

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 746

Introduced by Avery, 28.

Read first time January 09, 2014

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-314, 32-929,
2 32-935, 32-936, 32-1530, and 32-1532, Reissue Revised
3 Statutes of Nebraska, sections 32-329, 32-915, and
4 32-1002, Revised Statutes Cumulative Supplement, 2012,
5 and section 32-933, Revised Statutes Supplement, 2013; to
6 authorize provisional ballots and require identification
7 for registered voters changing residence within Nebraska;
8 to harmonize provisions; to provide an operative date;
9 and to repeal the original sections.

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

1 Section 1. Section 32-314, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-314 (1) Any person going into another territory or
4 state and registering to vote or voting in that territory or state
5 shall lose his or her eligibility to vote in this state. Any person
6 going into another county of this state and registering to vote or
7 voting in that county shall lose his or her eligibility to vote in
8 the county where he or she was registered.

9 (2) A registered voter who changes his or her residence
10 in one county to a residence address in a different county in the
11 state shall register again or update his or her voter registration
12 record in order to ~~be eligible to vote.~~ avoid additional requirements
13 at the time of voting as provided in sections 32-914 and 32-915 and
14 may be entitled to vote pursuant to section 32-915 if he or she
15 provides identification at the time of voting.

16 (3) A registered voter who changes his or her name or
17 residence within the county and has retained legal residence in the
18 county since the date of his or her last registration shall register
19 again or update his or her voter registration record to avoid
20 additional requirements at the time of voting as provided in sections
21 32-914 and 32-915 and may be entitled to vote pursuant to section
22 32-914.01, 32-914.02, or 32-915.

23 (4) A registered voter who wants to change his or her
24 party affiliation for purposes of a primary election shall complete a
25 registration application pursuant to section 32-312.04 and submit it

1 to the election commissioner or county clerk as provided in and prior
2 to the deadline prescribed by section 32-302 or 32-321.

3 Sec. 2. Section 32-329, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

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

10 (a) The name of each registered voter appears in the
11 computerized list;

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

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

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

1 voted for any length of time.

2 (3) When an election commissioner or county clerk
3 receives information from the National Change of Address program of
4 the United States Postal Service that a registered voter has moved
5 from the address at which he or she is registered to vote, the
6 election commissioner or county clerk shall update the voter
7 registration register to indicate that the voter may have moved and
8 mail a confirmation notice by forwardable first-class mail. If a
9 nonforwardable notice under subdivision (2)(b) of this section is
10 returned as undeliverable, the election commissioner or county clerk
11 shall mail a confirmation notice by forwardable first-class mail. ~~The~~
12 Any confirmation notice mailed pursuant to this subsection shall
13 include a confirmation letter and a preaddressed, postage-paid
14 confirmation card. The confirmation letter shall contain statements
15 substantially as follows:

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

19 (b) If you have not moved or you have moved to a new
20 residence within this ~~county, state,~~ you should return the enclosed
21 confirmation card by the regular registration deadline prescribed in
22 section 32-302. If you fail to return the card by the deadline, you
23 will be required to affirm or confirm your address prior to being
24 allowed to vote. If you are required to affirm or confirm your
25 address, it may result in a delay at your polling place; and

1 (c) If you have moved out of the ~~county, state,~~ you must
2 ~~reregister~~ comply with the law of your state of residence to be
3 eligible to vote. ~~This can be accomplished by mail or in person. For~~
4 ~~further information, contact your local election commissioner or~~
5 ~~county clerk.~~

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

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

19 Sec. 3. Section 32-915, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 32-915 (1) A person whose name does not appear on the
22 precinct list of registered voters at the polling place for the
23 precinct in which he or she resides, whose name appears on the
24 precinct list of registered voters at the polling place for the
25 precinct in which he or she resides at a different residence address

1 as described in section 32-914.02, or whose name appears with a
2 notation that he or she received a ballot for early voting may vote a
3 provisional ballot if he or she:

