



**OFFICE OF THE
SECRETARY OF STATE**

December 30, 2021

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice is hereby given that the Office of the Secretary of State will hold a public hearing at 8:00 a.m. on the 3rd day of February of 2022. The meeting may be accessed through the zoom link or telephone number provided below. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of various regulations that pertain to Chapter 293B, 293D, 294A, and 306 of the Nevada Administrative Code contained in the following LCB File Numbers:

NO.	NAC CHAPTER	SUBJECT (Additional information on each is provided in the attachments)
R080-21P	293D	Revises provisions relating to emergency use of the system of electronic transmission
R081-21P	293D	Revises provisions relating to the requirements to use the system of electronic transmission
R082-21P	294A	Revises provisions relating to courtesy reminder notices
R083-21P	306	Revises provisions relating to the withdrawal of a notice of intent
R084-21P	306	Revises provisions relating to recall petitions and recall committees
R110-21P	293B	Establishes provisions relating to risk limiting audits
R111-21P	293B	Revises provisions relating to testing of equipment
R112-21P	293B	Revises various provisions

This hearing will be conducted remotely. Persons wishing to comment upon the proposed action of the Secretary of State may, on the scheduled day and time, enter the meeting from the Zoom website at the link provided below, call the meeting at the phone number included below, or may address their comments, data, views or arguments, in written form, to:

Mark Wlaschin
Office of the Secretary of State, Elections Division
101 North Carson Street, Suite 3, Carson City, Nevada 89701
E-mail: NVElect@sos.nv.gov

Written submissions must be received by the Secretary of State on or before February 2, 2022. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Office of the Secretary of State may proceed immediately to act upon any written submissions.

Zoom Meeting Details:

<https://us02web.zoom.us/j/89734471350?pwd=a1RHdjBML2RUV3hQRytJMXNiL09JQT09>

The meeting ID is 897 3447 1350 and passcode is 553587.

To access the meeting via audio only, dial 1-669-900-6833 and enter the meeting ID.

A copy of this notice and the regulation to be adopted or amended will be on file at the State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. A copy will also be posted on the internet website of the Secretary of State.

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Distribution and Public Posting

This Notice of has been sent to all persons on the Elections Division's mailing list for administrative regulations and posted at the following locations:

Nevada Capitol Building

101 North Carson Street, Suite 3, Carson City, Nevada 89701

State of Nevada Website

<http://notice.nv.gov/>

Nevada Secretary of State Website

<http://www.nvsos.gov/sos>

Nevada State Legislative Counsel Bureau

Administrative Regulation Notices Website: <https://www.leg.state.nv.us/App/Notice/A>

Reasonable Accommodations

The Nevada Secretary of State, Elections Division is pleased to make reasonable accommodations for those individuals with disabilities who wish to participate in the meeting. If special arrangements for the meeting are necessary, please notify Christa Williams at (775) 684-5705 or nvelect@nv.sos.gov no later than five working days before the meeting.

Respectfully,

Mark Wlaschin
Mark Wlaschin, Deputy Secretary for Elections

Nevada Secretary of State Meeting Notice

3rd day of February of 2022 at 8 AM

Zoom Meeting Details:

<https://us02web.zoom.us/j/89734471350?pwd=a1RHdjBML2RUV3hQRytJMXNiL09JQT09>

The meeting ID is 897 3447 1350 and passcode is 553587.

To access the meeting via audio only, dial 1-669-900-6833 and enter the meeting ID.

PUBLIC NOTICE

The public is hereby noticed that the Nevada Secretary of State reserves the right to take agenda items out of posted order (except that public hearings will not begin earlier than posted times); items may be pulled or removed from the agenda at any time; and items may be combined for consideration. A time for public comment is provided at the beginning and at the conclusion of the meeting. A time limit of two minutes will be imposed for public comments, in order to afford all members of the public who wish to comment, with an opportunity to do so within the timeframe available.

This public notice has been posted at the office of the Nevada Secretary of State and at the Nevada State Library and Archives. Notice of this meeting was posted on the Internet through the Nevada Secretary of State website at www.nvsos.gov/sos.

The support materials to this agenda are available, at no charge on the Nevada Secretary of State website or by contacting Christa Williams at (775) 684-5705 or nvelect@nv.sos.gov or at the Nevada Secretary of State's Office 101 North Carson Street, Suite 3, Carson City, Nevada 89701.

AGENDA

1. Call to Order
2. General Public Comment
In consideration of others, who may also wish to provide public comment, please avoid repetition. No action will be taken on any items raised in the public comment period.
3. Introduction to Adoption Hearing Process
4. Adoption Hearing regarding proposed amendment (LCB File Number R080-21P)
5. Public comment on proposed amendments to Nevada Administrative Code Chapters 293D (LCB File Number R080-21P)
6. Adoption Hearing regarding proposed amendment (LCB File Number R081-21P)
7. Public comment on proposed amendments to Nevada Administrative Code Chapter 293D (LCB File Number R081-21P)
8. Adoption Hearing regarding proposed amendment (LCB File Number R082-21P)
9. Public comment on proposed amendments to Nevada Administrative Code Chapters 294A (LCB File Number R082-21P)
10. Adoption Hearing regarding proposed amendment (LCB File Number R083-21P)
11. Public comment on proposed amendments to Nevada Administrative Code Chapter 306 (LCB File Number R083-21P)
12. Adoption Hearing regarding proposed amendment (LCB File Number R084-21P)
13. Public comment on proposed amendments to Nevada Administrative Code Chapter 306 (LCB File Number R084-21P)
14. Adoption Hearing regarding proposed amendment (LCB File Number R110-21P)

15. Public comment on proposed amendments to Nevada Administrative Code Chapter 293B (LCB File Number R110-21P)
16. Adoption Hearing regarding proposed amendment (LCB File Number R111-21P)
17. Public comment on proposed amendments to Nevada Administrative Code Chapter 293B (LCB File Number R111-21P)
18. Adoption Hearing regarding proposed amendment (LCB File Number R112-21P)
19. Public comment on proposed amendments to Nevada Administrative Code Chapter 293B (LCB File Number R112-21P)
20. General Public Comment
In consideration of others, who may also wish to provide public comment, please avoid repetition. No action will be taken on any items raised in the public comment period.
21. Adjourn

NOTE: The Nevada Secretary of State's Office, Elections Division may take the above matters out of order, may consolidate the above matters for consideration, and reserves the right to remove or delay any of the above matters on the Agenda. Commenters will be limited to two minutes. Members of the public are encouraged to submit written comments for record at NVElect@sos.nv.gov.

Respectfully,

Mark Wlaschin
Mark Wlaschin, Deputy Secretary for Elections

The following information is provided regarding the proposed regulations in R080-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically, authorizing, under certain circumstances, a registered voter who is unable to go to the polls or timely return a mail ballot to use the system of approved electronic transmission established for certain uniformed military and overseas voters to request and return a ballot; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

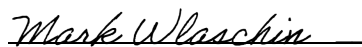
(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,



Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R080-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-10, NRS 293.124, 293.247 and 293.250, as amended by section 2 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1871, and section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951).

