



OFFICE OF THE
SECRETARY OF STATE

January 19, 2022

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 22nd 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 293 and 293C 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)
R087-21P	293/293C	Revises provisions relating to legal holidays
R088-21P	293	Revises various provisions
R089-21P	293	Repeals various provisions
R090-21P	293	Revises provisions relating to mail ballots
R091-21P	293	Establishes election security procedures
R092-21P	293	Establishes provisions relating to testing of electronic rosters
R093-21P	293	Establishes provisions relating to ballot boxes and electioneering
R094-21P	293	Establishes provisions relating to mail ballot processing
R095-21P	293	Establishes provisions governing electronic signature verification
R096-21P	293	Establishes provisions relating to boards
R097-21P	293	Revises various provisions
R098-21P	293	Revises provisions relating to observation

The 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 21, 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/86730502282?pwd=ZWVFc1NOZ1hPdKVVZVXBaU3NYd2g5UT09>

The meeting ID is 867 3050 2282 and passcode is 373651

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

A copy of this notice and the regulations 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 regulations 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

22nd day of February of 2022 at 8 AM

Zoom Meeting Details:

<https://us02web.zoom.us/j/86730502282?pwd=ZWVFc1NOZ1hPdKlVZVXBaU3NYd2g5UT09>

The meeting ID is 867 3050 2282 and passcode is 373651

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. Comments will be limited to two (2) minutes. 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 R087-21P)
5. Public comment on proposed amendments to Nevada Administrative Code Chapters 293 and 293C (LCB File Number R087-21P)
6. Adoption Hearing regarding proposed amendment (LCB File Number R088-21P)
7. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R088-21P)
8. Adoption Hearing regarding proposed amendment (LCB File Number R089-21P)
9. Public comment on proposed amendments to Nevada Administrative Code Chapters 293 (LCB File Number R089-21P)
10. Adoption Hearing regarding proposed amendment (LCB File Number R090-21P)
11. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R090-21P)
12. Adoption Hearing regarding proposed amendment (LCB File Number R091-21P)

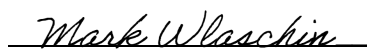
13. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R091-21P)
14. Adoption Hearing regarding proposed amendment (LCB File Number R092-21P)
15. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R092-21P)
16. Adoption Hearing regarding proposed amendment (LCB File Number R093-21P)
17. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R093-21P)
18. Adoption Hearing regarding proposed amendment (LCB File Number R094-21P)
19. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R094-21P)
20. Adoption Hearing regarding proposed amendment (LCB File Number R095-21P)
21. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R095-21P)
22. Adoption Hearing regarding proposed amendment (LCB File Number R096-21P)
23. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R096-21P)
24. Adoption Hearing regarding proposed amendment (LCB File Number R097-21P)
25. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R097-21P)
26. Adoption Hearing regarding proposed amendment (LCB File Number R098-21P)
27. Public comment on proposed amendments to Nevada Administrative Code Chapter 293 (LCB File Number R098-21P)
28. General Public Comment
In consideration of others, who may also wish to provide public comment, please avoid repetition. Comments will be limited to two (2) minutes. No action will be taken on any items raised in the public comment period.
29. 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, Deputy Secretary for Elections

The following information is provided regarding the proposed regulations in R087-21P 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 certain deadlines related to mail ballots must be extended under certain circumstances; 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. R087-21

December 20, 2021

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

AUTHORITY: § 1, NRS 236.015, 293.124 and 293.247 and sections 8 and 11 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1219-20 (NRS 293.269921 and 293.269927); § 2, NRS 236.015, 293.124 and 293.247 and sections 56 and 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1246-47 (NRS 293C.26321 and 293C.26327); § 3, NRS 293.124.

A REGULATION relating to elections; providing that certain deadlines related to mail ballots must be extended under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that in order for a mail ballot to be counted for any election, the mail ballot must be: (1) delivered by hand before the time set for closing of the polls; or (2) mailed to the county or city clerk, as applicable. If a mail ballot is mailed to the county or city clerk, the mail ballot must be: (1) postmarked on or before the day of the election; and (2) received by the clerk not later than 5 p.m. on the fourth day following the election. (Sections 8 and 56 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1219 and 1246 (NRS 293.269921 and 293.269927))

Existing law provides that if a county or city clerk determines when checking the signature used for the mail ballot that: (1) the voter failed to affix his or her signature or failed to affix it in the manner required by law; or (2) there is a reasonable question of fact as to whether the signature matches the signature of the voter, the clerk must contact the voter and advise the voter of the procedures to provide a signature or confirmation that the signature used belongs to the voter, as applicable. For the mail ballot to be counted, the voter must provide a signature or confirmation, as applicable, not later than 5 p.m. on the sixth day following the election. (Sections 11 and 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1220 and 1247 (NRS 293.269921 and 293.269927))

This regulation provides that if any such deadline falls on a legal holiday, the deadline is extended until 5 p.m. on the next working day.

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

1. If the deadline for:

(a) The county clerk to receive a mail ballot that has been mailed to the county clerk; or
(b) A registered voter to provide to the county clerk a signature on a mail ballot or a confirmation that the signature used for a mail ballot belongs to the voter, as applicable,
↪ is a legal holiday, such deadline is extended until 5 p.m. on the next working day.

2. As used in this section, “legal holiday” means any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 2. Chapter 293C of NAC is hereby amended by adding thereto a new section to read as follows:

1. If the deadline for:

(a) The city clerk to receive a mail ballot that has been mailed to the city clerk; or
(b) A registered voter to provide to the city clerk a signature on a mail ballot or a confirmation that the signature used for a mail ballot belongs to the voter, as applicable,
↪ is a legal holiday, such deadline is extended until 5 p.m. on the next working day.

2. As used in this section, “legal holiday” means any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 3. This regulation becomes effective on the later of:

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

The following information is provided regarding the proposed regulations in R088-21P 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 revising provisions relating to certain provisional ballots; revising certain requirements relating to election notices; revising certain provisions relating to the offices of justice of the Supreme Court; eliminating obsolete language related to an acceptance of candidacy; revising certain requirements relating to sample ballots; revising requirements for a county clerk to submit a voting history of certain voters; revising certain filing requirements relating to certain election complaints; updating citations to certain federal law; 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. R088-21

December 20, 2021

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

AUTHORITY: §§ 1, 2, 4, 14 and 15, NRS 293.124 and 293.247; § 3, NRS 293.124, 293.196 and 293.247; §§ 5 and 16, NRS 293.124, 293.247 and 293.565; §§ 6-8, NRS 293.124 and 293.675; §§ 9-13, NRS 293.124, 293.247 and 293.4685.

A REGULATION relating to elections; revising provisions relating to certain provisional ballots; revising certain requirements relating to election notices; revising certain provisions relating to the offices of justice of the Supreme Court; eliminating obsolete language related to an acceptance of candidacy; revising certain requirements relating to sample ballots; revising requirements for a county clerk to submit a voting history of certain voters; revising certain filing requirements relating to certain election complaints; updating citations to certain federal law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes, under certain circumstances, a person to cast a provisional ballot if the person registers to vote in person or updates his or her voter registration information, as applicable, at a polling place. (NRS 293.5832-293.5847) Existing law further authorizes a person to cast a provisional ballot if the person completes a written affirmation and: (1) declares that he or she is registered to vote and is eligible to vote in the election in that jurisdiction but his or her name does not appear on the voter registration list; (2) has registered to vote by mail or computer, has not voted in an election for federal office in this State and fails to provide identification to an election board officer at the polling place; or (3) declares that he or she is entitled to vote after the polling place would close as a result of certain court orders. (NRS 293.3081, 293.3082) Existing regulations set forth various provisions related to the latter type of provisional ballot. (NAC 293.270, 293.275, 293.280, 293.466 and 293.472) **Sections 1, 6 and 7** of this regulation define the term “provisional ballot” for purposes of these sections to clarify that the provisions apply only to the latter type of provisional ballot.

Existing regulations require the Secretary of State to send each county clerk a written notice designating the offices for which candidates are to be nominated at a primary election and requires each county clerk to publish the notice in a newspaper in his or her county within 10 days of receipt. (NAC 293.040) **Section 2** of this regulation requires the Secretary of State to also: (1) send an electronic notice to each county clerk; and (2) post a copy of the notice on the website of the Secretary of State. **Section 2** further requires the county clerk to publish the notice

on the Internet website of the county clerk and provides that if the county clerk is unable to publish the notice in a newspaper within 10 days due to the publishing deadlines of the newspaper, the county clerk must publish the notice as soon as practicable.

Existing regulations set forth the years in which the seats of the offices of justice of the Supreme Court are to be elected. (NAC 293.060) **Section 3** of this regulation updates these years.

Sections 4, 5, 14 and 15 of this regulation eliminate obsolete references to an “acceptance of candidacy,” as that term is no longer used in the Nevada Revised Statutes..

Existing regulations require the county clerk and city clerk to mail at least five sample ballots and provide an electronic sample ballot to the Secretary of State. (NAC 293.120 and 293C.110) **Sections 5 and 16** of this regulation instead require the county and city clerks to provide only an electronic sample ballot to the Secretary of State.

Existing regulations require each county clerk to submit to the Secretary of State a voting history for each voter in the county who casts a ballot in an election not later than 45 days after each primary or general election. (NAC 293.474) **Section 8** of this regulation instead requires the county clerk to send the voting history not later than 45 days after every election.

Existing regulations require certain election complaints to be filed in the Office of Secretary of State in Carson City. (NAC 293.515) **Section 9** of this regulation removes the requirement that the complaint be filed in Carson City.

Sections 9-13 of this regulation update existing citations to the federal Help America Vote Act of 2002, Public Law 107-252, 52 U.S.C. §§ 21081 to 21102, inclusive.

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

As used in NAC 293.270, 293.275 and 293.280 and this section, “provisional ballot” has the meaning ascribed to it in NRS 293.3078.

Sec. 2. NAC 293.040 is hereby amended to read as follows:

293.040 1. The Secretary of State will, not later than November 15 of the year before the year in which a primary election is held ~~H; prepare~~:

(a) Prepare and send to each county clerk a written *and electronic* notice which designates the judicial, statewide and multicounty district offices for which candidates are to be nominated at the primary election ~~H~~; *and*

(b) Post a copy of the notice prepared pursuant to paragraph (a) on the Internet website of the Secretary of State.

