraska, section 32-570, Revised  
12 Statutes Cumulative Supplement, 2010, and section 32-811, Revised  
13 Statutes Supplement, 2011, are repealed.

14 Sec. 7. The following sections are outright repealed:  
15 Sections 32-1044 and 32-1045, Reissue Revised Statutes of Nebraska.