

# Determining Presidential Candidate Inclusion for the May 2024 Primary Ballot

There are two methods by which presidential candidates are included on the primary ballot in Nebraska. Both processes are outlined in state statute as indicated below.

1. Nebraska Revised Statute 32-614 (see page 2) provides that the Secretary of State places candidates who are “generally advocated or recognized as candidates in national news media” on the Nebraska primary ballot. The Secretary of State’s decision typically occurs the second week of February during the election year.
2. In addition, an alternative petition process under §32-613 (see page 2) allows candidates to submit at least 100 signatures from registered voters of the appropriate political party from each of Nebraska’s three congressional districts. With sufficient signatures and the candidate’s consent, the candidate’s name is placed on the primary ballot.

For additional information or questions on presidential candidates’ names on the May 14, 2024 Nebraska primary ballot, please call (402) 471-2555 or email [sos.elect@nebraska.gov](mailto:sos.elect@nebraska.gov).

**32-614. President; petition candidates or advocated or recognized candidates; placing on ballot; affidavit of rejection of candidacy; purged candidate, when.**

The names of persons in the political party (1) who are presented by petition of their supporters to be party candidates for President of the United States or (2) who have been determined by the Secretary of State to be generally advocated or recognized as candidates in national news media throughout the United States shall be printed on the primary election ballot for the office of President of the United States. This section does not apply if the political party dissolves as provided in subsection (2) of section 32-720.

If a person does not want his or her name on the Nebraska primary election ballot, he or she shall, by March 10 of the presidential election year, execute and file an affidavit with the Secretary of State stating without qualification that he or she is not now and does not intend to become a candidate for office of President of the United States at the next presidential election in Nebraska or any other state. If a presidential candidate files such affidavit removing his or her name and subsequently becomes a presidential candidate in another state, the candidate's affidavit in Nebraska shall be purged and shall have no force and effect. The Secretary of State shall then place such candidate's name on the primary election ballot.

**32-613. President; nominating petition; consent of candidate required; form of petition.**

Any petition to place a person's name on the primary election ballot for President of the United States shall contain the names of not less than one hundred voters registered with the appropriate political party from each congressional district of the state, except that if the political party dissolves as provided in subsection (2) of section 32-720, the Secretary of State shall not accept a petition under this section. The name of the candidate for President shall be placed upon the ballot only when written consent of such person has been filed with the Secretary of State not less than sixty days before the primary election. The form of the petition shall comply with the requirements of section 32-628 and shall as nearly as possible conform to the form prescribed by the Secretary of State.

**CONSENT TO BE A PRESIDENTIAL CANDIDATE**

I, \_\_\_\_\_, consent to be a candidate  
(Name of Candidate)

in Nebraska for the office of President of the United States for the Primary Election

to be held on \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(Day) (Month) (Year)

\_\_\_\_\_  
(Signature of Presidential Candidate)

\_\_\_\_\_  
(Date)

# Presidential Candidates by Petition

(Revised 8/15/22)

## **32-613. President; nominating petition; consent of candidate required; form of petition.**

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**Source:** Laws 1994, LB 76, § 181; Laws 1997, LB 764, § 59; Laws 2014, LB1048, § 3.

## **32-614. President; petition candidates or advocated or recognized candidates; placing on ballot; affidavit of rejection of candidacy; purged candidate, when.**

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(1) who are presented by petition of their supporters to be party candidates for President of the United States or

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If a person does not want his or her name on the Nebraska primary election ballot, he or she shall, by March 10 of the presidential election year, execute and file an affidavit with the Secretary of State stating without qualification that he or she is not now and does not intend to become a candidate for office of President of the United States at the next presidential election in Nebraska or any other state. If a presidential candidate files such affidavit removing his or her name and subsequently becomes a presidential candidate in another state, the candidate's affidavit in Nebraska shall be purged and shall have no force and effect. The Secretary of State shall then place such candidate's name on the primary election ballot.

**Source:** Laws 1994, LB 76, § 182; Laws 1997, LB 764, § 60; Laws 2014, LB1048, § 4.

## **32-616. Nomination for general election; other methods.**

(1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in sections 32-617 to 32-621 or by nomination by political party convention or committee pursuant to section 32-627 or 32-710.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of section 32-625 and the candidate files for the office by petition as prescribed in sections 32-617 and 32-618, files as a write-in candidate as prescribed in section 32-615, or is nominated by political party convention or committee pursuant to section 32-627 or 32-710.

**Source:** Laws 1994, LB 76, § 184; Laws 1997, LB 764, § 61; Laws 2002, LB 251, § 5; Laws 2011, LB368, § 1; Laws 2011, LB449, § 6; Laws 2014, LB946, § 13.

**32-620. President and Vice President; candidates; certification; new political party; how treated; requirements; nonpartisan status; filing; application; contents.**

(1) Partisan candidates for the offices of President and Vice President of the United States on the general election ballot shall be certified to the Governor and Secretary of State by the national nominating convention as provided by law.

(2) Candidates for the offices of President and Vice President of the United States of newly established political parties may obtain general election ballot position by filing with the Secretary of State an application containing:

- (a) The name or names to be printed on the ballot;
- (b) The name of the political party;
- (c) The written consent of the designated vice-presidential candidate to have his or her name printed on the ballot; and
- (d) The names and addresses of the persons who will represent the applicant as presidential elector candidates together with the written consent of such persons to become candidates.