2. ~~{Within}~~ *Except as otherwise provided in this subsection, within* 10 days after receipt of a notice required to be sent pursuant to subsection 1, the county clerk shall publish once in a newspaper published in his or her county *and on the Internet website of the county clerk* that portion of the notice which applies to his or her county. If ~~{no}~~ :

(a) *No* newspaper is published in his or her county, the publication must be made in any newspaper of general circulation which is published in the nearest county of this State ~~{}~~ ; *or*

(b) *The publication deadline of the newspaper prevents the county clerk from publishing the notice within 10 days, the publication must be made as soon as practicable after receipt of the notice.*

Sec. 3. NAC 293.060 is hereby amended to read as follows:

293.060 1. For purposes of elections only, the offices of justice of the Supreme Court are designated as seats A, B, C, D, E, F and G.

2. The offices which will be filled at the general election of ~~{1980,}~~ *2016*, and each 6 years thereafter, are designated seats A and E. The ~~{office}~~ *offices* which will be filled at the general election of ~~{1982,}~~ *2018*, and each 6 years thereafter, ~~{is}~~ *are* designated ~~{seat}~~ *seats* C ~~{}~~ , *F and G*. The offices which will be filled at the general election of ~~{1984,}~~ *2020*, and each 6 years thereafter, are designated seats B and D. ~~{The offices which will be filled at the general elections of 1998 and 2000, and each 6 years thereafter, are designated seats F and G.}~~ The following illustrates the sequence:

(a) Seat A — ~~{1980, 1986, 1992, 1998,}~~ *2016, 2022, 2028, 2034*, etc.;

(b) Seat B — ~~{1984, 1990, 1996, 2002,}~~ *2020, 2026, 2032, 2038*, etc.;

(c) Seat C — ~~{1982, 1988, 1994, 2000,}~~ *2018, 2024, 2030, 2036*, etc.;

(d) Seat D — ~~{1984, 1990, 1996, 2002,}~~ *2020, 2026, 2032, 2038*, etc.;

(e) Seat E — ~~{1980, 1986, 1992, 1998,}~~ 2016, 2022, 2028, 2034, etc.;

(f) Seat F — ~~{1998, 2000, 2006, 2012,}~~ 2018, 2024, 2030, 2036, etc.; and

(g) Seat G — ~~{1998, 2000, 2006, 2012,}~~ 2018, 2024, 2030, 2036, etc.

Sec. 4. NAC 293.081 is hereby amended to read as follows:

293.081 1. A candidate may change the manner in which his or her name will appear on the ballot by filing a written request to amend his or her declaration of candidacy . ~~{for acceptance of candidacy.}~~ The request must be filed by the candidate in person with the filing officer with whom he or she filed the declaration of candidacy ~~{for acceptance of candidacy}~~ not later than 5 p.m. on the last day to file the declaration of candidacy . ~~{for acceptance of candidacy.}~~

2. This section does not authorize the amendment of any matter contained in a declaration of candidacy ~~{for acceptance of candidacy}~~ other than the manner in which the name of the candidate appears.

Sec. 5. NAC 293.120 is hereby amended to read as follows:

293.120 The county clerk shall:

1. Mail a copy of the sample ballot for the primary election ~~{, as provided in}~~ *prepared pursuant to* NRS 293.565 ~~{,}~~ to each candidate who has filed with the county clerk a declaration of candidacy . ~~{for an acceptance of candidacy.}~~ The copy must be mailed to the mailing address which is stated in the declaration of candidacy . ~~{for acceptance of candidacy.}~~

2. Mail a copy of the sample ballot for the primary election ~~{, as provided in}~~ *prepared pursuant to* NRS 293.565 ~~{,}~~ to each candidate who has been certified to the county clerk by the Secretary of State.

3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the county clerk shall make a copy of each sample ballot available to the candidate upon request.

4. ~~Mail a copy of at least five sample ballots and provide~~ *Provide* an electronic copy of each sample ballot for a primary election ~~as provided in~~ *prepared pursuant to* NRS 293.565, to the Secretary of State.

5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in the county clerk's office.

Sec. 6. NAC 293.466 is hereby amended to read as follows:

293.466 1. If a county clerk receives notice from the Secretary of State or another county clerk that the statewide voter registration list contains information that is potentially inaccurate, duplicative or otherwise requiring verification, the county clerk shall, not later than 5 calendar days after receiving such notification, take such action as is necessary to correct the information in the statewide voter registration list and in the computerized database established pursuant to NAC 293.454.

2. If the county clerk is unable to obtain the correct information relating to the voter that is described in subsection 1 before the day of an election, the voter must show such identification before any ballot may be cast, except that a voter may cast a provisional ballot pursuant to the provisions of NRS 293.3081 to 293.3086, inclusive.

3. As used in this section, "provisional ballot" has the meaning ascribed to it in NRS 293.3078.

Sec. 7. NAC 293.472 is hereby amended to read as follows:

293.472 1. At the close of business on the 19th calendar day before a particular election, the Secretary of State will make a record, to be used by each county clerk, of the official list of registered voters in this State for that election.

2. The official list of registered voters distributed pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be used to determine voter eligibility and the validity of any provisional ballot cast *pursuant to the provisions of NRS 293.3081 to 293.3086, inclusive*, in the election; and

(b) May only be amended by the Secretary of State or a county clerk under the following circumstances:

(1) A court of competent jurisdiction orders such amendment;

(2) A person registers to vote pursuant to NRS 293.502 after the 19th calendar day before the election;

(3) Pursuant to the provisions of NAC 293.462 to 293.468, inclusive, or 293.476; or

(4) The clerk determines that the voter was incorrectly omitted from the list of registered voters.

3. Each county clerk shall prepare registers, rosters and lists used at polling places by using the information contained in the computerized database established pursuant to NAC 293.454 if such information is identical to the information contained in the official list of registered voters distributed pursuant to subsection 1.

4. As used in this section, “provisional ballot” has the meaning ascribed to it in NRS 293.3078.

Sec. 8. NAC 293.474 is hereby amended to read as follows:

293.474 Each county clerk shall submit to the Secretary of State, not later than 45 business days after each ~~{primary or general}~~ election, a voting history for each voter in the county who cast a ballot in the election. The voting history must be in the format prescribed by the Secretary of State and ~~{must}~~, *for each registered voter who voted in person at a polling place*, indicate the ~~{dates}~~ *date* on which and ~~{locations}~~ *location* at which ~~{each}~~ *the* registered voter cast a ballot.

Sec. 9. NAC 293.515 is hereby amended to read as follows:

293.515 1. A person who believes that a violation of Title III of the Help America Vote Act of 2002, Public Law 107-252, ~~{42}~~ *52* U.S.C. §§ ~~{15481}~~ *21081* to ~~{15502}~~ *21102*, inclusive, has occurred, is occurring or is about to occur may file a complaint with the Office of the Secretary of State.

2. A complaint filed pursuant to subsection 1 must:

(a) Be in writing, notarized and signed and sworn *to* by the complainant. If the Secretary of State prescribes a form for the complaint, the complaint must be filed on that form.

(b) Provide the name of each respondent and a concise statement of the facts of the alleged violation of ~~{42}~~ *52* U.S.C. §§ ~~{15481}~~ *21081* to ~~{15502}~~ *21102*, inclusive.

(c) Be filed in the Office of the Secretary of State : ~~{in Carson City}~~

(1) Not later than 60 days after the occurrence of the action or event that forms the basis for the complaint or for the belief of the complainant that a violation of ~~{42}~~ *52* U.S.C. §§ ~~{15481}~~ *21081* to ~~{15502}~~ *21102*, inclusive, is about to occur; or

(2) Not later than 60 days after the complainant knew or, with the exercise of reasonable diligence, should have known of the action or event that forms the basis for the complaint or for

the belief of the complainant that a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,~~ 21102, inclusive, is about to occur,

↪ whichever is later.

3. The complainant shall mail or deliver a copy of the complaint to each respondent not later than the date on which the complaint is filed.

Sec. 10. NAC 293.520 is hereby amended to read as follows:

293.520 1. The Secretary of State or a designee thereof will review each complaint filed pursuant to NAC 293.515 to determine whether the complaint:

- (a) States a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,~~ 21102, inclusive; and
- (b) Complies with the requirements of NAC 293.515.

2. If a complaint fails to state a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,~~ 21102, inclusive, or does not comply with the requirements of NAC 293.515, the complaint will be dismissed without further action and notice of the dismissal will be provided to the complainant.

3. Except as otherwise provided in subsection 4, a complainant whose complaint has been dismissed pursuant to this section may refile the complaint within the time set forth in paragraph (c) of subsection 2 of NAC 293.515.

4. A complainant whose complaint has been dismissed for failure to state a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,~~ 21102, inclusive, may refile the complaint only one time.

Sec. 11. NAC 293.535 is hereby amended to read as follows:

293.535 1. Except as otherwise provided in this subsection, the Secretary of State or a designee thereof will act as the hearing officer for a hearing held pursuant to NAC 293.530. If

the Secretary of State is a respondent in the complaint, the Secretary of State will appoint a designee who is an independent professionally qualified person to act as the hearing officer.

2. The complainant, any respondent and any interested member of the public may appear at the hearing, in person or by teleconference, and testify or present relevant evidence in connection with the complaint. All testimony to be considered in the hearing will be taken under oath. The hearing officer may limit the testimony of witnesses, if necessary, to ensure that all interested persons may present their views. The hearing officer may recess the hearing and reconvene the hearing at a later date, time and place, which must be announced publicly at the hearing.

3. A complainant, respondent or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

4. Cross-examination at the hearing will be permitted only at the discretion of the hearing officer, but a person may testify or present evidence at the hearing to contradict any other testimony or evidence presented at the hearing. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence presented subsequently, that person is entitled to be heard again only at the discretion of the hearing officer, who may authorize the person to provide an oral or written response, or both.

5. The hearing will be recorded on audiotape by and at the expense of the Office of the Secretary of State. The recording will not be transcribed, but the Secretary of State, a local board of elections or any party to the hearing may obtain a transcript of the hearing at its own expense. If a board or party obtains a transcript of a hearing, the board or party shall file a copy of the transcript as part of the record and any other interested party may examine the copy of the transcript on record.