A REGULATION relating to elections; authorizing, under certain circumstances, a registered voter who is unable to go to the polls or timely return a mail ballot to use the system of approved electronic transmission established for certain uniformed military and overseas voters to request and return a ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Secretary of State is required to adopt regulations necessary for the execution and enforcement of the provisions of title 24 of NRS. (NRS 293.124) Existing law also requires the Secretary of State to adopt regulations for the conduct of elections in all cities and counties. (NRS 293.247)

Existing law requires the Secretary of State to establish a system of approved electronic transmission through which certain uniformed military and overseas voters may register to vote, apply for and cast a military-overseas. (NRS 293D.200) Existing law also requires the Secretary of State to allow the system of approved electronic transmission to be used by: (1) an elector with a disability to register to vote; and (2) a registered voter with a disability to apply for and cast a ballot. Existing law further requires the Secretary of State to: (1) prescribe the form and content of a declaration for use by an elector or registered voter with a disability to swear or affirm specific representations; (2) prescribe procedures to be used by local elections officials in accepting, handling and counting ballots received from a registered voter with a disability using the system of approved electronic submission; and (3) adopt any regulation necessary to carry out these provisions. (Section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870)

Section 3 of this regulation authorizes a registered voter who is unable to vote in person or timely return a mail ballot due to: (1) an illness or disability resulting in the registered voter being confined to a hospital, sanatorium, dwelling or nursing home; or (2) the registered voter being suddenly hospitalized, becoming seriously ill or being called away from home to submit a request to a local elections official to use the system of approved electronic transmission to cast

and return a ballot. **Section 3** also requires that the local elections official send certain information to the registered voter.

Section 4 of this regulation sets forth the declaration that the registered voter must submit with his or her ballot.

Section 5 of this regulation provides that if a local elections official receives a request for a ballot from a registered voter pursuant to **section 3** after a mail ballot has been sent to the registered voter, the local elections official must indicate that the mail ballot is cancelled in the mail ballot record.

Section 6 of this regulation provides that if a local elections official sends a ballot to a registered voter pursuant to **section 3**, the local elections official must: (1) cause a unique identification number to be included on the ballot; (2) record certain information in the ballot record; and (3) maintain the original ballot card in a secured area.

Section 7 of this regulation requires, not later than 60 days after the election, each local elections official to report to the Secretary of State certain information related to ballots sent to registered voters pursuant to **section 3**.

Section 2 of this regulation defines the term “local elections official.”

Existing law provides that each county clerk is encouraged to notify the public, through means designated to reach members of the public who are elderly or disabled, of certain election information, including that an elector with a disability may register to vote and a registered voter who is disabled may request and cast a ballot using the system of approved electronic transmission established for certain uniformed military and overseas voters. (NRS 293.469, as amended by section 10 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1876) Existing regulations require the county and city clerk to provide notice of the availability of voting aids and procedures for voting by absentee ballot. (NAC 293.190, 293C.230) **Sections 8 and 9** of this regulation provide that the county and city clerk must provide notice of the procedures for using the system of approved electronic transmission established for certain uniformed military and overseas voters pursuant to **section 3**.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 7, inclusive, of this regulation, “local elections official” has the meaning ascribed to it in NRS 293D.040.*

Sec. 3. *1. A registered voter who is unable to vote in person or timely return a mail ballot due to:*

(a) An illness or disability resulting in the registered voter being confined to a hospital, sanatorium, dwelling or nursing home; or

(b) The registered voter being suddenly hospitalized, becoming seriously ill or being called away from home,

↪ may contact his or her local elections official to request to use the system of approved electronic transmission established pursuant to NRS 293D.200 to request and return a ballot.

2. A request submitted pursuant to subsection 1 must include, without limitation:

(a) The name and address of the registered voter; and

(b) A brief explanation of the illness or disability of the registered voter or other facts sufficient to establish that the registered voter was called away from his or her home.

3. If the registered voter provides the local elections official with the information required pursuant to subsection 2, the local elections official must:

(a) Grant the registered voter permission to use the system of approved electronic transmission established pursuant to NRS 293D.200; and

(b) Provide to the registered voter:

(1) A code assigned by the Secretary of State to access the system of approved electronic transmission for that election;

(2) Instructions on how to use the system of approved electronic transmission to cast a ballot;

(3) An explanation that the declaration set forth in section 4 of this regulation must be signed by the registered voter and returned by approved electronic transmission with the ballot;

(4) An explanation of the deadline for the registered voter to cast and return the ballot and declaration by approved electronic transmission;

(5) The contact information of the local elections official or an authorized representative of the local elections official who will be available during normal business hours to answer questions from the voter concerning the ballot. Such information must include, without limitation, the local elections official or authorized representative's name, address, phone number, facsimile transmission number and electronic mail address;

(6) Instruct the registered voter that the ballot may not be used by another registered voter or duplicated; and

(7) Provide to the registered voter any other information required by the Secretary of State or local elections official.

4. Permission authorizing the registered voter to use the system of approved electronic transmission established pursuant to NRS 293D.200 to return a ballot pursuant to this section applies solely to the election for which permission to use the approved system of electronic transmission is granted and does not authorize the registered voter to use the system of approved electronic transmission in any other election.

Sec. 4. The declaration that is required pursuant to section 3 of this regulation must be in the following form:

DECLARATION OF REGISTERED VOTER

I am a registered voter.

I am a citizen of the United States.

I will be at least 18 years of age on election day.

I have not been adjudicated mentally incompetent, or if so, my right to vote has been restored.

I am not registered to vote in any other jurisdiction in the United States.

I have not applied, nor do I intend to apply, for a ballot from any other jurisdiction for the same election.

The information on this form is true and complete to the best of my knowledge.

I acknowledge that if I return my voted ballot by approved electronic transmission, I have waived my right to have my ballot kept secret. Nevertheless, I understand that my signature will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

I understand that a material misstatement of fact in completing this document may be grounds for a conviction of perjury under the laws of the United States or this State.

I declare under penalty of perjury under the laws of the United States and this State that the foregoing is true and correct.

(Signed)

.....

***YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE
DECLARATION AND INCLUDE IT WITH YOUR BALLOT.***

Sec. 5. If a local elections official receives a request for a ballot from a registered voter pursuant to section 3 of this regulation after a mail ballot has been sent to the registered voter pursuant to the provisions of sections 3 to 15, inclusive, of Assembly Bill No. 321, chapter 248,

Statutes of Nevada 2021, at pages 1216-23 (NRS 293.269911 to 293.269937, inclusive) or sections 51 to 65, inclusive, of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1243-50 (NRS 293C.263 to 293C.26337, inclusive), the local elections official must indicate that the mail ballot is cancelled in the mail ballot record.

Sec. 6. *If a local elections official sends a ballot to a registered voter pursuant to section 3 of this regulation, the local elections official must:*

1. Cause a unique identification number to be included on the ballot.

2. Record in the ballot record:

(a) The name of the voter, the voter's precinct or district, the voter's political affiliation, if any, and the unique identification number of the ballot.

(b) The destination of the ballot, such as the facsimile transmission number or electronic mailing address, as applicable, to which the local elections official sent the ballot.

(c) The date and time that the local elections official sent the ballot to the voter.

(d) The initials of the person who sent the ballot to the voter.

3. Maintain the original ballot card in a secured area where access is allowed only with the approval of the local elections official.

Sec. 7. *Not later than 60 days after the date of an election, each local elections official shall report to the Secretary of State, in the form prescribed by the Secretary of State:*

1. The number of ballots for that election that the local elections official sent to registered voters pursuant to section 3 of this regulation;

2. The number of ballots for that election that were returned by registered voters pursuant to section 3 of this regulation; and

3. The number of ballots described in subsection 2 which were counted by the local elections official.

Sec. 8. NAC 293.190 is hereby amended to read as follows:

293.190 1. Each county clerk shall provide to persons with disabilities and persons 65 years of age or older registration aids and voting aids, including:

(a) Instructions which are printed in large type and are conspicuously displayed at each permanent registration facility and at each polling place; and

(b) Information through telecommunication devices for persons who are deaf.