(3) Candidates for the offices of President and Vice President of the United States of nonpartisan status may obtain general election ballot position by filing with the Secretary of State:

- (a) An application containing:
  - (i) The name or names to be printed on the ballot;
  - (ii) The status of the candidacy as nonpartisan;
  - (iii) The written consent of the designated vice-presidential candidate to have his or her name printed on the ballot; and
  - (iv) The names and addresses of the persons who will represent the applicant as presidential elector candidates together with the written consent of such persons to become candidates; and

(b) A petition signed by not less than two thousand five hundred registered voters. Such petitions shall conform to the requirements of section 32-628 and shall be filed with the Secretary of State by August 1 in the year of the presidential general election.

**Source:** Laws 1994, LB 76, § 188; Laws 1997, LB 764, § 64; Laws 2013, LB349, § 3.

**Annotations**

- This statute is unconstitutional as relates to requirements for independent candidates for President and Vice President of United States. *MacBride v. Exon*, 558 F.2d 443 (8th Cir. 1977).
- Although Nebraska's statutes unconstitutionally deny an independent candidate access to appear on the ballot in presidential elections, the court directed the independent be included upon a determination he was a serious candidate, truly independent, with a satisfactory level of community support. *McCarthy v. Exon*, 424 F.Supp. 1143 (D. Neb. 1976).

**32-628. Petitions; requirements.**

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

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

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

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

STATE OF NEBRASKA )	
)	ss.
COUNTY OF ..... )	

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

Circulator .....  
 Address .....  
 Subscribed and sworn to before me, a notary public, this ..... day of ..... 20.... at ....., Nebraska.  
 Notary Public .....

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

**Source:** Laws 1994, LB 76, § 196; Laws 1995, LB 337, § 3; Laws 1997, LB 460, § 1; Laws 1999, LB 234, § 9; Laws 2002, LB 1054, § 18; Laws 2003, LB 444, § 5; Laws 2008, LB39, § 1; Laws 2012, LB759, § 1.

**Annotations**

- The portion of this section which reads "Any circulator circulating petitions under sections 32-702 to 32-713 shall not be hired and salaried for the express purpose of circulating petitions" violates the first amendment and is for that reason void and of no force or effect. *State v. Radcliffe*, 228 Neb. 868, 424 N.W.2d 608 (1988).
- Where actual and exact date on which the signature of an elector was signed is readily apparent, the omission or faulty rendition of the date should be treated as a clerical or technical error. *State ex rel. Morris v. Marsh*, 183 Neb. 521, 162 N.W.2d 262 (1968).
- When a certificate of a circulator has been impeached by proof of fraud, all signatures appearing on any petition circulated by him must be rejected until proved genuine. *Barkley v. Pool*, 103 Neb. 629, 173 N.W. 600 (1919).

**32-629. Petitions; signer; qualification; exception; circulator; qualification.**

(1) Except as otherwise provided in section 32-1404 for initiative and referendum petitions, only a registered voter of the State of Nebraska shall qualify as a valid signer of a petition and may sign petitions under the Election Act.

(2) Only a person who is at least eighteen years of age shall qualify as a valid circulator of a petition and may circulate petitions under the Election Act.

**Source:** Laws 1994, LB 76, § 197; Laws 2003, LB 444, § 6; Laws 2008, LB39, § 2; Laws 2012, LB759, § 2.

**32-630. Petitions; signers and circulators; duties; prohibited acts.**

(1) Each person who signs a petition shall, at the time of and in addition to signing, personally affix the date, print his or her last name and first name in full, and affix his or her date of birth and address, including the street and number or a designation of a rural route or voting precinct and the city or village or a post office address. A person signing a petition may use his or her initials in place of his or her first name if such person is registered to vote under such initials. No signer shall use ditto marks as a means of personally affixing the date or address to any petition. A wife shall not use her husband's first name when she signs a petition but shall personally affix her first name and her last name by marriage or her surname. Any signature using ditto marks as a means of personally affixing the date or address of any petition or any signature using a spouse's first name instead of his or her own shall be invalid.

(2) Each circulator of a petition shall personally witness the signatures on the petition and shall sign the circulator's affidavit.

(3) No person shall:

(a) Sign any name other than his or her own to any petition;

(b) Knowingly sign his or her name more than once for the same petition effort or measure;

(c) Sign a petition if he or she is not a registered voter and qualified to sign the same except as provided in section 32-1404;

(d) Falsely swear to any signature upon any such petition;

(e) Accept money or other thing of value for signing any petition; or

(f) Offer money or other thing of value in exchange for a signature upon any petition.

**Source:** Laws 1994, LB 76, § 198; Laws 1997, LB 460, § 2; Laws 2003, LB 444, § 7; Laws 2008, LB39, § 3; Laws 2015, LB367, § 1.

**Annotations**

- Where petition circulator has sworn to properly executed statutory form of affidavit that he is qualified voter, presumption raises that he is qualified elector; presumption does not disappear simply because full Christian name is not signed. *State ex rel. Morris v. Marsh*, 183 Neb. 521, 162 N.W.2d 262 (1968).