6. Any party to the proceeding may file a written brief or memorandum with the hearing officer not later than 5 business days after the conclusion of the hearing. The party shall serve a copy of any such written brief or memorandum on all other parties not later than the time the written brief or memorandum is filed with the hearing officer. No responsive or reply memorandum to such a brief or memorandum will be accepted without the specific authorization of the hearing officer.

7. At the conclusion of the hearing and after any brief or memorandum has been filed pursuant to subsection 6, the hearing officer will determine whether, by a preponderance of the evidence, a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,1~~ 21102, inclusive, has occurred, is occurring or is about to occur.

Sec. 12. NAC 293.540 is hereby amended to read as follows:

293.540 If a complainant has not requested a hearing on a complaint filed pursuant to NAC 293.515, the Secretary of State or a designee thereof will review the complaint and any accompanying record and determine whether, by a preponderance of the evidence, a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,1~~ 21102, inclusive, has occurred, is occurring or is about to occur. If the Secretary of State is a respondent in the complaint, the Secretary of State will appoint an independent professionally qualified person to act as the designee pursuant to this section.

Sec. 13. NAC 293.545 is hereby amended to read as follows:

293.545 1. If the Secretary of State or a designee thereof, whether acting as a hearing officer pursuant to NAC 293.535 or reviewing a complaint pursuant to NAC 293.540, determines that a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502,1~~ 21102, inclusive, has occurred, is occurring or is about to occur, the Secretary of State or the designee will provide the appropriate

remedy, including, without limitation, an order to a respondent commanding the respondent to take specified action or prohibiting the respondent from taking specified action, with respect to a past or future election. Such a remedy will not include an award of money damages or attorney's fees.

2. If the Secretary of State or the designee, whether acting as a hearing officer pursuant to NAC 293.535 or reviewing a complaint pursuant to NAC 293.540, determines that a violation of ~~42~~ 52 U.S.C. §§ ~~15481~~ 21081 to ~~15502~~ 21102, inclusive, has not occurred, is not occurring or is not about to occur, the Secretary of State or the designee will dismiss the complaint.

3. The Secretary of State or the designee will issue a final determination on a complaint made pursuant to subsection 1 or 2 in writing. The final determination will include an explanation of the reasons for the determination and, if applicable, the remedy selected.

4. Except as otherwise provided in NAC 293.550, a final determination of the Secretary of State or the designee on a complaint will be issued within 90 days after the complaint is filed, unless the complainant consents in writing to an extension. The final determination will be:

(a) Mailed to the complainant, each respondent and any interested person who has requested in writing to be advised of the final determination;

(b) Posted on the website of the Secretary of State; and

(c) Made available by the Secretary of State, upon request, to any interested person.

Sec. 14. NAC 293C.070 is hereby amended to read as follows:

293C.070 Not later than 5 working days after the last day upon which any candidate who has filed a declaration ~~for acceptance~~ of candidacy may withdraw his or her candidacy pursuant to NRS 293C.195, each city clerk shall send to the Secretary of State a list certified by him or her that contains the name and mailing address of each person who is a candidate for a city office.

Sec. 15. NAC 293C.080 is hereby amended to read as follows:

293C.080 1. A candidate may change the manner in which his or her name will appear on the ballot by filing a written request to amend his or her declaration of candidacy . ~~for acceptance of candidacy.~~ The request must be filed by the candidate in person with the filing officer with whom the declaration of candidacy ~~for acceptance of candidacy~~ was filed not later than 5 p.m. or close of business on the last day to file the declaration of candidacy . ~~for acceptance of candidacy.~~

2. This section does not authorize the amendment of any matter contained in a declaration of candidacy ~~for acceptance of candidacy~~ other than the manner in which the name of the candidate appears.

Sec. 16. NAC 293C.110 is hereby amended to read as follows:

293C.110 The city clerk shall:

1. Mail a copy of the sample ballot for the primary city election ~~as provided in~~ *prepared pursuant to* NRS 293.565 ~~to~~ to each candidate.

2. Mail a copy of the sample ballot for the primary city election ~~as provided in~~ *prepared pursuant to* NRS 293.565 ~~to~~ to each candidate who has been certified to him or her by the Secretary of State.

3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the city clerk shall make a copy of each sample ballot available to the candidate upon request.

4. ~~Mail a copy of at least five sample ballots and provide~~ *Provide* an electronic copy of each sample ballot for a primary city election ~~as provided in~~ *prepared pursuant to* NRS 293.565 ~~to~~ to the Secretary of State.

5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in the city clerk's office.

The following information is provided regarding the proposed regulations in R089-21P 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 eliminating obsolete language related to voting by absent 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. R089-21

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 and 293.273; §§ 2, 3, 6 and 7, NRS 293.124 and 293.247; §§ 4 and 8, NRS 293.124, 293.247 and 293.3606; § 5, NRS 293.124, 293.247, 293.440, 293.530 and 293.557; § 9, NRS 293.124.

A REGULATION relating to elections; eliminating obsolete language related to voting by absent ballot; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Assembly Bill No. 321 (A.B. 321) of the 2021 Legislative Session repealed existing provisions of law governing voting by absent ballot. (Section 91 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1266) Consistent with the changes made by A. B. 321, **section 9** of this regulation repeals obsolete regulations relating to voting by absent ballot. **Sections 1-8** of this regulation eliminate obsolete language related to voting by absent ballot.

Section 1. NAC 293.160 is hereby amended to read as follows:

293.160 1. The chair of the election board shall designate the officer of the election board who is to make the proclamation required pursuant to NRS 293.273. That officer shall make the proclamation at the entrance or inside of the polling place.

2. During the time the polls are open, the members of an election board may take time for meals or personal needs, except that only one member may be absent at any time from a polling place where four or fewer members are employed, and only two members may be absent at any time from a polling place where five or more members are employed.

3. The election board shall, to the extent possible, prevent any person who has given assistance in voting to another from disclosing the nature of the assisted person's vote.

4. ~~{Any election board which receives mailing ballots from the county clerk shall follow the procedure prescribed for absent ballots in NRS 293.333 and 293.335.}~~

~~—5.}~~ When it is time to close the polls, a member of the election board shall proclaim that the polls are closed for voting.

~~{6.}~~ 5. After the completion of an election, all ballots and paper records of VVPATs must be returned by the sheriff or representative of the county clerk and placed by him or her in a secure storage area designated and provided by the county clerk.

~~{7. If an absent ballot central counting board is appointed, the members of the board shall meet at a place designated by the county clerk as soon as the polls close.}~~

6. The board of county commissioners shall prepare abstracts of votes on a form which was submitted by the county clerk to and approved by the Secretary of State.

Sec. 2. 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.}~~

Sec. 3. NAC 293.270 is hereby amended to read as follows:

293.270 1. A person who completes the written affirmation required by NRS 293.3082 must be provided with a provisional ballot, regardless of whether the person is at the wrong polling place or precinct.

2. If an election official becomes aware that a person appearing to vote is a registered voter who has appeared to vote in the wrong polling place, the election official must inform the person of the location of the correct polling place for the person. The election official must also inform the person that although a provisional ballot may be cast at the incorrect precinct, the provisional ballot will not be counted unless the requirements of subsection 3 are satisfied and the voter casts the provisional ballot at a polling place that is located in the congressional district in which the voter resides.

3. A county clerk shall count a provisional ballot if the county clerk determines that all the following requirements were satisfied by the date of the election for which the provisional ballot was cast:

- (a) The voter was properly registered in the county where the provisional ballot was cast;
- (b) The voter was a citizen of the United States;
- (c) The voter was 18 years of age or older;
- (d) The voter had continuously resided in the county where he or she registered to vote for at least 30 days;
- (e) The voter had continuously resided in the precinct for which he or she registered to vote for at least 10 days;
- (f) ~~The voter had not been convicted of a felony or, if the voter had been convicted of a felony, the civil rights of the voter had been lawfully restored;~~
- ~~(g)~~ The voter signed the required affirmation;

~~†(h)†~~ (g) If the provisional ballot was cast at a polling place, the voter did not cast any other ballot, including ~~†an absent or†~~ a mail-in ballot;

~~†(h)†~~ (h) If the voter did not show proof of residence and identity at the time he or she registered to vote, that the voter provided official identification establishing residence and identity by 5 p.m. on the Friday following election day;

~~†(h)†~~ (i) The voter cast the provisional ballot at a polling place that was authorized to accept a ballot for the congressional district in which the voter resides; and

~~†(h)†~~ (j) The provisional ballot cast listed the correct federal offices for the congressional district in which the voter resides.

4. The county clerk shall, not earlier than 5 p.m. on the Friday immediately following election day, post and submit to the Secretary of State the totals of provisional votes counted. The county clerk shall post and submit the updated results in the same manner and form as election day results.

Sec. 4. NAC 293.331 is hereby amended to read as follows:

293.331 1. If a precinct has fewer than 10 returns from early voting:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of NRS 293.3606, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

2. If a precinct has fewer than 10 returns of ~~†absent†~~ *mail* ballots:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of ~~†NRS 293.385,†~~ *section 15 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1223 (NRS 293.269935)*, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

Sec. 5. NAC 293.412 is hereby amended to read as follows:

293.412 1. A county clerk shall:

(a) Maintain a separate list of inactive voters or designate inactive voters as such on regular lists of registered voters and election board registers.

(b) At the request of the Secretary of State, report to the Secretary of State the total number of inactive voters.

2. The name of each inactive voter:

(a) Must be included on any list made available for public inspection pursuant to NRS 293.440 unless the person requesting the list requests the exclusion of those names.

(b) Must not be included on any list made available for public inspection pursuant to NRS 293.557.

3. The signature of an inactive voter shall be deemed to be the signature of a registered voter for all purposes regarding any petition authorized or required pursuant to title 24 of NRS.

4. A city or county clerk:

(a) Is not required to send a sample ballot to an inactive voter.

(b) Is required to send ~~an absent~~ *a military-overseas* ballot to an inactive voter if the inactive voter requests ~~+~~

~~—— (1) An absent ballot pursuant to the provisions of NRS 293.313 or 293C.310, as applicable; or~~

~~—— (2) A~~ *a* military-overseas ballot pursuant to the provisions of chapter 293D of NRS.