2. When the county clerk provides public notice of registration and voting, he or she shall also provide notice of the availability of registration aids ~~+~~ *and* voting aids , and procedures for voting ~~by absentee ballot.~~ *pursuant to section 3 of this regulation.*

Sec. 9. NAC 293C.230 is hereby amended to read as follows:

293C.230 1. Each city clerk shall provide to persons with disabilities and persons 65 years of age or older aids for voting, including:

(a) Instructions that are printed in large type and are conspicuously displayed at each polling place; and

(b) Information through telecommunication devices for persons who are deaf.

2. When the city clerk provides public notice of voting, he or she shall also provide notice of the availability of aids for voting and procedures for voting ~~by absent ballot.~~ *pursuant to section 3 of this regulation.*

Sec. 10. This regulation becomes effective upon the later of:

1. January 1, 2022; or

2. The date on which this regulation is filed with the Secretary of State.

The following information is provided regarding the proposed regulations in R081-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically setting forth various requirements related to an elector with a disability or a registered voter with a disability using the system of approved electronic transmission established for certain uniformed military and overseas voters; requiring each county or city clerk to provide notice to certain persons regarding such a system of approved electronic transmission; revising the instructions provided to covered voters related to military-overseas ballots; revising the declaration that certain covered voters are required to submit with a military-overseas ballot; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication

or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R081-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1, 2 and 13, NRS 293.124; §§ 3-8, NRS 293.124, 293.247 and 293.250, as amended by section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951); § 9, NRS 293.124, 293.247 and 293.469, as amended by section 10 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1876; § 10, NRS 293.124 and 293.247; §§ 11 and 12, NRS 293D.200.

A REGULATION relating to elections; setting forth various requirements related to an elector with a disability or a registered voter with a disability using the system of approved electronic transmission established for certain uniformed military and overseas voters; requiring each county or city clerk to provide notice to certain persons regarding such a system of approved electronic transmission; revising the instructions provided to covered voters related to military-overseas ballots; revising the declaration that certain covered voters are required to submit with a military-overseas ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Secretary of State to establish a system of approved electronic transmission through which certain uniformed military and overseas voters may register to vote, apply for a military-overseas ballot and cast a military-overseas ballot. (NRS 293D.200) Existing law also requires the Secretary of State to allow the system of approved electronic transmission to be used by: (1) an elector with a disability to register to vote; and (2) a registered voter with a disability to apply for and cast a ballot. Existing law further requires the Secretary of State to: (1) prescribe the form and content of a declaration for use by an elector or registered voter with a disability to swear or affirm specific representations; (2) prescribe procedures to be used by local elections officials in accepting, handling and counting ballots received from a registered voter with a disability using the system of approved electronic submission; and (3) adopt any regulation necessary to carry out these provisions. (Section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870) (NRS 293.269951)

Section 3 of this regulation provides that a person is an elector or registered voter with a disability if the elector or registered voter: (1) has a physical or mental impairment that substantially limits one or more of the major life activities of the elector or registered voter; (2) has a record of such impairment; or (3) is regarded as having such an impairment.

Section 4 of this regulation requires a registered voter with a disability who applies for a ballot using the system of approved electronic transmission to indicate whether: (1) the local elections official must send the ballot to the registered voter by mail or approved electronic transmission; and (2) the registered voter will return the ballot to the local elections official by mail or approved electronic transmission. **Section 4** further requires the local elections official to provide to the registered voter certain instructions depending on whether the registered voter will return the ballot by mail or approved electronic transmission.

Section 5 of this regulation sets forth the form of the declaration to which a registered voter with a disability must swear or affirm.

Section 6 of this regulation provides that if a local elections official receives a request for a ballot from a registered voter with a disability after a mail ballot has been sent to the registered voter, the local elections official must indicate that the mail ballot is cancelled in the mail ballot record.

Section 7 of this regulation requires a local elections official to: (1) cause a unique identification number to be included on a ballot sent to a registered voter with a disability; and (2) record in the ballot record certain information related to a ballot sent to a registered voter with a disability.

Section 8 of this regulation requires, not later than 60 days after the election, a local elections official to report to the Secretary of State certain information related to ballots sent to voters with disabilities.

Section 2 of this regulation defines the term “local elections official.”

Existing law provides that each county clerk is encouraged to notify the public, through means designated to reach members of the public who are elderly or disabled, of certain election information, including that an elector with a disability may register to vote and a registered voter who is disabled may request and cast a ballot using the system of approved electronic transmission established for certain uniformed military and overseas voters. (NRS 293.469, as amended by section 10 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1876) Existing regulations require the county or city clerk to provide notice of the availability of voting aids and procedures for voting by absentee ballot. (NAC 293.190, 293C.230) **Sections 9 and 10** of this regulation provide that the county or city clerk must provide notice of the procedures for registering to vote and voting using the system of approved electronic transmission established for certain uniformed military and overseas voters.

Existing regulations require that a local elections official provide instructions to a covered voter for marking and returning a military-overseas ballot, including an explanation that the military-overseas ballot and any other necessary voting materials must be received by the office of the appropriate local elections official by 7 p.m. Pacific Standard Time on the day of the election. (NAC 293D.010) **Section 11** of this regulation provides instead that the instructions include an explanation of the deadline for a covered voter to cast and return the military-overseas ballot and other necessary voting materials.

Section 12 of this regulation revises the form of the declaration of a covered voter to eliminate obsolete language.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. As used in sections 2 to 8, inclusive, of this regulation, “local elections official” has the meaning ascribed to it in NRS 293D.040.

Sec. 3. For the purposes of section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951), an elector with a disability may use the system of approved electronic transmission established pursuant to NRS 293D.200 to register to vote, and a registered voter with a disability may use the system of approved electronic transmission established pursuant to NRS 293D.200 to apply for and cast a ballot, if the elector or registered voter, as applicable:

- 1. Has a physical or mental impairment that substantially limits one or more of the major life activities of the elector or registered voter;*
- 2. Has a record of such an impairment; or*
- 3. Is regarded as having such an impairment.*

Sec. 4. 1. A registered voter with a disability who applies for a ballot pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951) must indicate on the application:

(a) Whether the local elections official must send the ballot to the registered voter by mail or approved electronic transmission; and

(b) Whether the registered voter will return the ballot to the local elections official by mail or approved electronic transmission.