4 (a) Claims that he or she is a registered voter who has
5 continuously resided in ~~the county in which the precinct is located~~
6 Nebraska since registering to vote;

7 (b) Is not entitled to vote under section 32-914.01 or
8 32-914.02;

9 (c) Has not registered to vote or voted in ~~any other~~
10 county another state since registering to vote in ~~the county in which~~
11 ~~the precinct is located;~~ Nebraska;

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

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

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

23 (3) Each person voting by provisional ballot shall
24 enclose his or her ballot in an envelope marked Provisional Ballot
25 and shall, by signing the certification on the front of the envelope

1 or a separate form attached to the envelope, certify to the following
2 facts:

3 (a) I am a registered voter in ~~.....County;~~
4 Nebraska;

5 (b) My name or address did not correctly appear on the
6 precinct list of registered voters;

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

9 (d) I registered to vote
10 in person at the election office or a voter
11 registration site,
12 by mail,
13 on a form through the Department of Motor Vehicles,
14 on a form through another state agency,
15 in some other way;

16 (e) I have not resided outside of ~~this county-Nebraska~~ or
17 voted outside of ~~this county-Nebraska~~ since registering to vote in
18 ~~this county;~~ Nebraska;

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

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

24 (4) The voter shall sign the certification under penalty
25 of election falsification. The following statements shall be on the

1 front of the envelope or on the attached form: By signing the front
2 of this envelope or the attached form you are certifying to the
3 information contained on this envelope or the attached form under
4 penalty of election falsification. Election falsification is a Class
5 IV felony and may be punished by up to five years imprisonment, a
6 fine of up to ten thousand dollars, or both.

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

13 (6) If (a) the person's name does not appear on the
14 precinct list of registered voters for the polling place, (b) the
15 judge or clerk of election determines that according to the person's
16 residence address, the voter is in the correct polling place, and (c)
17 the person indicates that he or she is registered to vote in another
18 county in Nebraska, the person shall present a photographic
19 identification which is current and valid or a copy of a utility
20 bill, bank statement, government check, paycheck, or other government
21 document which is dated within the sixty days immediately prior to
22 the date of presentation and which shows the same name and residence
23 address of the person provided on the registration application in
24 order to vote a provisional ballot.

25 Sec. 4. Section 32-929, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-929 If a person is challenged on the ground that he or
3 she is not a resident of this state, the county, or the precinct, the
4 person shall answer the following questions on the form provided by
5 the election commissioner or county clerk:

6 Do you have a residence in this state: Yes or No?

7 Do you have a residence in this county: Yes or No?

8 Do you have a residence in this precinct: Yes or No?

9 If a person has moved from one residence to another
10 within the precinct in which he or she is registered to vote, such
11 voter shall be entitled to vote as provided in section 32-914.02. If
12 a person has moved out of the precinct in which he or she is
13 registered to vote in Nebraska and has moved from one residence to
14 another within ~~the county in which he or she is registered to vote,~~
15 Nebraska, such voter shall be entitled to vote a provisional ballot
16 as provided in section 32-915.

17 Sec. 5. Section 32-933, Revised Statutes Supplement,
18 2013, is amended to read:

19 32-933 (1) Any person listed in this subsection shall be
20 eligible as a new resident to vote for President and Vice President
21 of the United States at the statewide general election but for no
22 other offices: ~~(a)~~ Any citizen of the United States who is at least
23 the constitutionally prescribed age of a voter and who comes into
24 Nebraska after the voter registration period is closed pursuant to
25 section 32-302 for the purpose of making Nebraska his or her place of

1 residence. ~~;~~ and

2 ~~(b) Any registered voter who moves from one county to~~
3 ~~another county within Nebraska after the close of the voter~~
4 ~~registration period.~~

5 (2) Any registered voter who moves from Nebraska to
6 another state or to the District of Columbia for the purpose of
7 making such new location his or her place of residence after the
8 close of the voter registration period for such location shall be
9 eligible as a former resident to vote for President and Vice
10 President of the United States at the statewide general election but
11 for no other offices.