5. An inactive voter may vote in person at a polling place in the same manner as an active voter.

6. As used in this section, “inactive voter” means a voter designated as inactive pursuant to NRS 293.530 whose registration has not been cancelled.

Sec. 6. NAC 293C.150 is hereby amended to read as follows:

293C.150 1. The chair of the election board shall designate the officer of the election board who is to make the proclamation required pursuant to NRS 293.273. That officer shall make the proclamation at the entrance or inside of the polling place.

2. During the time the polls are open, the members of an election board may take time for meals or personal needs, except that only one member may be absent at any time from a polling place where four or fewer members are employed, and only two members may be absent at any time from a polling place where five or more members are employed.

3. The election board shall, to the extent possible, prevent any person who has given assistance in voting to another from disclosing the nature of the assisted person’s vote.

4. In polling places in which a mechanical voting system is not used:

(a) The number of replacement ballots that may be issued to a voter who spoils his or her ballot may be decided, in good faith, by the election board.

(b) The chair of the election board shall make a record of the cancelled ballots. The envelope in which cancelled ballots are placed must be marked with the words “cancelled ballots.”

5. ~~Any election board that receives mailing ballots from the city clerk shall follow the procedure prescribed for absent ballots in NRS 293C.332 and 293C.352.~~

~~6.~~ When it is time to close the polls, a member of the election board shall proclaim that the polls are closed for voting.

~~7.~~ 6. After the completion of an election:

(a) In polling places in which a mechanical voting system is not used, ballot boxes must be returned by the chief law enforcement officer of the city or representative of the city clerk and placed by him or her in a secure storage area designated and provided by the city clerk.

(b) In polling places in which a mechanical voting system is used, all ballots and paper records of VVPATs must be returned by the chief law enforcement officer of the city or representative of the city clerk and placed by him or her in a secure storage area designated and provided by the city clerk.

~~{8. If an absent ballot central counting board is appointed, the members of the board shall meet at a place designated by the city clerk as soon as the polls close.}~~

7. The city council shall prepare abstracts of votes on a form that was submitted by the city clerk to and approved by the Secretary of State.

Sec. 7. 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.}~~

Sec. 8. NAC 293C.240 is hereby amended to read as follows:

293C.240 1. If a precinct has fewer than 10 returns from early voting:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of NRS 293C.3606, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

2. If a precinct has fewer than 10 returns of ~~absent~~ *mail* ballots:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of ~~NRS 293C.385,~~ *section 63 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1250 (NRS 293C.26335),* to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

Sec. 9. NAC 293.173, 293.291, 293.295, 293.305, 293.307, 293.311, 293.313, 293.315, 293.317, 293.318, 293.319, 293C.165, 293C.170, 293C.190, 293C.195, 293C.196, 293C.197, 293C.198, 293C.199 and 293C.200 are hereby repealed.

TEXT OF REPEALED SECTIONS

293.173 Counting of votes cast by certain challenged voters.

1. If an absent ballot central counting board has been established pursuant to ,NRS 293.235, ballots cast by voters whose eligibility to vote has been successfully challenged solely on the basis of a change of residence within the county must be counted and recorded separately from those cast by other voters in any precinct.

2. If an absent ballot central counting board has not been established, the county clerk shall provide the manner of counting such ballots.

293.291 Form to request absent ballot; voting at polling place after receipt.

1. In addition to the requirements set forth in paragraph (a) of subsection 1 of NRS 293.3095, the form to request an absent ballot must:

(a) Include a line for:

- (1) The name of the registered voter requesting the absent ballot;
- (2) The signature of the registered voter requesting the absent ballot; and
- (3) A tracking number that consists of the:

(I) Control number of the application to register to vote assigned to the application by the Secretary of State pursuant to NAC 293.420; or

(II) Voter registration number that is generated by computer and assigned by the county clerk in a county where a computer is used to register voters; and

(b) Include the name and address of the county clerk of the county where the registered voter who requests the ballot resides.

2. A registered voter who receives an absent ballot may vote at a polling place if the registered voter:

- (a) Surrenders the absent ballot to the county clerk or a designee thereof; or
- (b) Complies with the requirements set forth in subsection 3 of NRS 293.330.

293.295 Request for absent ballot: Verification of voter's address; notification. A county clerk who receives a request for an absent ballot shall:

1. Compare the address of the voter's residence in this State which is indicated on the request with the address which is indicated on the voter's application to register to vote.

2. If the county clerk determines that the address indicated on the application to register to vote is different from the address which is indicated on the request for an absent ballot, mail a written notice to the voter. The notice must include:

- (a) A copy and explanation of the provisions set forth in NRS 293.525; and
- (b) A postcard to be returned by the voter to the county clerk which includes verification of the address of the voter's residence in this State. The county clerk shall use a postcard that may not be forwarded to an address of the voter which is different from the address to which the notice is mailed.

293.305 Delivery of absent ballot by mail. When a county clerk sends a voter an absent ballot pursuant to NRS 293.323, the county clerk shall use an envelope that may not be forwarded to an address of the voter that is different from the address to which the absent ballot is mailed.

293.307 Provision of instructions for correction of absent ballot; duplication of corrected ballot.

1. Each county clerk or city clerk shall provide, with each absent ballot, instructions that must include the following:

If you make a mistake or change your mind while voting this ballot, do not use correction fluid or tape. Simply cross out the name of the candidate you do not wish to vote for and connect the arrow of the candidate you do wish to vote for. See example below. Call XXX-XXXX for assistance if needed.

~~George Washington~~ ← →
Ben Franklin - - - - - ← →

2. A county clerk or city clerk shall not duplicate any absent ballot which the voter has marked to indicate a correction or on which the voter has used correction tape or fluid unless the clerk determines that no ambiguity exists as to the intent of the voter.

293.311 Procedures for handling absent voters' ballots in county with absent ballot central counting board.

1. In a county in which the county clerk has appointed an absent ballot central counting board and posted a statement pursuant to subsection 2, the county clerk may, not earlier than 4 working days before election day and not later than 5 p.m. on the second working day before election day, deliver the absent voters' ballots to the absent ballot central counting board. When the ballots are received, the absent ballot central counting board shall:

(a) Sort the ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district, unless the system for counting the ballots produces an accounting of the ballots by precinct or voting district;

(b) Count the number of ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district;

(c) Account for all ballots on the statement of ballots; and

(d) Place all the ballots and the statement of ballots into the container provided by the county clerk to transport those items to a central counting place and seal the container. The container and seal used must comply with the provisions of NRS 293.462.

2. Not later than 2 working days before the date of delivery of the ballots pursuant to subsection 1, the county clerk must post a statement in his or her office that notifies the public of any actions that will be taken pursuant to subsection 1.

3. Any absent ballots received by the county clerk after he or she delivers the ballots pursuant to subsection 1 must be:

(a) Stored and secured pursuant to the provisions of NRS 293.325 after those ballots have been returned pursuant to subsection 1; and

(b) Processed pursuant to the provisions of NRS 293.3625 to 293.397, inclusive.

4. The county clerk shall allow members of the general public to observe the handling of the absent ballots conducted pursuant to subsection 1 if those members do not interfere with the handling of the absent ballots.

293.313 Absent ballot sent by approved electronic transmission: Recording of absent ballot and maintenance of original ballot card. If a county clerk or the authorized representative of a county clerk sends an absent ballot by approved electronic transmission, the county clerk or the county clerk's authorized representative shall:

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

2. Record in the absent ballot record:

(a) The name of each voter who requested an absent ballot by approved electronic transmission, the voter's precinct or district, the voter's political affiliation, if any, and the unique identification number of the absent ballot.

(b) The method of approved electronic transmission used by the county clerk or the county clerk's authorized representative to send the absent ballot, including, without limitation, the destination of the absent ballot, such as the facsimile transmission number or electronic mailing address, as applicable, to which the county clerk or the county clerk's authorized representative sent the absent ballot.

(c) The date and time that the county clerk or the county clerk's authorized representative sent the absent ballot to the voter by approved electronic transmission.

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

3. Maintain the original ballot card in a secured area where access is allowed only with the approval of the county clerk.

293.315 Absent ballot sent by facsimile: Contents and form.

1. An absent ballot sent to a voter by facsimile pursuant to subsection 2 of NRS 293.323 must:

(a) Contain instructions for marking the absent ballot.

(b) Contain instructions for returning the absent ballot by facsimile, including, without limitation, the:

(1) Facsimile transmission number that the voter may use to return the absent ballot.

(2) Deadline for returning the absent ballot by facsimile to the county clerk.

(c) Contain the contact information of the county clerk or an authorized representative of the county clerk who will be available during normal business hours to answer questions from the voter concerning the absent ballot. Such information must include, without limitation, the county clerk or authorized representative's name, address, phone number, facsimile transmission number and electronic mail address.

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

(e) Instruct the voter to read and sign a declaration, under penalty of perjury, stating that the voter:

(1) Resides within the precinct in which he or she is voting; and

(2) Is the person who requested the absent ballot.

(f) Contain a statement that failure to sign the declaration required pursuant to paragraph (e) will result in the absent ballot not being counted.

(g) Contain any other information required by the Secretary of State or county clerk.

2. Except as otherwise provided in NRS 293.309, an absent ballot and the information required pursuant to subsection 1 must be written on a form 8 1/2 x 11 inches in size and printed in a size equal to at least 10-point black type on a white background.

293.317 Absent ballot: Receipt; recording; verification of signature.

1. To be counted, an absent ballot must be received by the office of the county clerk by 7 p.m. on the day of the election.

2. The county clerk shall place each rejected absent ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the absent ballot.

3. When an absent ballot is returned to the county clerk, the county clerk shall:

(a) Record the receipt of the absent ballot in the absent ballot record; and

(b) If the absent ballot is returned by approved electronic transmission and the voter requests confirmation of receipt of the absent ballot, send a confirmation to the voter using approved electronic transmission.

4. The county clerk shall check the signature on the return envelope, facsimile or other electronic document, as applicable, of the absent ballot against the original signature of the voter on his or her application to register to vote. Each county clerk shall establish a procedure for duplicating absent ballots received pursuant to this section that must be approved by the Secretary of State before it is used by the county clerk.

5. If a voter returns more than one voted absent ballot for the same election and the county clerk receives all such absent ballots before the polls are closed on the day of the election, the county clerk shall count the absent ballot received first.