2. If a registered voter with a disability indicates on the application for a ballot that he or she will return the ballot by mail, the local elections official must provide to the registered voter a ballot and instructions for marking and returning the ballot, including, without limitation:

- (a) How to indicate the candidate or candidates for whom the voter is voting;*
- (b) How to correct the ballot if the voter commits an error marking the ballot or wants to change the candidate or candidates for whom the voter is voting;*
- (c) An explanation that the completed ballot must be inserted into the accompanying privacy sleeve or envelope;*
- (d) An explanation that the registered voter must insert the privacy envelope or sleeve into the declaration envelope;*
- (e) An explanation that the registered voter must complete and sign the declaration on the front of the declaration envelope; and*
- (f) An explanation of the deadline for the registered voter to cast and return the ballot and other necessary voting materials, including, without limitation, the declaration set forth in section 5 of this regulation, by mail to the appropriate local elections official.*

3. If a registered voter with a disability indicates on the application for a ballot that he or she will return the ballot by approved electronic transmission, the local elections official must provide to the registered voter a ballot and instructions for marking and returning the ballot, including, without limitation:

- (a) How to indicate the candidate or candidates for whom the registered voter is voting.*
- (b) An explanation that the declaration set forth in section 5 of this regulation must be signed by the registered voter and returned by approved electronic transmission with the ballot.*
- (c) An explanation of how to return the ballot by approved electronic transmission.*
- (d) An explanation of the deadline for the registered voter to cast and return the ballot and other necessary voting materials, including, without limitation, the declaration set forth in*

section 5 of this regulation, by approved electronic transmission to the appropriate local elections official.

4. In addition to any applicable requirements set forth in subsections 2 and 3, the local elections official must:

(a) Provide to the registered voter the contact information of the local elections official or an authorized representative of the local elections official who will be available during normal business hours to answer questions from the voter concerning the ballot. Such information must include, without limitation, the local elections official or authorized representative's name, address, phone number, facsimile transmission number and electronic mail address.

(b) Instruct the registered voter that the ballot may not be used by another registered voter or duplicated.

(c) Provide to the registered voter any other information required by the Secretary of State or local elections official.

Sec. 5. 1. *The declaration that is required pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951) for use by a registered voter with a disability who indicates that he or she will return the military-overseas ballot by approved electronic transmission must be in the following form:*

DECLARATION OF REGISTERED VOTER WITH A DISABILITY

I am a registered voter with a disability.

I am a citizen of the United States.

I will be at least 18 years of age on election day.

I have not been adjudicated mentally incompetent, or if so, my right to vote has been restored.

I am not registered to vote in any other jurisdiction in the United States.

I have not applied, nor do I intend to apply, for a ballot from any other jurisdiction for the same election.

The information on this form is true and complete to the best of my knowledge.

I acknowledge that if I return my voted ballot by approved electronic transmission, I have waived my right to have my ballot kept secret. Nevertheless, I understand that my signature will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

I understand that a material misstatement of fact in completing this document may be grounds for a conviction of perjury under the laws of the United States or this State.

I declare under penalty of perjury under the laws of the United States and this State that the foregoing is true and correct.

(Signed)

.....

***YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE
DECLARATION AND INCLUDE IT WITH YOUR BALLOT.***

2. The declaration that is required pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951), for use by a registered voter

with a disability who indicates that he or she will return the ballot by mail must be in the following form:

DECLARATION OF REGISTERED VOTER WITH A DISABILITY

I am a registered voter with a disability.

I am a citizen of the United States.

I will be at least 18 years of age on election day.

I have not been adjudicated mentally incompetent, or if so, my right to vote has been restored.

I am not registered to vote in any other jurisdiction in the United States.

I have not applied, nor do I intend to apply, for a ballot from any other jurisdiction for the same election.

The information on this form is true and complete to the best of my knowledge.

I understand that a material misstatement of fact in completing this document may be grounds for a conviction of perjury under the laws of the United States or this State.

I declare under penalty of perjury under the laws of the United States and this State that the foregoing is true and correct.

(Signed)

.....

***YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE
DECLARATION AND INCLUDE IT WITH YOUR BALLOT.***

Sec. 6. If a local elections official receives a request for a ballot from a registered voter with a disability pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951) after a mail ballot has been sent to the registered voter pursuant to sections 3 to 15, inclusive, and 17 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216-23 (NRS 293.269911 to 293.269937), inclusive, or sections 51 to 65, inclusive, of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1243-50 (NRS 293C.263 to 293C.26337, inclusive), the local elections official must indicate that the mail ballot is cancelled in the mail ballot record.

Sec. 7. If a local elections official sends a ballot to a registered voter with a disability pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951), the local elections official must:

1. Cause a unique identification number to be included on the ballot.

2. Record in the ballot record:

(a) The name of the voter, the voter's precinct or district, the voter's political affiliation, if any, and the unique identification number of the ballot.

(b) The method used by the local elections official to send the ballot to the registered voter. If approved electronic transmission is used by the local elections official to send the ballot, the local elections official must record in the ballot record the destination of the ballot, such as the facsimile transmission number or electronic mailing address, as applicable, to which the local elections official sent the ballot.

(c) The date and time that the local elections official sent the ballot to the voter.

(d) The initials of the person who sent the ballot to the voter.

3. Maintain the original ballot card in a secured area where access is allowed only with the approval of the local elections official.

Sec. 8. *Not later than 60 days after the date of an election, each local elections official shall report to the Secretary of State, in the form prescribed by the Secretary of State:*

1. The number of ballots for that election that the local elections official sent to registered voters with disabilities pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951);

2. The number of ballots for that election that were returned by registered voters with disabilities pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951); and

3. The number of ballots described in subsection 2 which were counted by the local elections official.

Sec. 9. NAC 293.190 is hereby amended to read as follows:

293.190 1. Each county clerk shall provide to persons with disabilities and persons 65 years of age or older registration aids and voting aids, including:

(a) Instructions which are printed in large type and are conspicuously displayed at each permanent registration facility and at each polling place; and

(b) Information through telecommunication devices for persons who are deaf.

2. When the county clerk provides public notice of registration and voting, he or she shall also provide notice of the availability of registration aids ~~+~~ and voting aids , ~~and~~ procedures for voting by ~~absentee~~ mail ballot ~~+~~ and procedures for registering to vote and voting

pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951).

Sec. 10. NAC 293C.230 is hereby amended to read as follows:

293C.230 1. Each city clerk shall provide to persons with disabilities and persons 65 years of age or older aids for voting, including:

(a) Instructions that are printed in large type and are conspicuously displayed at each polling place; and

(b) Information through telecommunication devices for persons who are deaf.

2. When the city clerk provides public notice of voting, he or she shall also provide notice of the availability of aids for voting , ~~and~~ procedures for voting by ~~absent~~ *mail* ballot ~~+~~ *and procedures for registering to vote and voting pursuant to section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 293.269951).*

Sec. 11. NAC 293D.010 is hereby amended to read as follows:

293D.010 1. A covered voter who applies for a military-overseas ballot shall indicate on the application:

(a) Whether the local elections official must send the military-overseas ballot to the covered voter by mail or approved electronic transmission; and

(b) Whether the covered voter will return the military-overseas ballot to the local elections official by mail or approved electronic transmission.

2. If a covered voter indicates on the application for a military-overseas ballot that he or she will return the military-overseas ballot by mail, the local elections official must provide to the covered voter a military-overseas ballot and instructions for marking and returning the military-overseas ballot, including, without limitation:

- (a) How to indicate the candidate or candidates for whom the covered voter is voting.
- (b) How to correct the ballot if the covered voter commits an error in marking the ballot or wants to change the candidate or candidates for whom the covered voter is voting.
- (c) An explanation that the completed military-overseas ballot must be inserted into the accompanying privacy envelope or sleeve.
- (d) An explanation that the covered voter must insert the privacy envelope or sleeve into the declaration envelope.
- (e) An explanation that the covered voter must complete and sign the declaration on the front of the declaration envelope.
- (f) An explanation ~~that~~ *of the deadline for the registered voter to cast and return* the military-overseas ballot and any other necessary voting materials, including, without limitation, the declaration set forth in NAC 293D.020, ~~must be received by the office of~~ *to* the appropriate local elections official . ~~by 7 p.m. Pacific Standard Time on the day of the election.~~

3. If a covered voter indicates on the application for a military-overseas ballot that he or she will return the military-overseas ballot by approved electronic transmission, the local elections official must provide to the covered voter a military-overseas ballot and instructions for marking and returning the military-overseas ballot, including, without limitation:

- (a) How to indicate the candidate or candidates for whom the covered voter is voting.
- (b) An explanation that the declaration set forth in NAC 293D.020 must be signed by the covered voter and returned by approved electronic transmission with the military-overseas ballot.
- (c) An explanation of how to return the military-overseas ballot by approved electronic transmission.