12 (3) Any person described in subsection (1) of this
13 section shall cast his or her ballot in the office of the election
14 commissioner or county clerk at any time between the close of the
15 voter registration period and the close of the polls on election day.
16 Such ballots shall be available after the close of the voter
17 registration period. Ballots for former residents under subsection
18 (2) of this section shall be available thirty days prior to the
19 election. The ballots may be voted in the office of the election
20 commissioner or county clerk at any time between thirty days prior to
21 the election and the close of the polls on election day, or the
22 ballots may be mailed to the office and counted if they arrive before
23 the close of the polls on election day.

24 Sec. 6. Section 32-935, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 32-935 The election commissioner or county clerk shall
2 immediately mail the duplicate of the affidavit described in section
3 32-934 to the appropriate official of the state ~~or county in Nebraska~~
4 in which the applicant last resided. Upon receipt, the election
5 commissioner or county clerk shall file each duplicate application or
6 other official information from another state ~~or county in Nebraska~~
7 or the District of Columbia indicating that a former resident of this
8 state ~~or county in Nebraska~~ has made application to vote at a
9 presidential election in another state ~~or county in Nebraska~~ or the
10 District of Columbia and shall maintain an alphabetical index of such
11 information for a period of twenty-two months after the election.

12 Sec. 7. Section 32-936, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 32-936 If satisfied that the application is proper and
15 that the applicant is qualified to vote under section 32-933, the
16 election commissioner or county clerk shall deliver to the applicant
17 a ballot for President and Vice President of the United States. After
18 voting the ballot, the voter shall securely seal the ballot in an
19 envelope furnished by the election commissioner or county clerk. On
20 the back of the envelope shall be imprinted a statement substantially
21 as follows:

22 Certification of New (or Former) Resident Voter

23 I have qualified as a new (or former) resident voter in
24 this state, ~~or county.~~ I have not applied nor do I intend to apply
25 for a ballot for early voting from the state, ~~county in Nebraska,~~ or

1 District of Columbia from which or to which I have moved. I have not
2 voted and I will not vote otherwise than by this ballot.

3 The voter shall sign and date the certification upon the
4 envelope. The election commissioner or county clerk shall keep the
5 envelope in his or her office until delivered by him or her to the
6 counting board under section 32-1027.

7 Sec. 8. Section 32-1002, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 32-1002 (1) As the ballots are removed from the ballot
10 box pursuant to sections 32-1012 to 32-1018, the receiving board
11 shall separate the envelopes containing the provisional ballots from
12 the rest of the ballots and deliver them to the election commissioner
13 or county clerk.

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

18 (3) The election commissioner or county clerk shall also
19 (a) verify that such person has not voted anywhere else in ~~the county~~
20 Nebraska or been issued a ballot for early voting, (b) investigate
21 whether any credible evidence exists that the person was properly
22 registered to vote in ~~the county~~ Nebraska before the deadline for
23 registration for the election, (c) investigate whether any
24 information has been received pursuant to section 32-309, 32-310, or
25 32-324 that the person has resided, registered, or voted in any other

1 ~~county or state~~ since registering to vote in ~~the county, Nebraska,~~
2 and (d) upon determining that credible evidence exists that the
3 person was properly registered to vote in ~~the county, Nebraska,~~ make
4 the appropriate changes to the voter registration register by
5 entering the information contained in the registration application
6 completed by the voter at the time of voting a provisional ballot.

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

9 (a) Credible evidence exists that the voter was properly
10 registered in ~~the county Nebraska~~ before the deadline for
11 registration for the election;

12 (b) The voter has resided in ~~the county Nebraska~~
13 continuously since registering to vote in ~~the county; Nebraska;~~

14 (c) The voter has not voted anywhere else in ~~the county~~
15 Nebraska or has not otherwise voted early using a ballot for early
16 voting;

17 (d) The voter has completed a registration application
18 prior to voting as prescribed in subsection (6) of this section and:

19 (i) The residence address provided on the registration
20 application completed pursuant to subdivision (1)(e) of section
21 32-915 is located within the precinct in which the person voted; and

22 (ii) If the voter is voting in a primary election, the
23 party affiliation provided on the registration application completed
24 prior to voting the provisional ballot is the same party affiliation
25 that appears on the voter's voter registration record based on his or

1 her previous registration application; ~~and~~

2 (e) The certification on the front of the envelope or
3 form attached to the envelope is in the proper form and signed by the
4 voter; ~~and -~~

5 (f) The person provided identification if required under
6 subsection (6) of section 32-915.

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

9 (a) The voter was not properly registered in ~~the county~~
10 Nebraska before the deadline for registration for the election;

11 (b) Information has been received pursuant to section
12 32-309, 32-310, or 32-324 that the voter has resided, registered, or
13 voted in ~~any other county or another~~ state since registering to vote
14 in ~~the county in which he or she cast the provisional ballot;~~
15 Nebraska;

16 (c) Credible evidence exists that the voter has voted
17 elsewhere or has otherwise voted early;

18 (d) The voter failed to complete and sign a registration
19 application pursuant to subsection (6) of this section and
20 subdivision (1)(e) of section 32-915;

21 (e) The residence address provided on the registration
22 application completed pursuant to subdivision (1)(e) of section
23 32-915 is ~~in a different county or~~ in a different precinct than the
24 ~~county or~~ precinct in which the voter voted;

25 (f) If the voter is voting in a primary election, the

1 party affiliation on the registration application completed prior to
2 voting the provisional ballot is different than the party affiliation
3 that appears on the voter's voter registration record based on his or
4 her previous registration application; ~~or~~

5 (g) The voter failed to complete and sign the
6 certification on the envelope or form attached to the envelope
7 pursuant to subsection (3) of section 32-915; or -

8 (h) The person did not provide identification if required
9 under subsection (6) of section 32-915.

10 (6) An error or omission of information on the
11 registration application or the certification required under section
12 32-915 shall not result in the provisional ballot not being counted
13 if:

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

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

18 (b) Both the registration application and the
19 certification are signed by the voter.

20 (7) Upon determining that the voter's provisional ballot
21 is eligible to be counted, the election commissioner or county clerk
22 shall remove the ballot from the envelope without exposing the marks
23 on the ballot and shall place the ballot with the ballots to be
24 counted by the county canvassing board.

25 (8) The election commissioner or county clerk shall

1 notify the system administrator of the system created pursuant to
2 section 32-202 as to whether the ballot was counted and, if not, the
3 reason the ballot was not counted.

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

6 Sec. 9. Section 32-1530, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 32-1530 Any person who votes (1) who is not a resident of
9 this state or registered in ~~the county~~ this state or who at the time
10 of election is not of the constitutionally prescribed age of a
11 registered voter, (2) who is not a citizen of the United States, or
12 (3) after being disqualified by law by reason of his or her
13 conviction of a felony and prior to the end of the two-year period
14 after completing the sentence, including any parole term, shall be
15 guilty of a Class IV felony.

16 Sec. 10. Section 32-1532, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-1532 Any person who procures, aids, assists, counsels,
19 or advises another to give his or her vote, knowing that such other
20 person is not a resident of this state or a registered voter of ~~the~~
21 ~~county~~ this state as required by law at the time of election, is not
22 of the constitutionally prescribed age of a registered voter, is not
23 a citizen of the United States, or is not duly qualified as a result
24 of any other disability to vote at the place where and the time when
25 the vote is to be given shall be guilty of a Class IV felony.

1 Sec. 11. This act becomes operative on January 1, 2015.

2 Sec. 12. Original sections 32-314, 32-929, 32-935,
3 32-936, 32-1530, and 32-1532, Reissue Revised Statutes of Nebraska,
4 sections 32-329, 32-915, and 32-1002, Revised Statutes Cumulative
5 Supplement, 2012, and section 32-933, Revised Statutes Supplement,
6 2013; are repealed.