293.318 Absent ballot: Plan for disposition in case of emergency.

1. Each county clerk and city clerk shall submit a plan to the Secretary of State setting forth the procedures that the clerk will use for the disposition of absent ballots in case of an emergency. Such plan must be submitted not later than 90 days before each election.

2. In the case of an emergency, the Secretary of State may order one or more polling places to be used to accommodate voters who are unable to vote at their polling places due to the emergency.

3. As used in paragraph (o) of subsection 3 of NRS 293.247, “emergency” means a temporary or permanent situation where one or more polling places located within the jurisdiction of a county clerk or city clerk does not have a mechanical voting device that is properly recording votes electronically.

293.319 Absent ballot: Reporting requirements after election. Not later than 60 days after the date of an election, a county clerk shall report to the Secretary of State, in the form prescribed by the Secretary of State:

1. The number of absent ballots for that election that the county clerk sent using approved electronic transmission.

2. The number of absent ballots for that election that were returned by voters using approved electronic transmission.

3. The number of absent ballots described in subsection 2 which were counted by the county clerk.

293C.165 Absent ballot: Form to request; voting at polling place after receipt.

1. In addition to the requirements set forth in paragraph (a) of subsection 1 of NRS 293C.306, the form to request an absent ballot must:

(a) Include a line for:

- (1) The name of the registered voter requesting the absent ballot;
- (2) The signature of the registered voter requesting the absent ballot; and
- (3) A tracking number that consists of the:

(I) Control number of the application to register to vote assigned to the application by the Secretary of State pursuant to NAC 293.420; or

(II) Voter registration number that is generated by computer and assigned by the county clerk in a county where a computer is used to register voters; and

(b) Include the name and address of the city clerk of the city where the registered voter requesting the ballot resides.

2. A registered voter who receives an absent ballot may vote at a polling place if the registered voter:

- (a) Surrenders the absent ballot to the city clerk or the designee of the city clerk; or
- (b) Complies with the requirements set forth in subsection 3 of NRS 293C.330.

293C.170 Request for absent ballot: Verification of voter's address; notification. A city clerk who receives a request for an absent ballot shall:

1. Compare the address of the voter's residence in this State that is indicated on the request with the address that is indicated on the voter's application to register to vote.

2. If the city clerk determines that the address indicated on the application to register to vote is different from the address that is indicated on the request for an absent ballot, mail a written notice to the voter. The notice must include:

- (a) A copy and explanation of the provisions set forth in NRS 293C.525; and
- (b) A postcard to be returned by the voter to the city clerk that includes verification of the address of the voter's residence in this State. The city clerk shall use a postcard that may not be forwarded to an address of the voter that is different from the address to which the notice is mailed.

293C.190 Delivery of absent ballot by mail. When a city clerk sends a voter an absent ballot pursuant to NRS 293C.322, the city clerk shall use an envelope that may not be forwarded to an address of the voter that is different from the address to which the absent ballot is mailed.

293C.195 Procedures for handling absent voters' ballots in city with absent ballot central counting board.

1. In a city in which an absent ballot central counting board has been appointed and the city clerk has posted a statement pursuant to subsection 2, the city clerk may, not earlier than 4 working days before election day and not later than 5 p.m. on the second working day before election day, deliver the absent voters' ballot boxes to the absent ballot central counting board.

When the ballot boxes are received, the absent ballot central counting board shall:

- (a) Sort the ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district, unless the counting system produces an accounting of the ballots by precinct or voting district;

(b) Count the number of ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district, unless the counting system produces an accounting of the ballots by precinct or voting district;

(c) Account for all the ballots on the statement of ballots; and

(d) Place all the ballots and the statement of ballots into the container provided by the city clerk to transport those items to a central counting place and seal the container. The container and seal used must comply with the provisions of NRS 293C.700.

2. Not later than 2 working days before the date of delivery of the ballot boxes pursuant to subsection 1, the city clerk must post a statement in the city clerk's office that notifies the public of any actions that will be taken pursuant to subsection 1.

3. Any absent ballots received by the city clerk after he or she delivers the ballot boxes pursuant to subsection 1 must be:

(a) Deposited into the appropriate absent voters' ballot boxes pursuant to the provisions of NRS 293C.305 to 293C.340, inclusive, after those ballot boxes have been returned pursuant to subsection 1; and

(b) Processed pursuant to the provisions of NRS 293C.3615 to 293C.395, inclusive.

4. The city clerk shall allow members of the general public to observe the handling of the absent ballots conducted pursuant to subsection 1 if those members do not interfere with the handling of the absent ballots.

293C.196 Absent ballot sent by approved electronic transmission: Recording of absent ballot and maintenance of original ballot card. If a city clerk or the authorized representative of a city clerk sends an absent ballot by approved electronic transmission, the city clerk or the city clerk's authorized representative shall:

1. Cause a unique identification number to be included on the absent ballot.
2. Record in the absent ballot record:
 - (a) The name of each voter who requested an absent ballot by approved electronic transmission, the voter's precinct or district, the voter's political affiliation, if any, and the unique identification number of the absent ballot.
 - (b) The method of approved electronic transmission used by the city clerk or the city clerk's authorized representative to send the absent ballot, including, without limitation, the destination of the absent ballot, such as the facsimile transmission number or electronic mailing address, as applicable, to which the city clerk or the city clerk's authorized representative sent the absent ballot.
 - (c) The date and time that the city clerk or the city clerk's authorized representative sent the absent ballot to the voter by approved electronic transmission.
 - (d) The initials of the person who sent the absent ballot to the voter.
3. Maintain the original ballot card in a secured area where access is allowed only with the approval of the city clerk.

293C.197 Absent ballot sent by facsimile: Contents and form.

1. An absent ballot sent to a voter by facsimile pursuant to subsection 2 of NRS 293C.322 must:
 - (a) Contain instructions for marking the absent ballot.
 - (b) Contain instructions for returning the absent ballot by facsimile, including, without limitation, the:
 - (1) Facsimile transmission number that the voter may use to return the absent ballot.
 - (2) Deadline for returning the absent ballot by facsimile to the city clerk.

(c) Contain the contact information of the city clerk or an authorized representative of the city clerk who will be available during normal business hours to answer questions from the voter concerning the absent ballot. Such information must include, without limitation, the city clerk or authorized representative's name, address, phone number, facsimile transmission number and electronic mail address.

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

(e) Instruct the voter to read and sign a declaration, under penalty of perjury, stating that the voter:

(1) Resides within the precinct in which he or she is voting; and

(2) Is the person who requested the absent ballot.

(f) Contain a statement that failure to sign the declaration required pursuant to paragraph (e) will result in the absent ballot not being counted.

(g) Contain any other information required by the Secretary of State or city clerk.

2. Except as otherwise provided in NRS 293.309, an absent ballot and the information required pursuant to subsection 1 must be written on a form 8 1/2 x 11 inches in size and printed in a size equal to at least 10-point black type on a white background.

293C.198 Absent ballot: Receipt; recording; verification of signature.

1. To be counted, an absent ballot must be received by the office of the city clerk by 7 p.m. on the day of the election.

2. The city clerk shall place each rejected absent ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the absent ballot.

3. When an absent ballot is returned to the city clerk, the city clerk shall:

- (a) Record the receipt of the absent ballot in the absent ballot record; and
- (b) If the absent ballot is returned by approved electronic transmission and the voter requests confirmation of receipt of the absent ballot, send a confirmation to the voter using approved electronic transmission.

4. The city clerk shall check the signature on the return envelope, facsimile or other electronic document, as applicable, against the original signature of the voter on his or her application to register to vote. Each city clerk shall establish a procedure for duplicating absent ballots received pursuant to this section that must be approved by the Secretary of State before it is used by the city clerk.

5. If a voter returns more than one voted absent ballot for the same election and the city clerk receives all such absent ballots before the polls are closed on the day of the election, the city clerk shall count the absent ballot received first.

293C.199 Absent ballot: Reporting requirements after election. Not later than 60 days after the date of an election, a city clerk shall report to the election board:

- 1. The number of absent ballots for that election that the city clerk sent using approved electronic transmission.
- 2. The number of absent ballots for that election that were returned by voters using approved electronic transmission.
- 3. The number of absent ballots described in subsection 2 which were counted by the city clerk.

293C.200 Challenged voters: Counts of votes cast.

1. If an absent ballot central counting board has been established pursuant to NRS 293C.240, ballots cast by voters whose eligibility to vote has been successfully challenged must be counted and recorded separately from those cast by other voters in any precinct.
2. If an absent ballot central counting board has not been established, the city clerk shall provide the manner of counting such ballots.

The following information is provided regarding the proposed regulations in R090-21P 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 establishing certain requirements and procedures for mail ballots; eliminating certain obsolete references to “absent ballots;” 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. R090-21

December 20, 2021

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

AUTHORITY: §§ 1, 10 and 15, NRS 293.124; § 2, NRS 293.124, 293.247 and 293.250; § 3, NRS 293.124 and 293.247 and section 11 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1220 (NRS 293.269927); §§ 4-8, 12 and 13, NRS 293.124 and 293.247; § 9, NRS 293.124, 293.247 and 293.3606 and section 15 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1223 (NRS 293.269935); § 11, NRS 293.124 and 293.247 and section 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1247 (NRS 293C.26327); § 14, NRS 293.124 and 293.247 and section 63 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1250 (NRS 293C.26335).

A REGULATION relating to elections; establishing certain requirements and procedures for mail ballots; eliminating certain obsolete references to “absent ballots;” and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the county and city clerks to send to each active registered voter and each person who registers to vote or updates his or her voter registration not later than 14 days before an election a mail ballot for all elections. (Sections 3 and 51 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216 and 1243 (NRS 293.269911 and 293C.263)) Assembly Bill No. 321 of the 2021 Legislative Session repealed the provisions of Nevada Revised Statutes relating to absent ballots. (Section 91 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1266)

Existing regulations: (1) require each county clerk or city clerk to provide, with each absent ballot, certain instructions for correcting a mistake on the absent ballot; and (2) prohibit a county or city clerk from duplicating an absent ballot unless there is no ambiguity as to the intent of the voter. (NAC 293.307) **Section 2** of this regulation set forth similar requirements for mail ballots.

