

Election Statute Navigator: Nebraska

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of October 19, 2020. Please contact elect@wm.edu with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link: <https://ebenchmark.org/nebraska/covid/#tracker>.

Voter Registration

- Voter Registration Deadline
 - Primary: Monday, April 27, 2020
 - General: Friday, October 16, 2020
 - In the Election Office by Friday, October 23, 2020 by 6:00 PM CDT
 - [See Official Nebraska Registration Website](#)
- Online registration available **LB 661**
 - [See Official Nebraska Registration Website](#)
- Registration via mail available
 - [See Official Nebraska Registration Website](#)
- In-Person registration available **§ 32-311.01; § 32-312.05**
 - Locations: election commissioner or county clerk
- Automatic Voter Registration
 - Participating Agencies: DMV
 - [See Official Nebraska Registration Website](#)
- Preregistration allowed **§ 32-110**
 - 18 by the election
 - Elector shall mean a citizen of the United States whose residence is within the state and who is at least eighteen years of age or is seventeen years of age and will attain the age of eighteen years on or before the first Tuesday after the first Monday in November of the then current calendar year.
- Residency requirement
 - [See Official Nebraska Registration Website](#)
 - **§ 32-946:** Register Voter without residence address
- Prior conviction eligibility – See state code for specifics: **§ 32-313**
- Voters judged mentally incompetent or under guardianship for a mental disability cannot vote **§ 32-312; § 32-313(1)**
 - A person judged “mentally incompetent” by a court is disqualified from voting, unless the finding is reversed, and civil rights are restored.
 - Guardianship is not a determination of “legal incompetence.”
- Voter list maintenance guidelines **§ 32-329**

State Absentee, Early, and Mail Voting

- Early voting allowed **§ 32-808; § 32-938; § 32-942**
 - 30 days before an election – Election Day at the county clerk or election commissioners' offices
- No-excuse absentee voting **§ 32-938**
- Absentee ballot application is verified **§ 32-947**
- Someone other than the voter can return an absentee or mail ballot on behalf of the voter **§ 32-943**
- Deadline by which election official must receive absentee/mailed ballots **§ 32-950**
- Absentee/Mail ballot processing and counting procedures **§ 32-1027**
- Spoiling ballot restrictions **§ 32-917; § 32-949.01**

In-Person Voter ID

- No document required to vote **§ 32-912; § 32-913**

Provisional Voting

- Provisional ballot availability **§ 32-915**
 - Voter eligibility cannot be immediately established—i.e., name is not on registration list
 - Voter did not present ID as required by the state
 - Voter requested an absentee ballot and has not cast it
- Time allotted to determine the status of provisional ballot **§ 32-1002**
 - The verification and investigation shall be completed within seven days after the election.
- Provisional ballot rejection reasons: **§ 32-1002(5)**
 - The voter is not registered
 - Already voted in county or elsewhere
 - The voter failed to complete and sign a registration application
 - Residence on registration is in a different county or in a different precinct
 - Party affiliation on the registration application completed prior to voting the provisional ballot is different than the party affiliation that appears on the voter's voter registration record
 - Failed to complete and sign the certification on the envelope or attached form
- Method for informing voters whether provisional vote was counted **§ 32-202**

Polling Place

- Polling Place availability and requirements **§ 32-907; § 32-910**
- Electioneering or campaigning must not be closer than 200 feet to the entrance of the polling place **§ 32-1524(2)**

- Police presence **§ 32-924; § 32-925**
 - The election commissioner, county clerk, or city or village clerk may appoint or summon such police officers and sheriffs as may be necessary to maintain order at the election and enforce the Election Act. Except in counties having an election commissioner, if no police officer or sheriff is available, the judges of election may appoint one or more persons in writing to act as and have the powers of a police officer.
 - If any person conducts himself or herself in a noisy, riotous, or tumultuous manner at or about the polls so as to disturb the election or insults or abuses the precinct or district inspectors or judges or clerks of election and persists in such conduct after being warned to desist, any election commissioner, county clerk, inspector, judge of election, police officer, or sheriff shall arrest him or her without warrant and bring him or her before the county court. Such person shall be permitted to vote if he or she is a registered voter.

State Emergency Rules and How Elections are Affected

- Governor] can suspend regulatory statues prescribing the conduct of state business and issues orders (after declaring “election emergency”) **§ 81-829.40(6)(a)**
 - Secretary of State: The secretary of state’s office has developed Election Emergency Preparedness Guidelines that are distributed to local jurisdictions.

Counting Rules

- Voting system requirements **§ 32-816; § 32-1041**
 - Nebraska does not require post-election audits
 - Optical scanners and ballot marking devices are used statewide in Nebraska
- Counting procedures **§ 32-1012**

Contest/Protest, Recount Rules

- Candidate protesting **§ 32-1121**
 - If a candidate loses by more than the margins for an automatic recount the candidate may request a recount at the candidate’s expense. The request must be filed with the relevant filing officer no later than the 10th day after the relevant canvassing board concludes. If the recount determines that the candidate is the winner, the candidate is not required to pay.
- Contest filing guidelines **§ 32-1118**
 - An apparent losing candidate for state legislative office may request a recount with the Secretary of State no later than the 4th Monday after the election. The candidate must pay for the recount unless it changes the results of the election.
- Challenging a voter **§ 32-926; § 32-927**
- Automatic recount **§ 32-1119**
 - A recount (automatic) takes place where a candidate loses by 1% or less of the votes received by the candidate with the most votes where more than 500 votes are cast (2% where less than 500 votes cast). A recount for candidate who file with the Secretary of State takes place on the 5th Wednesday after the election.

- Contest/Protest recount **§ 32-1101**
 - (2) The election of any person to an elective office other than the Legislature, the location or relocation of a county seat, or any proposition submitted to a vote of the people may be contested:
 - (a) For misconduct, fraud, or corruption on the part of an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk sufficient to change the result;
 - (b) If the incumbent was not eligible to the office at the time of the election;
 - (c) If the incumbent has been convicted of a felony unless at the time of the election his or her civil rights have been restored;
 - (d) If the incumbent has given or offered to any voter or an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk any bribe or reward in money, property, or thing of value for the purpose of procuring his or her election;
 - (e) If illegal votes have been received or legal votes rejected at the polls sufficient to change the results;
 - (f) For any error of any board of canvassers in counting the votes or in declaring the result of the election if the error would change the result;
 - (g) If the incumbent is in default as a collector and custodian of public money or property; or
 - (h) For any other cause which shows that another person was legally elected.