(d) An explanation ~~that~~ *of the deadline for the registered voter to cast and return* the military-overseas ballot and any other necessary voting materials, including, without limitation, the declaration set forth in NAC 293D.020, ~~must be received by the office of~~ *to* the appropriate local elections official. ~~by 7 p.m. Pacific Standard Time on the day of the election.~~

Sec. 12. NAC 293D.020 is hereby amended to read as follows:

293D.020 1. The declaration that is required pursuant to subsection 4 of NRS 293D.200, for use by a covered voter who indicates that he or she will return the military-overseas ballot by approved electronic transmission must be in the following form:

DECLARATION OF COVERED VOTER

I am a uniformed-service voter, a spouse or dependent of a uniformed-service voter, or an overseas voter pursuant to the provisions of chapter 293D of NRS.

I am a citizen of the United States.

I will be at least 18 years of age on election day.

I have not been adjudicated mentally incompetent, or if so, my right to vote has been restored.

I have not been convicted of treason or a felony, or if so, my right to vote has been restored.

I am not registered to vote in any other jurisdiction in the United States.

I have not applied, nor do I intend to apply, for a ballot from any other jurisdiction for the same election.

The information on this form is true and complete to the best of my knowledge.

I acknowledge that if I return my voted ballot by approved electronic transmission, I have waived my right to have my ballot kept secret. Nevertheless, I understand that ~~I, as with any absent voter,~~ my signature will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

I understand that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States or this State.

I declare under penalty of perjury under the laws of the United States and this State that the foregoing is true and correct.

(Signed)

.....

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE
DECLARATION AND INCLUDE IT WITH YOUR BALLOT.

2. The declaration that is required pursuant to subsection 4 of NRS 293D.200, for use by a covered voter who indicates that he or she will return the military-overseas ballot by mail must be in the following form:

DECLARATION OF COVERED VOTER

I am a uniformed-service voter, a spouse or dependent of a uniformed-service voter, or an overseas voter pursuant to the provisions of chapter 293D of NRS.

I am a citizen of the United States.

I will be at least 18 years of age on election day.

I have not been adjudicated mentally incompetent, or if so, my right to vote has been restored.

I have not been convicted of treason or a felony, or if so, my right to vote has been restored.

I am not registered to vote in any other jurisdiction in the United States.

I have not applied, nor do I intend to apply, for a ballot from any other jurisdiction for the same election.

The information on this form is true and complete to the best of my knowledge.

I understand that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States or this State.

I declare under penalty of perjury under the laws of the United States and this State that the foregoing is true and correct.

(Signed)

.....

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE
DECLARATION AND INCLUDE IT WITH YOUR BALLOT.

Sec. 13. This regulation becomes effective upon the later of:

1. January 1, 2022; or
2. The date on which this regulation is filed with the Secretary of State.

The following information is provided regarding the proposed regulations in R082-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically relating to campaign practices; providing, under certain circumstances, that the Secretary of State will not waive or reduce for good cause certain civil penalties related to filing campaign finance reports or registration forms; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R082-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 293.124, 294A.380 and 294A.420.

A REGULATION relating to campaign practices; providing, under certain circumstances, that the Secretary of State will not waive or reduce for good cause certain civil penalties related to filing campaign finance reports or registration forms; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Secretary of State to adopt regulations relating to campaign practices. (NRS 293.124, 294A.380) If a candidate, person, organization, committee, political party or nonprofit corporation that is required to file a campaign finance report or registration form pursuant to chapter 294A of NRS fails to do so in accordance with the applicable provisions of that chapter, existing law provides that such a candidate, person, organization, committee, political party or nonprofit corporation is subject to a civil penalty. However, existing law authorizes the Secretary of State to waive such a civil penalty for good cause shown. (NRS 294A.420) Similarly, existing regulations authorize, under certain circumstances, the Secretary of State to waive or reduce such a civil penalty for good cause. (NAC 294A.097)

This regulation provides that the Secretary of State will not waive or reduce such a civil penalty for good cause on the basis that the Secretary of State did not send a reminder notice that a report or form for registration was due before the applicable deadline.

Section 1. NAC 294A.097 is hereby amended to read as follows:

294A.097 1. The Secretary of State may waive a civil penalty for good cause pursuant to subsection 4 of NRS 294A.420, if the person, committee for political action, or entity that is subject to a civil penalty pursuant to NRS 294A.420:

- (a) Files a written request for a waiver setting forth the basis for the waiver;

(b) Properly files the appropriate report pursuant to the applicable provisions of chapter 294A of NRS; and

(c) Establishes that:

(1) Within a reasonable time before or on the date the applicable report was due, the candidate or a member of the family of the candidate, within the second degree of consanguinity or affinity, died, had a serious medical condition or was hospitalized;

(2) The candidate is experiencing extreme financial hardship to the extent that payment of the penalty would result directly in the loss or inability of the candidate to obtain the minimal necessities of food, medicine and shelter;

(3) The candidate or each officer and representative of the committee for political action or entity is or was a member of the Armed Forces of the United States serving outside of the State or country within a reasonable period of time before or on the date the applicable report was due and the candidate or each officer and representative of the committee for political action or entity executes an affidavit under penalty of perjury attesting to such facts;

(4) The candidate has been directly impacted by a natural disaster;

(5) The entity is organized as a nonprofit under the laws of the State of Nevada, has no paid employees and is comprised only of volunteers and:

(I) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of chapter 294A of NRS, or a member of the family of such a representative, meets the conditions set forth in subparagraph (1) of paragraph (c); or

(II) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of chapter 294A of NRS has, without

notice, severed his or her relationship with the entity within a reasonable time before or on the date that the applicable report was due; or

(6) The violation was not due to mere inadvertence, mistake or neglect, and circumstances exist of a similarly serious nature as set forth in this subsection to justify a waiver of the civil penalty, including, without limitation, an obligation to report for active military service or to serve in an official capacity in response to a public emergency.

2. The Secretary of State, with the approval of the Attorney General and for good cause, may reduce a civil penalty imposed pursuant to NRS 294A.420 if:

(a) The penalty is being imposed for a failure to properly file a report or form for registration; and

(b) The person, committee for political action or entity that is subject to a civil penalty pursuant to NRS 294A.420 first properly files the appropriate report or form.

3. The Secretary of State will not waive or reduce a civil penalty imposed pursuant to NRS 294A.420 for good cause on the basis that the Secretary of State did not send a reminder notice that a report or form for registration was due before the applicable deadline.

The following information is provided regarding the proposed regulations in R083-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically relating to the recall of public officers; authorizing, under certain circumstances, the withdrawal of a petition to recall a public officer; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R083-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 306.011 and 306.015.