Existing regulations establish certain procedures for processing an absent ballot, including: (1) requiring the county or city clerk to record the receipt of the absent ballot and check the signature on the return envelope; and (2) the placement of any rejected absent ballots in a separate envelope and the notation of the reason for the rejection. (NAC 293.317, 293C.198) **Sections 3 and 11** of this regulation: (1) set forth similar requirements for mail ballots; and (2)

require the county clerk and city clerk to keep accurate records of the chain of custody for all mail ballots.

Existing regulations establish certain requirements for an absent mail ballot central counting board, including requiring the board to sort and count absent ballots by precinct. Existing regulations further require, with certain exceptions, the county clerk or city clerk to allow members of the public to observe the handling of absent ballots. (NAC 293.311, 293C.195) **Sections 4 and 12** of this regulation establish similar provisions for mail ballots.

Existing regulations require each county clerk and city clerk to submit a plan to the Secretary of State setting forth the procedures that the clerk will use for the disposition of absent ballots in case of emergency. (NAC 293.318) **Section 5** of this regulation establishes similar requirements for mail ballots.

Section 6 of this regulation defines the term “mail ballot.” **Sections 7-9, 13 and 14** of this regulation eliminate obsolete references to the term “absent ballot” in various provisions that will instead apply to mail ballots.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 1. *Each county clerk or city clerk shall provide, with each mail ballot, instructions that must include the following:*

If you make a mistake or change your mind while voting this ballot, do not use correction fluid or tape. Simply cross out the name of the candidate you do not wish to vote for and fill in the oval of the candidate you do wish to vote for. See example below. Call (XXX) XXX-XXXX for assistance if needed.

George Washington — 

Benjamin Franklin 

2. *A county clerk or city clerk shall not duplicate any mail ballot which the voter has marked to indicate a correction or on which the voter has used correction tape or fluid unless the clerk determines that no ambiguity exists as to the intent of the voter.*

Sec. 3. 1. *When a mail ballot is returned to the county clerk, the county clerk shall record the receipt of the mail ballot in the mail ballot record and check the signature on the*

return envelope in accordance with the requirements of section 11 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1220 (NRS 293.269927).

2. The county clerk shall place any rejected mail ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the mail ballot.

3. Each county clerk shall keep records of the chain of custody for all mail ballots, including, without limitation, the mailing of mail ballots, reissued mail ballots, rejected mail ballots, verified mail ballots, duplicated mail ballots and tabulated mail ballots.

Sec. 4. 1. The county clerk shall, not earlier than 15 days before the day of the election, deliver the mail ballots to the mail ballot central counting board for counting. When the mail ballots are received, the mail ballot central counting board shall, in addition to the requirements of sections 13, 14 and 15 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1222 and 1223 (NRS 293.269931, 293.269933 and 293.269935):

(a) Sort the mail ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district, unless the system for counting the mail ballots produces an accounting of the mail ballots by precinct or voting district;

(b) Count the number of mail ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district;

(c) Account for all mail ballots on the record of mail ballots; and

(d) Place all the mail ballots and the record of mail ballots into the container provided by the county clerk.

2. Not later than 2 days before the date of delivery of the mail ballots to the mail central counting board for counting, the county clerk must post a statement in his or her office that

notifies the public that the mail central counting board will begin performing the actions set forth in subsection 1.

3. Any mail ballots received by the county clerk after he or she delivers the mail ballots pursuant to subsection 1, and until the deadline for the receipt of mail ballots pursuant to section 8 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1219 (NRS 293.269921), must be delivered to the mail ballot central counting board for counting.

4. The county clerk shall allow members of the general public to observe the handling of the mail ballots conducted pursuant to subsection 1 if those members do not interfere with the handling of the mail ballots.

Sec. 5. *1. Each county clerk and city clerk shall submit a plan to the Secretary of State setting forth the procedures that the clerk will use for the disposition of mail ballots in case of an emergency. The plan must be submitted not later than 90 days before each election.*

2. In the case of an emergency, the Secretary of State may order one or more polling places to be used to accommodate voters who are unable to vote at their polling places due to the emergency.

Sec. 6. NAC 293.010 is hereby amended to read as follows:

293.010 As used in this chapter, unless the context otherwise requires:

1. “Ballot stock” means the material upon which:

(a) A ballot is printed; and

(b) A voter directly indicates his or her vote.

2. “Department” means the Department of Motor Vehicles.

3. “Mail ballot” has the meaning ascribed to it in section 2 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1216 (NRS 293.0653).

4. “Results cartridge” means the cartridge of a mechanical recording device which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

~~44~~ 5. “Signature stamp” has the meaning ascribed to it in NRS 427A.755.

~~45~~ 6. “Statewide voter registration list” has the meaning ascribed to it in NRS 293.111.

~~46~~ 7. “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 has accurately recorded the votes of the voter.

~~47~~ 8. “Voting booth” means any place or compartment used to screen a voter from the observation of others.

Sec. 7. 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, voting aids and procedures for voting by ~~absentee~~ mail ballot.

Sec. 8. NAC 293.270 is hereby amended to read as follows:

293.270 1. A person who completes the written affirmation required by NRS 293.3082 must be provided with a provisional ballot, regardless of whether the person is at the wrong polling place or precinct.

2. If an election official becomes aware that a person appearing to vote is a registered voter who has appeared to vote in the wrong polling place, the election official must inform the person of the location of the correct polling place for the person. The election official must also inform the person that although a provisional ballot may be cast at the incorrect precinct, the provisional ballot will not be counted unless the requirements of subsection 3 are satisfied and the voter casts the provisional ballot at a polling place that is located in the congressional district in which the voter resides.

3. A county clerk shall count a provisional ballot if the county clerk determines that all the following requirements were satisfied by the date of the election for which the provisional ballot was cast:

- (a) The voter was properly registered in the county where the provisional ballot was cast;
- (b) The voter was a citizen of the United States;
- (c) The voter was 18 years of age or older;
- (d) The voter had continuously resided in the county where he or she registered to vote for at least 30 days;
- (e) The voter had continuously resided in the precinct for which he or she registered to vote for at least 10 days;
- (f) ~~The voter had not been convicted of a felony or, if the voter had been convicted of a felony, the civil rights of the voter had been lawfully restored;~~
- ~~(g)~~ The voter signed the required affirmation;

~~†††~~ (g) If the provisional ballot was cast at a polling place, the voter did not cast any other ballot, including ~~an absent or mail-in~~ *a mail* ballot;

~~†††~~ (h) If the voter did not show proof of residence and identity at the time he or she registered to vote, that the voter provided official identification establishing residence and identity by 5 p.m. on the Friday following election day;

~~†††~~ (i) The voter cast the provisional ballot at a polling place that was authorized to accept a ballot for the congressional district in which the voter resides; and

~~†††~~ (j) The provisional ballot cast listed the correct federal offices for the congressional district in which the voter resides.

4. The county clerk shall, not earlier than 5 p.m. on the Friday immediately following election day, post and submit to the Secretary of State the totals of provisional votes counted. The county clerk shall post and submit the updated results in the same manner and form as election day results.

Sec. 9. NAC 293.331 is hereby amended to read as follows:

293.331 1. If a precinct has fewer than 10 returns from early voting:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of NRS 293.3606, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

2. If a precinct has fewer than 10 returns of ~~absent~~ *mail* ballots:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of ~~NRS 293.385,~~ *section 15 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1223 (NRS 293.269935)*, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

Sec. 10. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this regulation.

Sec. 11. 1. *When a mail ballot is returned to the city clerk, the city clerk shall record the receipt of the mail ballot in the mail ballot record and check the signature on the return envelope in accordance with the requirements of section 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1247 (NRS 293C.26327).*

2. The city clerk shall place any rejected mail ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the mail ballot.

3. Each city clerk must keep records of the chain of custody for all mail ballots, including, without limitation, the mailing of mail ballots, reissued mail ballots, rejected mail ballots, verified mail ballots, duplicated mail ballots and tabulated mail ballots.

Sec. 12. 1. *The city clerk shall, not earlier than 15 days before the day of the election, deliver the mail ballots to the mail ballot central counting board. When the mail ballots are received, the mail ballot central counting board shall, in addition to the requirements of sections 61, 62 and 63 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1249 and 1250 (NRS 293C.26331, 293C.26333 and 293C.26335):*

(a) Sort the mail ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district, unless the system for counting the mail ballots produces an accounting of the mail ballots by precinct or voting district;

(b) Count the number of mail ballots by precinct or, for those precincts that have been consolidated into a single voting district, by voting district;

(c) Account for all mail ballots on the record of mail ballots; and

(d) Place all the mail ballots and the record of mail ballots into the container provided by the city clerk to transport those items to a central counting place and seal the container.

2. Not later than 2 days before the date of delivery of the mail ballots pursuant to subsection 1, the city clerk must post a statement in his or her office that notifies the public of any actions that will be taken pursuant to subsection 1.

3. Any mail ballots received by the city clerk after he or she delivers the mail ballots pursuant to subsection 1, and until the deadline for the receipt of mail ballots pursuant to section 61 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1249 (NRS 293C.26331), must be delivered to the mail ballot central counting board for counting.

4. The city clerk shall allow members of the general public to observe the handling of the mail ballots conducted pursuant to subsection 1 if those members do not interfere with the handling of the mail ballots.

Sec. 13. 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.

Sec. 14. NAC 293C.240 is hereby amended to read as follows:

293C.240 1. If a precinct has fewer than 10 returns from early voting:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of NRS 293C.3606, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

2. If a precinct has fewer than 10 returns of ~~absent~~ *mail* ballots:

(a) The reporting of those returns separately from the regular votes of the precinct shall be deemed, for the purposes of ~~NRS 293C.385,~~ *section 63 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1250 (NRS 293C.26335)*, to violate the secrecy of those voters' ballots; and

(b) Those returns must be reported in combination with the regular votes of the precinct.

Sec. 15. This regulation becomes effective upon the later of:

1. January 1, 2022; or

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

The following information is provided regarding the proposed regulations in R091-21P 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 regulations is to codify standards and procedures for various election functions. Specifically requiring a county and city clerk to submit to the Secretary of State certain contingency plans related to elections; revising provisions relating to ballot stock; establishing certain security and records requirements for mechanical voting systems, mechanical voting devices and other voting equipment; revising certain requirements for a plan to ensure the security of ballots; revising certain security requirements for an election computer program; 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. R091-21

December 20, 2021

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

AUTHORITY: §§ 1-4, 6-8 and 10-12, NRS 293.124 and 293.247; § 5, NRS 293.124, 293.247 and 293B.1045; § 9, NRS 293.124, 293.247 and 293B.135.

