

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 383**

Introduced by Hansen, 26.

Read first time January 16, 2015

Committee:

1 A BILL FOR AN ACT relating to elections; to amend sections 32-202,  
2 32-314, 32-929, 32-935, 32-936, 32-1530, and 32-1532, Reissue  
3 Revised Statutes of Nebraska, and sections 32-329, 32-915, 32-933,  
4 and 32-1002, Revised Statutes Cumulative Supplement, 2014; to  
5 provide duties for the Secretary of State; to change provisions  
6 relating to voter registration and provisional ballots; to authorize  
7 provisional ballots for registered voters changing residence within  
8 Nebraska; to harmonize provisions; to provide an operative date; and  
9 to repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-202, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 32-202 In addition to any other duties prescribed by law, the  
4 Secretary of State shall:

5 (1) Supervise the conduct of primary and general elections in this  
6 state;

7 (2) Provide training for election commissioners, county clerks, and  
8 other election officials in providing for registration of voters and the  
9 conduct of elections;

10 (3) Enforce the Election Act;

11 (4) With the assistance and advice of the Attorney General, make  
12 uniform interpretations of the act;

13 (5) Provide periodic training for the agencies and their agents and  
14 contractors in carrying out their duties under sections 32-308 to 32-310;

15 (6) Develop and print forms for use as required by sections 32-308,  
16 32-310, 32-320, 32-329, 32-947, 32-956, and 32-958;

17 (7) Contract with the Department of Administrative Services for  
18 storage and distribution of the forms;

19 (8) Require reporting to ensure compliance with sections 32-308 to  
20 32-310;

21 (9) Prepare and transmit reports as required by the National Voter  
22 Registration Act of 1993, 42 U.S.C. 1973gg et seq.;

23 (10) Develop and print a manual describing the requirements of the  
24 initiative and referendum process and distribute the manual to election  
25 commissioners and county clerks for distribution to the public upon  
26 request;

27 (11) Develop and print pamphlets described in section 32-1405.01;

28 (12) Adopt and promulgate rules and regulations for elections  
29 conducted under sections 32-952 to 32-959; ~~and~~

30 (13) Adopt and promulgate rules and regulations establishing  
31 procedures for election commissioners and county clerks to (a) verify

1 that a person voting by provisional ballot has not voted anywhere else in  
2 Nebraska or been issued a ballot for early voting, (b) investigate  
3 whether any credible evidence exists that the person was properly  
4 registered to vote in Nebraska before the deadline for registration for  
5 the election, (c) investigate whether any information has been received  
6 pursuant to section 32-308, 32-309, 32-310, or 32-324 that the person has  
7 resided, registered, or voted in any other state since registering to  
8 vote in Nebraska, and (d) upon determining that credible evidence exists  
9 that the person was properly registered to vote in Nebraska, make the  
10 appropriate changes to the voter registration register by entering the  
11 information contained in the registration application completed by the  
12 voter at the time of voting a provisional ballot; and

13 (14 13) Establish a free access system, such as a toll-free  
14 telephone number or an Internet web site, that any voter who casts a  
15 provisional ballot may access to discover whether the vote of that voter  
16 was counted and, if the vote was not counted, the reason that the vote  
17 was not counted. The Secretary of State shall establish and maintain  
18 reasonable procedures necessary to protect the security, confidentiality,  
19 and integrity of personal information collected, stored, or otherwise  
20 used by the free access system. Access to information about an individual  
21 provisional ballot shall be restricted to the individual who cast the  
22 ballot.

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

25 32-314 (1) Any person who goes going into another territory or state  
26 and registers registering to vote or votes voting in that territory or  
27 state shall lose his or her eligibility to vote in this state. Any person  
28 who goes going into another county of this state and registers  
29 registering to vote or votes voting in that county shall lose his or her  
30 eligibility to vote in the county where he or she was registered except  
31 as provided in subsection (2) of this section.

1           (2) A registered voter who changes his or her residence in the state  
2 ~~one county~~ to a different residence address ~~in a different county~~ in the  
3 state and has retained legal residence in the state since the date of his  
4 or her last registration shall register again or update his or her voter  
5 registration record ~~in order~~ to avoid additional requirements at the time  
6 of voting as provided in sections 32-914 and 32-915 and may be entitled  
7 to vote pursuant to section 32-914.02 or 32-915 ~~be eligible to vote.~~

8           (3) A registered voter who changes his or her name ~~or residence~~  
9 ~~within the county~~ and has retained the same legal residence in the county  
10 since the date of his or her last registration shall register again or  
11 update his or her voter registration record to avoid additional  
12 requirements at the time of voting as provided in section ~~sections~~ 32-914  
13 ~~and 32-915~~ and may be entitled to vote pursuant to section 32-914.01,  
14 ~~32-914.02, or 32-915.~~

15           (4) A registered voter who wants to change his or her party  
16 affiliation for purposes of a primary election shall complete a  
17 registration application pursuant to section 32-312.04 and submit it to  
18 the election commissioner or county clerk as provided in and prior to the  
19 deadline prescribed by section 32-302 or 32-321.

20           Sec. 3. Section 32-329, Revised Statutes Cumulative Supplement,  
21 2014, is amended to read:

22           32-329 (1) The Secretary of State with the assistance of the  
23 election commissioners and county clerks shall perform list maintenance  
24 with respect to the computerized statewide voter registration list on a  
25 regular basis. The list maintenance shall be conducted in a manner that  
26 ensures that:

27           (a) The name of each registered voter appears in the computerized  
28 list;

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

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

1           (2) The election commissioner or county clerk shall verify the voter  
2 registration register by using (a) the National Change of Address program  
3 of the United States Postal Service and a confirmation notice pursuant to  
4 subsection (3) of this section or (b) the biennial mailing of a  
5 nonforwardable notice to each registered voter. The Secretary of State  
6 shall provide biennial training for the election commissioners and county  
7 clerks responsible for maintaining voter registration lists. No name  
8 shall be removed from the voter registration register for the sole reason  
9 that such person has not voted for any length of time.

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

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

26           (b) If you have not moved or you have moved to a new residence  
27 within this state ~~county~~, you should return the enclosed confirmation  
28 card by the regular registration deadline prescribed in section 32-302.  
29 If you fail to return the card by the deadline, you will be required to  
30 affirm or confirm your address prior to being allowed to vote. If you are  
31 required to affirm or confirm your address, it may result in a delay at

1 your polling place and you may have to vote a provisional ballot; and

2 (c) If you have moved out of the state county, you must comply with  
3 the law of your state of residence ~~reregister~~ to be eligible to vote.

4 ~~This can be accomplished by mail or in person. For further information,~~  
5 ~~contact your local election commissioner or county clerk.~~

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

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

18 Sec. 4. Section 32-915, Revised Statutes Cumulative Supplement,  
19 2014, is amended to read:

20 32-915 (1) A person whose name does not appear on the precinct list  
21 of registered voters at the polling place for the precinct in which he or  
22 she resides, whose name appears on the precinct list of registered voters  
23 at the polling place for the precinct in which he or she resides at a  
24 different residence address as described in section 32-914.02, or whose  
25 name appears with a notation that he or she received a ballot for early  
26 voting may vote a provisional ballot if he or she:

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

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

31 (c) Has not registered to vote or voted in another state ~~any other~~

1 county since registering to vote in Nebraska ~~the county in which the~~  
2 ~~precinct is located;~~

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

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

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

12 (3) Each person voting by provisional ballot shall enclose his or  
13 her ballot in an envelope marked Provisional Ballot and shall, by signing  
14 the certification on the front of the envelope or a separate form  
15 attached to the envelope, certify to the following facts:

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

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

19 (c) I registered to vote on or about this date .....

20 (d) I registered to vote  
21 .... in person at the election office or a voter registration site,  
22 .... by mail,  
23 .... by using the Secretary of State's web site,  
24 .... through the Department of Motor Vehicles,  
25 .... on a form through another state agency,  
26 .... in some other way;

27 (e) I have not resided outside of Nebraska ~~this county~~ or voted  
28 outside of Nebraska ~~this county~~ since registering to vote in Nebraska  
29 ~~this county;~~

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

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

3 (4) The voter shall sign the certification under penalty of election  
4 falsification. The following statements shall be on the front of the  
5 envelope or on the attached form: By signing the front of this envelope  
6 or the attached form you are certifying to the information contained on  
7 this envelope or the attached form under penalty of election  
8 falsification. Election falsification is a Class IV felony and may be  
9 punished by up to five years imprisonment, a fine of up to ten thousand  
10 dollars, or both.

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

16 Sec. 5. Section 32-929, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 32-929 If a person is challenged on the ground that he or she is not  
19 a resident of this state, the county, or the precinct, the person shall  
20 answer the following questions on the form provided by the election  
21 commissioner or county clerk:

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

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

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

25 If a person has moved from one residence to another within the  
26 precinct in which he or she is registered to vote, such voter shall be  
27 entitled to vote as provided in section 32-914.02. If a person has moved  
28 out of the precinct in which he or she is registered to vote in Nebraska  
29 and has moved from one residence to another within Nebraska ~~the county in~~  
30 ~~which he or she is registered to vote~~, such voter shall be entitled to  
31 vote a provisional ballot as provided in section 32-915.



1           Sec. 6. Section 32-933, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3           32-933 (1) A Any person ~~listed in this subsection~~ shall be eligible  
4 as a new resident to vote for President and Vice President of the United  
5 States at the statewide general election but for no other offices if he  
6 or she is a ÷

7 ~~(a) Any citizen of the United States who is at least the constitutionally~~  
8 ~~prescribed age of a voter and who comes into Nebraska after the voter~~  
9 ~~registration period is closed pursuant to section 32-302 for the purpose~~  
10 ~~of making Nebraska his or her place of residence. ÷ and~~

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

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

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

30           Sec. 7. Section 32-935, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

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

12           Sec. 8. Section 32-936, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

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

21           Certification of New (or Former) Resident Voter

22           I have qualified as a new (or former) resident voter in this state  
23 ~~or county~~. I have not applied nor do I intend to apply for a ballot for  
24 early voting from the state, ~~county in Nebraska,~~ or District of Columbia  
25 from which or to which I have moved. I have not voted and I will not vote  
26 otherwise than by this ballot.

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

31           Sec. 9. Section 32-1002, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 32-1002 (1) As the ballots are removed from the ballot box pursuant  
3 to sections 32-1012 to 32-1018, the receiving board shall separate the  
4 envelopes containing the provisional ballots from the rest of the ballots  
5 and deliver them to the election commissioner or county clerk.

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

10 (3) The election commissioner or county clerk shall, in accordance  
11 with the procedures established by the Secretary of State, ~~also~~ (a)  
12 verify that a such person voting by provisional ballot has not voted  
13 anywhere else in Nebraska ~~the county~~ or been issued a ballot for early  
14 voting, (b) investigate whether any credible evidence exists that the  
15 person was properly registered to vote in Nebraska ~~the county~~ before the  
16 deadline for registration for the election, (c) investigate whether any  
17 information has been received pursuant to section 32-308, 32-309, 32-310,  
18 or 32-324 that the person has resided, registered, or voted in any other  
19 ~~county or~~ state since registering to vote in Nebraska ~~the county~~, and (d)  
20 upon determining that credible evidence exists that the person was  
21 properly registered to vote in Nebraska ~~the county~~, make the appropriate  
22 changes to the voter registration register by entering the information  
23 contained in the registration application completed by the voter at the  
24 time of voting a provisional ballot.

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

27 (a) Credible evidence exists that the voter was properly registered  
28 in Nebraska ~~the county~~ before the deadline for registration for the  
29 election;

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

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

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

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

8 (ii) If the voter is voting in a primary election, the party  
9 affiliation provided on the registration application completed prior to  
10 voting the provisional ballot is the same party affiliation that appears  
11 on the voter's voter registration record based on his or her previous  
12 registration application; and

13 (e) The certification on the front of the envelope or form attached  
14 to the envelope is in the proper form and signed by the voter.

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

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

19 (b) Information has been received pursuant to section 32-308,  
20 32-309, 32-310, or 32-324 that the voter has resided, registered, or  
21 voted in another ~~any other county or~~ state since registering to vote in  
22 Nebraska ~~the county in which he or she cast the provisional ballot;~~

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

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

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

1 (f) If the voter is voting in a primary election, the party  
2 affiliation on the registration application completed prior to voting the  
3 provisional ballot is different than the party affiliation that appears  
4 on the voter's voter registration record based on his or her previous  
5 registration application; or

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

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

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

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

16 (b) Both the registration application and the certification are  
17 signed by the voter.

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

23 (8) The election commissioner or county clerk shall notify the  
24 system administrator of the system created pursuant to section 32-202 as  
25 to whether the ballot was counted and, if not, the reason the ballot was  
26 not counted.

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

29 Sec. 10. Section 32-1530, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 32-1530 Any person who votes (1) who is not a resident of this state

1 or registered in this state ~~the county~~ or who at the time of election is  
2 not of the constitutionally prescribed age of a registered voter, (2) who  
3 is not a citizen of the United States, or (3) after being disqualified by  
4 law by reason of his or her conviction of a felony and prior to the end  
5 of the two-year period after completing the sentence, including any  
6 parole term, shall be guilty of a Class IV felony.

7 Sec. 11. Section 32-1532, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 32-1532 Any person who procures, aids, assists, counsels, or advises  
10 another to give his or her vote, knowing that such other person is not a  
11 resident of this state or a registered voter of this state ~~the county~~ as  
12 required by law at the time of election, is not of the constitutionally  
13 prescribed age of a registered voter, is not a citizen of the United  
14 States, or is not duly qualified as a result of any other disability to  
15 vote at the place where and the time when the vote is to be given shall  
16 be guilty of a Class IV felony.

17 Sec. 12. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 14 of this  
18 act become operative on January 1, 2016. The other sections of this act  
19 become operative on their effective date.

20 Sec. 13. Original section 32-202, Reissue Revised Statutes of  
21 Nebraska, is repealed.

22 Sec. 14. Original sections 32-314, 32-929, 32-935, 32-936, 32-1530,  
23 and 32-1532, Reissue Revised Statutes of Nebraska, and sections 32-329,  
24 32-915, 32-933, and 32-1002, Revised Statutes Cumulative Supplement,  
25 2014, are repealed.