A REGULATION relating to the recall of public officers; authorizing, under certain circumstances, the withdrawal of a petition to recall a public officer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Secretary of State to adopt regulations relating to the recall of public officers. (NRS 306.011) Existing law requires a notice of intent to circulate a petition to recall a public officer to be signed by three registered voters who: (1) voted in the state, county, district or municipal election at which the public officer was elected; and (2) reside in the jurisdiction represented by the public officer. (NRS 306.015) The Nevada Constitution requires that a petition to recall a public officer contain not less than 25 percent of the number of persons who actually voted in the state, county, district or municipality represented by the public officer at the election in which the public officer was elected. (Nev. Const. Art. 2, § 9) Moreover, existing law requires that the signatures on the petition be verified in accordance with specified statutory guidelines. (NRS 306.015)

This regulation provides that a petition to recall a public officer may be withdrawn if: (1) at least two of the registered voters who signed the notice of intent submit a notice of withdrawal to the filing officer on a form prescribed by the Secretary of State; and (2) the notice of withdrawal is received by the filing officer before the petition is submitted to the filing officer for signature verification. This regulation further provides that once a petition to recall a public officer is withdrawn, no further action may be taken on that petition. Finally, this regulation requires, not later than 24 hours after receiving a notice of withdrawal, the filing officer to notify the Secretary of State, the public officer who is the subject of the recall and, if only two of the registered voters who signed the notice of intent submitted the notice of withdrawal, the third registered voter who signed the notice of intent.

Section 1. Chapter 306 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A petition to recall a public officer may be withdrawn if:

(a) At least two of the registered voters who signed the notice of intent pursuant to NRS 306.015 submit a notice of withdrawal to the filing officer on a form prescribed by the Secretary of State; and

(b) The notice of withdrawal described in paragraph (a) is received by the filing officer before the petition is submitted to the filing officer for signature verification.

2. Except as otherwise provided in subsection 3, once a petition to recall a public officer is withdrawn pursuant to subsection 1, no further action may be taken on that petition.

3. Not later than 24 hours after receiving a notice of withdrawal pursuant to subsection 1, the filing officer shall notify:

(a) The Secretary of State;

(b) The public officer who is the subject of the recall; and

(c) If only two of the registered voters who signed the notice of intent pursuant to NRS 306.015 submitted the notice of withdrawal described in subsection 1, the third registered voter who signed the notice of intent pursuant to NRS 306.015.

↪ The notification required pursuant to this subsection must be sent by mail, electronic mail or facsimile machine.

The following information is provided regarding the proposed regulations in R084-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically relating to the recall of public officers; establishing a deadline for a committee for the recall of a public officer to register with the Secretary of State; requiring a copy of the proposed petition to recall a public officer to be filed with the Secretary of State on the same date that the notice of intent to circulate the petition is filed with the filing officer; requiring the copy of the proposed petition to comply with existing constitutional and statutory requirements; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication

or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R084-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 293.124, 294A.250, 294A.380 and 306.011; § 2, Nev. Const. Art. 2, § 9, NRS 293.124, 306.011, 306.015, 306.020 and 306.030; §§ 3-5, NRS 293.124 and 306.011.

A REGULATION relating to the recall of public officers; establishing a deadline for a committee for the recall of a public officer to register with the Secretary of State; requiring a copy of the proposed petition to recall a public officer to be filed with the Secretary of State on the same date that the notice of intent to circulate the petition is filed with the filing officer; requiring the copy of the proposed petition to comply with existing constitutional and statutory requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Secretary of State to adopt regulations relating to campaign practices and recall elections. (NRS 293.124, 294A.380, 306.011)

Existing law requires a committee for the recall of a public officer to register with the Secretary of State. (NRS 294A.250) Existing law defines “committee for the recall of a public officer” as an organization that: (1) receives any contributions, makes any contribution to candidates or persons or makes any expenditures that are designed to affect the recall of a public officer; or (2) files a notice of intent to circulate a petition for the recall of a public officer. (NRS 294A.006) **Section 1** of this regulation establishes a deadline for the registration of any such committee by requiring the committee to register with the Secretary of State not later than 10 days after filing the notice of intent.

Existing law provides that before a petition for the recall of a public officer is circulated, the persons proposing to circulate the petition must file a notice of intent to circulate the petition. (NRS 306.015) **Section 2** of this regulation requires a copy of the proposed petition to recall a public officer to be filed with the Secretary of State on the same date that the notice of intent is filed with the filing officer. Further, **section 2** prohibits the proposed petition from being circulated until both the notice of intent and a copy of the proposed petition are filed.

The Nevada Constitution and existing law set forth various requirements relating to the contents of a petition to recall a public officer, including, without limitation, the requirement that the petition contain a description, not exceeding 200 words, of the reasons why the recall is demanded. (Nev. Const. Art. 2, § 9, NRS 306.020, 306.030) **Section 2** requires that the copy of

the proposed petition filed with the Secretary of State meet such constitutional and statutory requirements.

Sections 3-5 of this regulation update various internal references in order to conform with existing provisions of the Nevada Revised Statutes.

Section 1. Chapter 294A of NAC is hereby amended by adding thereto a new section to read as follows:

A committee for the recall of a public officer that files a notice of intent to circulate a petition to recall a public officer pursuant to NRS 306.015 shall register with the Secretary of State pursuant to NRS 294A.250 not later than 10 days after the date on which the notice of intent was filed.

Sec. 2. Chapter 306 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The persons proposing to circulate a petition to recall a public officer shall file a copy of the proposed petition with the Secretary of State on the date that the notice of intent to circulate the petition is filed with the filing officer pursuant to NRS 306.015. A copy of the petition may not be circulated until such time that the copy of the proposed petition and the notice of intent are filed.

2. The copy of the proposed petition to recall a public officer must comply with the requirements set forth in Section 9 of Article 2 of the Nevada Constitution and NRS 306.020 and 306.030, including, without limitation, the requirement that the petition contain a summary, not to exceed 200 words, of the reasons why the recall is demanded.

Sec. 3. NAC 306.022 is hereby amended to read as follows:

306.022 1. If the county clerk makes a clerical error regarding a petition to recall a public officer, the county clerk may correct the error before filing, pursuant to subsection ~~4~~ 5 of NRS

306.015, the petition with the filing officer with whom the public officer to be recalled filed his or her declaration of candidacy.

2. If the county clerk chooses to correct the error, he or she shall:

(a) Notify the persons who filed the notice of intent pursuant to subsection 1 of NRS 306.015, the public officer to be recalled and the Secretary of State of the substance of the error;

(b) Inform the persons specified in paragraph (a) of the correct information or procedure; and

(c) Prepare a certificate of error, attach it to the corrected document and provide a copy of the certificate to each of the persons specified in paragraph (a).

3. Correction of a clerical error by a county clerk does not affect the deadlines concerning the process of recalling a public officer set forth in chapter 306 of NRS.

Sec. 4. NAC 306.023 is hereby amended to read as follows:

306.023 The filing officer with whom a public officer to be recalled filed his or her declaration of candidacy shall notify that public officer, in writing, within 2 days after a petition to recall a public officer is filed pursuant to subsection ~~44~~ 5 of NRS 306.015.