A REGULATION relating to elections; requiring a county and city clerk to submit to the Secretary of State certain contingency plans related to elections; revising provisions relating to ballot stock; establishing certain security and records requirements for mechanical voting systems, mechanical voting devices and other voting equipment; revising certain requirements for a plan to ensure the security of ballots; revising certain security requirements for an election computer program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Secretary of State to adopt regulations for the conduct of elections in this State, which must include regulations prescribing: (1) the procedures to be used to ensure the security of the ballots; (2) the procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections; and (3) the procedures to be used for the testing, use and auditing of a mechanical voting system. (NRS 293.247)

Sections 1 and 10 of this regulation require each county clerk and city clerk to submit to the Secretary of State a written contingency plan for: (1) election operations in the event that election operations are significantly disrupted; and (2) the tabulation of ballots in the event that the county or city, as applicable, experiences a loss of central counting equipment or the use of the central counting place.

Existing regulations: (1) define the term “ballot stock” to mean the material upon which a ballot is printed and a voter directly indicates his or her vote; (2) provide that the Secretary of State will reimburse the counties for the cost of the basic stock for ballots; (3) require a city clerk to order ballot stock for an election within 2 days after the date set for the close of registration for the election. (NAC 293.010, 293.200, 293C.360) **Sections 2, 8 and 11** of this regulation of this regulation provide that the term “ballot stock” also includes the materials included with a mail ballot, including, without limitation, the mail ballot, return envelope, privacy sleeve and voter instructions. **Section 3** of this regulation replaces the term “stock for ballots” with the term “ballot stock.”

Existing law requires a county or city that wants to change or improve a mechanical voting system or mechanical recording device to first obtain approval from the Secretary of

State. (NRS 293B.1045) **Section 5** of this regulation prohibits a county or city clerk from installing any software on a mechanical voting system unless the Secretary of State has approved or required the installation.

Sections 6 of this regulation requires each county clerk and city clerk to maintain a written documentary record for mechanical voting systems, mechanical voting devices and other voting equipment which includes records of transports of mechanical voting systems, mechanical voting devices and other voting equipment and chain-of-custody records for mechanical voting systems, mechanical voting devices and other voting equipment. **Section 6** also requires mechanical voting systems, mechanical voting devices and other voting equipment to have tamper-evident seals identified with serial numbers which must be recorded and verified in the records of the county and city clerks.

Section 7 of this regulation requires each county clerk and city clerk to keep mechanical voting systems, mechanical voting devices and other voting equipment in a secure and controlled facility when not in use and to maintain a record of any person who accesses the mechanical voting systems, mechanical voting devices or other voting equipment. If there is any unauthorized access, **section 7** requires a county or city clerk to inform the Secretary of State in writing within 24 hours.

Existing regulations require that each county clerk, not later than the 90th day before the primary election, submit to the Secretary of State for approval a plan concerning the procedures to be used to ensure the security of the ballots, results cartridges and VVPATs. (NAC 293B.040) **Section 8** requires the plan to also include procedures to be used to ensure the security of election media cartridges or memory devices, blank ballot stock, chain-of-custody records and access controls. **Section 8** further requires the county and city clerks to ensure that election board officers who are allowed to handle ballots, results cartridges and VPPATs have sworn under oath to perform their duties honestly and faithfully.

Existing law requires a copy of each election computer program to be filed with the Secretary of State at least 1 week before an election. (NRS 293B.135) **Section 9** of this regulation requires that the copy be filed in certain electronic formats with password protection.

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

1. Each county clerk shall, not later than 60 days before the date of the general election, submit to the Secretary of State a written contingency plan that describes the procedures that will be used in the event that election operations, including, without limitation, mechanical voting systems and any components thereof, are significantly disrupted.

2. The plan required by subsection 1 must, without limitation:

(a) Consider all potential sources of disruption to election operations, including, without limitation:

(1) Systemic equipment failures or malfunctions;

(2) Power outages;

(3) Natural disasters or infrastructure failure;

(4) Threats of terrorism or other civil disturbances; and

(5) Unauthorized access, intrusion or hacking into election facilities or equipment; and

(b) Explain how the county clerk will ensure continuity in voting if one or more polling places become temporarily or permanently unusable during the period for early voting or on the day of the election, which may include, without limitation:

(1) Sending voters to an alternative polling place;

(2) Seeking a court order to extend voting hours; or

(3) Requesting that voters return to the polling place after the disruption has been resolved.

3. In addition to the written contingency plan required by subsection 1, each county clerk shall submit to the Secretary of State a written contingency plan for the tabulation of ballots in the event that the county experiences a loss of the central counting equipment or the use of the central counting place. If the county clerk invokes this contingency plan, the county clerk must notify the Secretary of State in writing not later than 12 hours after doing so. The plan:

(a) Must, without limitation, identify alternative counting equipment and facilities; and

(b) May provide for the transport of ballots across county lines for the purpose of ballot tabulation if the ballots are inventoried and can be safeguarded by election staff and election

board officers in the same manner as the ballots would be protected if the ballots were not transported.

4. Before each election, the county clerk shall:

(a) Review the existing contingency plans required by subsections 1 and 3 and update the plans as necessary; and

(b) Ensure that any election staff in the office of the county clerk and all other relevant county employees have been briefed on the contingency plans.

Sec. 2. NAC 293.010 is hereby amended to read as follows:

293.010 As used in this chapter, unless the context otherwise requires:

1. “Ballot stock” means ~~the material~~ :

(a) The paper upon which ~~the~~

~~—(a) A~~ *a* ballot is printed ~~the~~ *and*

~~—(b) A~~ *on which a* voter directly indicates his or her vote ~~the~~ *; and*

(b) The materials included with a mail ballot, including, without limitation, the mail ballot, return envelope, envelope or sleeve into which the mail ballot is inserted to ensure its secrecy and voter instructions.

2. “Department” means the Department of Motor Vehicles.

3. “Results cartridge” means the cartridge of a mechanical recording device which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

4. “Signature stamp” has the meaning ascribed to it in NRS 427A.755.

5. “Statewide voter registration list” has the meaning ascribed to it in NRS 293.111.

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 has accurately recorded the votes of the voter.

7. “Voting booth” means any place or compartment used to screen a voter from the observation of others.

Sec. 3. NAC 293.200 is hereby amended to read as follows:

293.200 1. The Secretary of State will reimburse the counties for the cost of the basic *ballot* stock . ~~{for ballots.}~~ Reimbursement will not be made for setup and other costs, including the cost of personalized printing, stitching, binding or numbering of the ballots.

2. Payment will be made after a claim of cost is presented to the Secretary of State. A county clerk shall present the claim:

(a) For the cost of the basic *ballot* stock ~~{for ballots}~~ for the primary election not later than June 30 of the year in which the general election is held.

(b) For the cost of the basic *ballot* stock for ballots for the general election not later than December 31 of the year in which the general election is held.

↪ A manufacturer’s invoice showing an itemized list of all charges must accompany the claim.

The Secretary of State will not pay claims presented more than 30 days after the date that the claim is required to be presented pursuant to paragraph (a) or (b).

Sec. 4. Chapter 293B of NAC is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this regulation.

Sec. 5. A county clerk or city clerk shall not install any software on a mechanical voting system, or component thereof, unless the Secretary of State has approved or required the installation of the software.

Sec. 6. 1. For any mechanical voting system, mechanical voting device and other voting equipment in the custody of a county or city, including, without limitation, central counting equipment, precinct scanners, electronic rosters, direct recording equipment, voting machines and ballot marking devices, each county clerk and city clerk shall maintain in permanent ink a written documentary record of:

(a) Any transport of a mechanical voting system, mechanical voting device or other voting equipment between parties, including, without limitation, documentation of seals, chain-of-custody access logs and any other related information; and

(b) The uninterrupted chain of custody of each mechanical voting system and mechanical voting device and all other voting equipment in the custody of the county or city, which must span the entire time the mechanical voting system, mechanical voting device or voting equipment has been in the custody of the county or city, as applicable.

2. All records maintained pursuant to subsection 1 are subject to inspection by the Secretary of State.

3. All mechanical voting systems, mechanical voting devices and other voting equipment must have seals that are tamper-evident and identified by a serial number. The county or city clerk shall record the serial number of each seal on the records of chain of custody required by subsection 1 for any mechanical voting system, mechanical voting device or other voting equipment that is transported to or from a polling place. The entry of the serial number of the

seal in the records of chain of custody required by subsection 1 must be verified by two people who must:

(a) Confirm that the serial number in the records matches the serial number of the seal; and

(b) Sign and date the entry in the records.

4. If a seal required by subsection 3 is changed or replaced, the records of chain of custody must include the reason for the replacement, the date of the replacement and the signatures of two persons who have verified that the serial number of the replacement matches the number entered in the record.

Sec. 7. *1. Each county clerk and city clerk shall ensure that each mechanical voting system and mechanical voting device and all other voting equipment used by the county or city is secured in a facility with controlled access when not in use. A person shall not access the mechanical voting system, mechanical voting device or voting equipment unless he or she has been given specific written authorization from the county or city clerk. The county or city clerk shall notify the Secretary of State in writing within 24 hours if any person accesses a mechanical voting system, a mechanical voting device or any other voting equipment without such authorization.*

2. Each county and city clerk shall maintain a record of each person who accesses a mechanical voting system, a mechanical voting device or any other voting equipment pursuant to subsection 1. The record must include the name of the person, the signature of the person and the time and date of the access. If access is controlled using a key card or similar door access system, the system must produce records that meet the requirements of this subsection.

Sec. 8. NAC 293B.040 is hereby amended to read as follows:

293B.040 1. A county clerk *and city clerk* shall:

(a) Store ballots, results cartridges and VVPATs upon receipt in a vault or secure area that is accessible only by the county *or city* clerk and persons designated by the county *or city* clerk;

(b) Provide for the security and protection of the stored ballots, results cartridges and VVPATs;

(c) Control access to the stored ballots, results cartridges and VVPATs; ~~and~~

(d) Maintain a record of the persons allowed access to the stored ballots, results cartridges and VVPATs ~~and~~; *and*

(e) Require that any election board officers allowed access to the stored ballots, results cartridges and VVPATs have sworn under oath to perform their duties honestly and faithfully.

