

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 746**

Introduced by Avery, 28.

Read first time January 09, 2014

Committee:

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.