Sec. 5. NAC 306.025 is hereby amended to read as follows:

306.025 If a county clerk or city clerk is the officer with whom a petition to recall a public officer is filed pursuant to subsection ~~44~~ 5 of NRS 306.015, the county clerk or city clerk shall, within 3 days after:

1. The Secretary of State completes the notification required by subsection 1 of NRS 306.040; or

2. The county clerk or city clerk receives a court order pursuant to subsection ~~46~~ 7 of NRS 306.040 to call a special election,

➡ provide the Secretary of State with written notification of the date the county clerk or city clerk will issue the call for a special election and the date the special election will be held.

The following information is provided regarding the proposed regulations in R110-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed regulation is to codify standards and procedures for various election functions. Specifically setting forth requirements for risk-limiting audits of the 2022 Primary and General Elections; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R110-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1 and 2, NRS 293.124, 293.247 and 293.394 and section 37.7 of Assembly Bill No. 422, chapter 554, Statutes of Nevada 2021, at page 3848.

A REGULATION relating to elections; setting forth requirements for risk-limiting audits of the 2022 Primary and General Elections; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Secretary of State to adopt regulations for conducting a risk-limiting audit of an election. (NRS 293.394) Existing law also: (1) requires the Secretary of State to develop a pilot program for conducting a risk-limiting audit of the 2022 General Election; and (2) authorizes the Secretary of State to require each county clerk to participate in the pilot program and conduct a risk-limiting audit. (Section 37.7 of Assembly Bill No. 422, chapter 554, Statutes of Nevada 2021, at page 3848)

This regulation: (1) requires that certain county clerks conduct a risk-limiting audit of the 2022 Primary Election; (2) requires that all county clerks conduct a risk-limiting audit of the 2022 General Election; and (3) sets forth certain requirements that apply to any risk-limiting audit conducted of the 2022 Primary Election or 2022 General Election.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this section apply to any risk-limiting audit conducted of the 2022 Primary Election or 2022 General Election.

2. Each county clerk:

(a) That has not conducted a risk-limiting audit of a previous election must conduct a risk-limiting audit of the 2022 Primary Election.

(b) That has conducted a risk-limiting audit of a previous election may conduct a risk-limiting audit of the 2022 Primary Election.

(c) Must conduct a risk-limiting audit of the 2022 General Election.

3. A risk-limiting audit conducted pursuant to this section must audit the results of:

(a) One race for statewide office. The Secretary of State will randomly select one race for statewide office to be audited at the election using a method determined by the Secretary of State in which all races for statewide office on the ballot at the election have an equal chance of being selected. The Secretary of State will notify each county clerk which race for statewide office has been selected for the risk-limiting audit at least 15 days before the date of the election.

(b) One race for countywide office. Each county clerk conducting a risk-limiting audit of an election shall randomly select one race for countywide office to be audited at the election using a method determined by the county clerk in which all races for countywide office on the ballot at the election have an equal chance of being selected. The county clerk must notify the Secretary of State which race for countywide office has been selected for the risk-limiting audit at least 15 days before the date of the election.

4. Each county clerk that conducts a risk-limiting audit pursuant to this section shall create a ballot manifest using the form provided by the Secretary of State that:

(a) Tracks the location of all accepted and tabulated ballots, including, without limitation, mail ballots, provisional ballots and ballots voted using a mechanical recording device; and

(b) Allows for the retrieval of any such ballot for purposes of conducting the risk-limiting audit.

5. *As soon as possible after the completion of counting ballots for the election but not later than the date the county clerk certifies the abstract of the election results pursuant to NRS 293.387, as amended by section 33 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1232, the county clerk must electronically transmit the ballot manifest and record of votes cast in the election to the Secretary of State using a secure file transfer protocol site.*

6. *For the purposes of conducting a risk-limiting audit pursuant to this section, the county clerk may remove the seals affixed pursuant to subsection 1 of NRS 293.391 to retrieve the ballots used in the audit. After the completion of a risk-limiting audit, the county clerk must return the ballots to the original location and seal the ballots. The county clerk shall maintain a record of the seals affixed to the ballots used in the risk-limiting audit.*

7. *For the purposes of conducting a risk-limiting audit pursuant to this section, the Secretary of State:*

(a) Will require the use of risk-limiting audit software with the risk limit set at 5 percent; and

(b) May designate one or more of the following types of audit methods:

(1) Ballot comparison;

(2) Ballot polling; or

(3) A hybrid of ballot comparison and ballot polling.

8. *As used in this section:*

(a) “Ballot comparison” means a technique used in a risk-limiting audit in which the results of the ballot polling are compared to the results of the mechanical voting system as set forth in the record of votes cast on the system.

(b) “Ballot polling” means a technique used in a risk-limiting audit in which individual paper ballots are randomly selected and the ballot markings are examined and interpreted manually until the sampling of selected paper ballots indicates a sufficient majority for the reported winner of the election.

(c) “Countywide office” means an elected county office whose candidates are voted upon in the election by the registered voters of the entire county.

(d) “Statewide office” means an elected state office whose candidates are voted upon in the election by the registered voters of the entire State.

Sec. 2. Section 1 of this regulation expires on December 31, 2023.

The following information is provided regarding the proposed regulations in R111-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically setting forth certain requirements relating to testing and certifying ballot marking devices; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R111-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-3, NRS 293.124, 293.247, 293.3677 and 293B.105.

A REGULATION relating to elections; setting forth certain requirements relating to testing and certifying ballot marking devices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of any county to purchase and adopt for use at elections any mechanical voting system and mechanical recording device. (NRS 293B.105) A “mechanical voting system” is a system of voting whereby a voter may cast a vote: (1) on a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or (2) by marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer. (NRS 293B.033)

Existing regulations require the county clerk in a county using a mechanical voting system to conduct certain tests before and after each election to ensure that each mechanical recording device which directly records votes electronically will accurately record the votes cast for all offices and on all measures. (NAC 293B.090) **Section 2** of this regulation requires that the county clerk also test each ballot marking device, which is defined in **section 1** of this regulation as a device that allows a registered voter to mark a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.

Existing regulations require that before each election cycle for federal office, each county clerk is required to certify that the operating systems installed on each mechanical recording device have been certified by the Voting System Certification and Laboratory Accreditation Program of the Election Assistance Commission. (NAC 293B.110) **Section 3** of this regulation: (1) updates the name of the Program and relevant citation to federal law; and (2) requires the county clerk to also certify the operating systems installed on each ballot marking device. **Section 3** further requires these certifications to be done before each election.

Section 1. NAC 293B.010 is hereby amended to read as follows:

293B.010 As used in this chapter, unless the context otherwise requires:

1. *“Ballot marking device” means a device which allows a registered voter to mark a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.*

2. “Firmware” means programming instructions that are stored in a read-only memory format within a mechanical recording device rather than being implemented through software.

~~{2-}~~ 3. “Mechanical recording device” has the meaning ascribed to it in NRS 293B.032.

~~{3-}~~ 4. “Mechanical voting system” has the meaning ascribed to it in NRS 293B.033.

~~{4-}~~ 5. “Results cartridge” means a cartridge which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

~~{5-}~~ 6. “Voter verifiable paper audit trail printer” or “VVPAT” means the device attached to a mechanical recording device and the paper it prints to record all votes cast by a voter for any and all candidates and for or against any and all measures, enabling that voter to visually verify that the mechanical voting system accurately recorded the votes of the voter.