2. Except as otherwise provided in this subsection, each county *and city* clerk shall, not later than the 90th day before the ~~primary~~ *general* election, submit to the Secretary of State for approval *using the form prescribed by the Secretary of State* a plan to *ensure the accuracy and security of voting in the county or city, which must, without limitation:*

(a) Include procedures to carry out the provisions of paragraph ~~((1))~~ *(e)* of subsection 3 of NRS 293.247 concerning the procedures to be used to ensure the security of the ballots, results cartridges, ~~and~~ VVPATs ~~[- If there is no change to the plan submitted in the previous year, the county clerk is not required to submit another plan to the Secretary of State. The county clerk shall notify the Secretary of State, in writing, if there is no change to the plan. The plan must include, without limitation:]~~, *election media cartridges or memory devices, blank ballot stock, chain-of-custody documents and access controls;*

(b) Include any forms, schedules logs or checklists that are referenced in the plan;

~~((a) The~~

(c) Identify the person who is responsible for transporting the ballots, results cartridges and VVPATs from the polling place to the central counting place; and

~~{(b) The}~~

(d) Include the time allotted for travel from the polling place to the central counting place.

3. If there is no change to the plan submitted pursuant to subsection 2 for the previous election, the county clerk or city clerk is not required to submit another plan to the Secretary of State. The county or city clerk must notify the Secretary of State, in writing, if there is no change to the plan.

4. The Secretary of State will approve or disapprove a plan submitted pursuant to subsection 2 not later than 15 days after the plan is submitted.

5. As used in this section, “ballot stock” means:

(a) The paper upon which a ballot is printed on which a voter directly indicates his or her vote; and

(b) The materials included with a mail ballot, including, without limitation, the mail ballot, return envelope, envelope or sleeve into which the mail ballot is inserted to ensure its secrecy and voter instructions.

Sec. 9. NAC 293B.050 is hereby amended to read as follows:

293B.050 1. As used in NRS 293B.135, “election computer program” means the tape, source code, executable computer code or computer software and the tables created for an election to count correctly votes cast through the use of a mechanical voting system. The source code or executable computer code for an election must remain on file with the Secretary of State until amended.

2. An election computer program or tape must not be copied more than twice and printed out more than once for each election. The original program or tape must be sealed in the manner set forth in NRS 293B.155. A copy of the program or tape must be secured by the county clerk.

~~[Another]~~

3. *A copy of the election computer program must be ~~delivered~~ filed with the Secretary of State pursuant to NRS 293B.135. The copy filed with the Secretary of State may serve as a backup in the event that the original election computer program is destroyed or rendered unusable. The copy must be, without limitation:*

(a) Delivered by certified mail to the Secretary of State ~~[-]~~ ; and

(b) Provided by means of a compact disc, digital versatile disc, USB flash drive or thumb drive or a secure file transfer protocol site, which must be, without limitation, password protected.

~~[3-]~~ 4. The county clerk and Secretary of State shall provide for the security of an election computer program or tape in his or her possession.

Sec. 10. Chapter 293C of NAC is hereby amended by adding thereto a new section to read as follows:

1. *Each city clerk shall, not later than 60 days before the date of the general city election, submit to the Secretary of State a written contingency plan that describes the procedures that will be used in the event that election operations, including, without limitation, mechanical voting systems and any components thereof, are significantly disrupted.*

2. *The plan required by subsection 1 must, without limitation:*

(a) Consider all potential sources of disruption to election operations, including, without limitation:

(1) Systemic equipment failures or malfunctions;

(2) Power outages;

(3) Natural disasters or infrastructure failure;

(4) Threats of terrorism or other civil disturbances; and

(5) Unauthorized access, intrusion or hacking into election facilities or equipment; and

(b) Explain how the city clerk will ensure continuity in voting if one or more polling places become temporarily or permanently unusable during the period for early voting or on the day of the city election, which may include, without limitation:

(1) Sending voters to an alternative polling place;

(2) Seeking a court order to extend voting hours; or

(3) Requesting that voters return to the polling place after the disruption has been resolved.

3. In addition to the written contingency plan required by subsection 1, each city clerk shall submit to the Secretary of State a written contingency plan for the tabulation of ballots in the event that the city experiences a loss of the central counting equipment or the use of the central counting place. If the city clerk invokes this contingency plan, the city clerk must notify the Secretary of State in writing not later than 12 hours after doing so. The plan:

(a) Must, without limitation, identify alternative counting equipment and facilities; and

(b) May provide for the transport of ballots across city lines for the purpose of ballot tabulation if the ballots are inventoried and can be safeguarded by election staff and election board officers in the same manner as the ballots would be protected if the ballots were not transported.

4. Before each city election, the city clerk shall:

(a) Review the existing contingency plans required by subsections 1 and 3 and update the plans as necessary; and

(b) Ensure that any election staff in the office of the city clerk and all other relevant city employees have been briefed on the contingency plans.

Sec. 11. NAC 293C.360 is hereby amended to read as follows:

293C.360 **1.** The city clerk shall provide official printed ballots to be used at an election. The ballot stock must be ordered by the city clerk within 2 days after the date set for closing of registration for the election.

2. *As used in this section, “ballot stock” means:*

(a) The paper upon which a ballot is printed on which a voter directly indicates his or her vote; and

(b) The materials included with a mail ballot, including, without limitation, the mail ballot, return envelope, envelope or sleeve into which the mail ballot is inserted to ensure its secrecy and voter instructions.

Sec. 12. This regulation becomes effective upon the later of:

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

The following information is provided regarding the proposed regulations in R092-21P 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 requiring that a county clerk and city clerk conduct certain logic and accuracy tests of an electronic roster; 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. R092-21

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 and 293.275; § 2, NRS 293.124, 293.247 and 293C.2695; § 3, NRS 293.124.

A REGULATION relating to elections; requiring that a county clerk and city clerk conduct certain logic and accuracy tests of an electronic roster; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires each county clerk and city clerk who uses an electronic roster, not earlier than 2 weeks before and not later than 5 p.m. on the day before the first day of the period for early voting by personal appearance, to complete a test of the electronic roster to ensure its functionality in accordance with regulations adopted by the Secretary of State. (NRS 293.275, 293C.2695) This regulation requires the county or city clerk to also complete logic and accuracy tests on the electronic roster and certify to the Secretary of State that the testing was completed not earlier than 2 weeks before and not later than 5 p.m. on the day before the first day of the period for early voting by personal appearance. The tests required by this regulation require confirming: (1) that the electronic roster accurately displays certain information; (2) the correct functioning of the electronic roster in certain situations; and (3) the correct performance of certain functions of the electronic roster.

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

- 1. If a county clerk uses an electronic roster for an election, the county clerk must conduct logic and accuracy tests on the electronic roster and certify to the Secretary of State that the testing was completed by the deadline set forth in NRS 293.275.*
- 2. The testing required pursuant to subsection 1 must confirm, without limitation:*

(a) That each electronic roster accurately displays:

(1) The date and time;

(2) The date of the election and the type of election, including, without limitation, whether the election is a primary election, general election or special election;

(3) The name of the county;

(4) The number of voter files contained in the electronic roster;

(5) The precinct and number of voters in the precinct, if applicable;

(6) The current version of the operating system; and

(7) The signature records of the voters in the county;

(b) For at least one electronic roster assigned to each polling place, the correct functioning of the electronic roster for the following situations:

(1) A registered voter in the county who appears to vote in person who has not voted in the election;

(2) A registered voter in the county who appears to vote in person where the electronic roster shows that a ballot connected to the voter has already been received or voted;

(3) A person who claims to be registered to vote who cannot be located in the electronic roster;

(4) A registered voter who is listed as inactive in the electronic roster;

(5) A registered voter who spoils his or her ballot;

(6) A registered voter who appears to vote in person and brings his or her unvoted mail ballot;

(7) A registered voter who would like to change his or her political party affiliation;

(8) A registered voter who would like to update his or her voter registration information;
and

(9) A registered voter in a county with a precinct split; and

(c) The correct performance of the following functions of the electronic roster:

(1) Printing labels;

(2) Printing activation cards or ballot cards;

(3) That a ballot issued by one electronic roster is indicated as issued on other electronic rosters;

(4) Preparing turnout reports;

(5) Preparing daily totals; and

(6) That the roster uploads correctly to the office of the county clerk.

Sec. 2. Chapter 293C of NAC is hereby amended by adding thereto a new section to read as follows:

1. If a city clerk uses an electronic roster for a city election, the city clerk shall conduct logic and accuracy tests on the electronic roster and certify to the Secretary of State that the testing was completed in accordance with the requirements of NRS 293C.2695.

2. The testing required pursuant to subsection 1 must confirm, without limitation:

(a) That each electronic roster accurately displays:

(1) The date and time;

(2) The date of the city election and the type of city election, including, without limitation, a primary city election, a general city election or a special city election;

(3) The name of the city;

(4) The number of voter files contained in the electronic roster;

- (5) The precinct and number of voters in the precinct, if applicable;*
- (6) The current version of the operating system; and*
- (7) The signature records of the voters in the city;*
- (b) For at least one electronic roster assigned to each polling place, the correct functioning of the prompts and workflow of the electronic roster for the following situations:*
 - (1) A registered voter in the city who appears to vote in person who has not voted in the city election;*
 - (2) A registered voter in the city who appears to vote in person where the electronic roster shows that a ballot connected to the voter has already been received or voted;*
 - (3) A person who claims to be registered to vote who cannot be located in the electronic roster;*
 - (4) A registered voter who is listed as inactive in the electronic roster;*
 - (5) A registered voter who spoils his or her ballot;*
 - (6) A registered voter who appears to vote in person and brings his or her unvoted mail ballot;*
 - (7) A registered voter who would like to change his or her political party affiliation;*
 - (8) A registered voter who would like to update his or her voter registration information;*
- and*
- (9) A registered voter in a city with a precinct split; and*
- (c) The correct performance of the following functions of the electronic roster:*
 - (1) Printing labels;*
 - (2) