

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 415

Introduced by Friesen, 34.

Read first time January 18, 2019

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to recall elections; to amend sections 32-571,
2 32-628, 32-1206, 49-1405, and 49-1409, Reissue Revised Statutes of
3 Nebraska; to eliminate recall provisions for political subdivisions;
4 to harmonize provisions; to repeal the original sections; and to
5 outright repeal sections 31-786, 31-787, 31-788, 31-789, 31-790,
6 31-791, 31-792, 31-793, 32-1205, 32-1301, 32-1302, 32-1304, 32-1305,
7 32-1306, 32-1307, 32-1308, and 32-1309, Reissue Revised Statutes of
8 Nebraska, and section 32-1303, Revised Statutes Cumulative
9 Supplement, 2018.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-571, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 32-571 Appointments made pursuant to sections 32-565 to 32-570 and
4 32-573 shall be in writing and shall continue for the unexpired term and
5 until a successor is elected and qualified except as otherwise provided
6 in such sections. The written appointment shall be filed with the
7 Secretary of State or county or township clerk. No person shall be
8 appointed to fill a vacancy unless he or she has the qualifications
9 required to be elected to such office at the time of the appointment
10 unless otherwise specifically provided. ~~Appointments made to fill~~
11 ~~vacancies created as the result of the recall process shall be subject to~~
12 ~~subsection (5) of section 32-1308.~~

13 Sec. 2. Section 32-628, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 32-628 (1) All petitions prepared or filed pursuant to the Election
16 Act or any petition which requires the election commissioner or county
17 clerk to verify signatures by utilizing the voter registration register
18 shall provide a space at least two and one-half inches long for written
19 signatures, a space at least two inches long for printed names, and
20 sufficient space for date of birth and street name and number, city or
21 village, and zip code. Lines on each petition shall not be less than one-
22 fourth inch apart. Petitions may be designed in such a manner that lines
23 for signatures and other information run the length of the page rather
24 than the width. Petitions shall provide for no more than twenty
25 signatures per page.

26 (2) For the purpose of preventing fraud, deception, and
27 misrepresentation, every sheet of every petition containing signatures
28 shall have upon it, above the signatures, the statements contained in
29 this subsection, ~~except that a petition for recall of an elected official~~
30 ~~shall also have the additional information specified in subsection (2) of~~
31 ~~section 32-1304.~~ The statements shall be printed in boldface type in

1 substantially the following form:

2 WARNING TO PETITION SIGNERS—VIOLATION OF ANY OF THE FOLLOWING
3 PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any
4 person who signs any name other than his or her own to any petition or
5 who is not qualified to sign the petition shall be guilty of a Class I
6 misdemeanor. Any person who falsely swears to a circulator's affidavit on
7 a petition, who accepts money or other things of value for signing a
8 petition, or who offers money or other things of value in exchange for a
9 signature upon any petition shall be guilty of a Class IV felony.

10 (3) Every sheet of a petition which contains signatures shall have
11 upon it, below the signatures, an affidavit as provided in this
12 subsection, ~~except that the affidavit for a petition for recall of an~~
13 ~~elected official shall also include the additional language specified in~~
14 ~~subsection (3) of section 32-1304.~~ The affidavit shall be in
15 substantially the following form:

16 STATE OF NEBRASKA)

17)ss.

18 COUNTY OF)

19, (name of circulator) being first duly
20 sworn, deposes and says that he or she is the circulator of this petition
21 containing signatures, that he or she is at least eighteen
22 years of age, that each person whose name appears on the petition
23 personally signed the petition in the presence of the affiant, that the
24 date to the left of each signature is the correct date on which the
25 signature was affixed to the petition and that the date was personally
26 affixed by the person signing such petition, that the affiant believes
27 that each signer has written his or her name, street and number or voting
28 precinct, and city, village, or post office address correctly, that the
29 affiant believes that each signer was qualified to sign the petition, and
30 that the affiant stated to each signer the object of the petition as
31 printed on the petition before he or she affixed his or her signature to

1 the petition.

2 Circulator

3 Address

4 Subscribed and sworn to before me, a notary public, this day
5 of 20.... at, Nebraska.

6 Notary Public

7 (4) Each sheet of a petition shall have upon its face and in plain
8 view of persons who sign the petition a statement in letters not smaller
9 than sixteen-point type in red print on the petition. If the petition is
10 circulated by a paid circulator, the statement shall be as follows: This
11 petition is circulated by a paid circulator. If the petition is
12 circulated by a circulator who is not being paid, the statement shall be
13 as follows: This petition is circulated by a volunteer circulator.

14 Sec. 3. Section 32-1206, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 32-1206 Any election not otherwise provided for in sections 32-1203
17 and 32-1204 ~~to 32-1205~~ which is conducted by the election commissioner or
18 county clerk shall be paid for by the entity holding the election.

19 Sec. 4. Section 49-1405, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 49-1405 (1) Ballot question shall mean any question which is
22 submitted or which is intended to be submitted to a popular vote at an
23 election, including, but not limited to, a question submitted or intended
24 to be submitted by way of initiative, referendum, ~~recall~~, or judicial
25 retention, whether or not it qualifies for the ballot.

26 (2) Ballot question shall also mean any question which has been
27 submitted to a popular vote at an election as a result of legislative
28 action or adoption of a resolution by a political subdivision to place an
29 issue or issues on the ballot.

30 Sec. 5. Section 49-1409, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 49-1409 (1) Candidate shall mean an individual: (a) Who files, or on
2 behalf of whom is filed, a fee, affidavit, nomination papers, or
3 nominating petition for an elective office; (b) whose nomination as a
4 candidate for elective office by a political party caucus, committee, or
5 convention is certified to the appropriate filing official; or (c) ~~who is~~
6 ~~an officeholder who is the subject of a recall vote; or~~ (d) who receives
7 a contribution, makes an expenditure, or gives consent for another person
8 to receive a contribution or make an expenditure with a view to bringing
9 about the individual's nomination or election to an elective office,
10 whether or not the specific elective office for which the individual will
11 seek nomination or election is known at the time the contribution is
12 received or the expenditure is made. An elected officeholder shall, if
13 eligible under law, be considered to be a candidate for reelection to
14 that same office for the purposes of the Nebraska Political
15 Accountability and Disclosure Act only.

16 (2) Candidate shall not include any individual who is a candidate
17 within the meaning of the Federal Election Campaign Act of 1971, 2 U.S.C.
18 431, as such section existed on January 1, 2006.

19 Sec. 6. Original sections 32-571, 32-628, 32-1206, 49-1405, and
20 49-1409, Reissue Revised Statutes of Nebraska, are repealed.

21 Sec. 7. The following sections are outright repealed: Sections
22 31-786, 31-787, 31-788, 31-789, 31-790, 31-791, 31-792, 31-793, 32-1205,
23 32-1301, 32-1302, 32-1304, 32-1305, 32-1306, 32-1307, 32-1308, and
24 32-1309, Reissue Revised Statutes of Nebraska, and section 32-1303,
25 Revised Statutes Cumulative Supplement, 2018.