Sec. 2. NAC 293B.090 is hereby amended to read as follows:

293B.090 1. ~~{Before}~~ *Not earlier than 2 weeks before, and not later than 5 p.m. on the day before, the first day of early voting,* and after each election, as provided in NRS 293B.140 to 293B.170, inclusive, the county clerk in a county using a mechanical voting system shall ensure that each mechanical recording device which directly records votes electronically, *each ballot marking device,* each VVPAT and the automatic tabulating equipment and programs to be used in the election will accurately *mark or* record *, as applicable,* the votes cast for all offices and on all measures by completing the tests required pursuant to this section and chapter 293B of NRS.

2. A county clerk shall, in the course of performing the other tests of the system, conduct a test to ascertain that the VVPAT correctly records on the paper record the selection made on the

mechanical voting device for all offices and all measures on the ballot. If a county clerk is required to conduct an election in more than one language, the test ballots must be processed in each required language.

3. A county clerk shall conduct the test required pursuant to subsection 2 by:

(a) Processing on a mechanical recording device, during the periods prescribed in NRS 293B.150 and 293B.165, a group of logic and accuracy test ballots voted so as to record:

- (1) A vote for each candidate and a vote for and against each measure on the ballot;
- (2) A vote for “None of these candidates” for all statewide contests;
- (3) “No selection made” for each contest and ballot measure; and
- (4) In all contests in which a voter may vote for more than one candidate, each option available to the voter, from “No selection made” to the total number of candidates a voter may select.

(b) Comparing the paper record with the contests and candidate names required to be on the ballot to ensure the paper record is accurately recording and reflecting the selections made on the mechanical recording device.

4. If any error is detected during the test required pursuant to subsection 2, the error must be immediately reported to the Secretary of State. The cause of the error must be ascertained and corrected and an errorless count must be made before the particular mechanical recording device or VVPAT is approved for use in the election or certified for accuracy in the official counting of the ballots.

5. A vote is properly cast on a mechanical recording device which directly records votes electronically when:

- (a) The voter selects his or her choice;

- (b) The mechanical voting system verifies the selection of the voter;
- (c) The voter submits his or her selections; and
- (d) The mechanical voting system verifies that the selections have been submitted.

6. Each mechanical recording device which directly records votes electronically must include:

- (a) Instructions for casting a vote;
- (b) A method for a voter to select his or her vote in each contest;
- (c) A method for a voter to change his or her selection;
- (d) A visual verification of the selections made by the voter for each contest;
- (e) A visual notice to the voter if the voter has not made a selection in a contest or if the voter has undervoted in a contest in which the voter may select more than one candidate;
- (f) Protection from an overvote;
- (g) A method for the voter to review his or her selections and make changes before the ballot is cast;
- (h) A notice advising the voter to confirm his or her selections before casting his or her ballot and informing the voter that casting the ballot is irrevocable;
- (i) A verification that the vote has been cast;
- (j) A paper record of each vote that is cast; and
- (k) An electronic record of each ballot stored by the mechanical voting system.

7. A mechanical recording device which directly records votes electronically must create a trail for an audit of the mechanical voting system which substantiates that:

- (a) Only ballots cast by authorized voters have been included in the tally list;
- (b) All ballots have been unmodified since they were cast;

(c) All ballots cast have been accounted for; and

(d) The results of the tabulation of the ballots have been correctly accumulated from the ballots of the authorized voters and are capable of repetition with the same results.

8. Persons authorized to observe the tests conducted pursuant to NRS 293B.150 and 293B.165 must not interfere with the conduct of such tests. The results of the tests conducted pursuant to this section are confidential pursuant to NRS 293B.155.

Sec. 3. NAC 293B.110 is hereby amended to read as follows:

293B.110 1. ~~{Before each election cycle for federal office,}~~ *Not earlier than 2 weeks before, and not later than 5 p.m. on the day before, the first day of early voting,* in accordance with procedures established by the Secretary of State, each county clerk shall certify that:

(a) The software used to tabulate ballots; and

(b) The operating systems, including, without limitation, software and firmware, installed on each mechanical recording device ~~{}~~ *or ballot marking device,*

↪ have been certified by the Voting System *Testing and* Certification ~~{and Laboratory Accreditation}~~ Program of the Election Assistance Commission established pursuant to ~~{42 U.S.C. § 15321.}~~ *52 U.S.C. § 20921.*

2. The county clerk shall certify the operating systems, including, without limitation, software and firmware, pursuant to subsection 1 by confirming that each component of such operating systems used pursuant to subsection 1 matches the identity registered with the National Software Reference Library.

3. The date and time that the operating systems of each mechanical recording device *and ballot marking device* are certified pursuant to subsection 2 must be recorded, and, subject to the

provisions of subsection 4, an audit trail must be maintained from that date which sets forth each instance that the mechanical recording device *or ballot marking device* is accessed.

4. The audit trail required pursuant to subsection 3 must include, without limitation:

(a) The name of the supervisor responsible for accessing the mechanical recording device ~~+~~ *or ballot marking device;*

(b) The reason for accessing the mechanical recording device ~~+~~ *or ballot marking device;*
and

(c) The date and time that the accessing of the mechanical recording device *or ballot marking device* was completed.

The following information is provided regarding the proposed regulations in R112-21P pursuant to the requirements of NRS 233B.0603:

(1) A statement of the need for and purpose of the proposed regulation.

[NRS 293.124](#) provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed amendment is to codify standards and procedures for various election functions. Specifically providing that the Secretary of State will prepare a report setting forth the official title for each race that will be on the ballot at an election; requiring each county clerk to use such official titles in any mechanical voting system used by the county; and providing other matters properly relating thereto.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

Not applicable as these proposed regulations would be permanent regulations.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

As the proposed regulations are permanent regulations, the text of the proposed regulation are attached to this notice.

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (I) Both adverse and beneficial effects; and (II) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

The agency determined that these proposed regulations would not impact small businesses through discussions with the county clerks and Secretary of State's accounting division, and through an analysis of historic costs related to the administration of Nevada's elections at the state and county level.

(6) The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Secretary of State's office.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies which the proposed regulations overlap or duplicate.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations do not include provisions which are more stringent than a federal regulation that regulates the same activity.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

This information is provided in the text located at the top of this notice. Interested persons may present their view regarding these proposed regulations either in writing or during the aforementioned Zoom meeting.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Respectfully,

Mark Wlaschin

Mark Wlaschin, Deputy Secretary for Elections

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R112-21

December 20, 2021

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 293.124, 293.247, 293.250 and 293B.105.

A REGULATION relating to elections; providing that the Secretary of State will prepare a report setting forth the official title for each race that will be on the ballot at an election; requiring each county clerk to use such official titles in any mechanical voting system used by the county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of any county to purchase and adopt for use at elections any mechanical voting system. (NRS 293B.105) A mechanical voting system is a system of voting whereby a voter may cast a vote: (1) on a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or (2) by marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer. (NRS 293B.033)

This regulation provides that, not later than 180 days before each election, the Secretary of State will prepare and send to each county clerk of a county that will use a mechanical voting system for the election a report that sets forth the official title for each race that will be on the ballot. This regulation further requires the county clerk to ensure that the mechanical voting system used in the county uses the official title set forth in the report for each race that is on the ballot.

Section 1. Chapter 293B of NAC is hereby amended by adding thereto a new section to read as follows:

1. Not later than 180 days before each election, the Secretary of State will prepare and send to each county clerk of a county that will use a mechanical voting system for the election a report that sets forth the official title for each race that will be on the ballot.

2. The county clerk shall ensure that the mechanical voting system used in the county uses the official title set forth in the report described in subsection 1 for each race that is on the ballot.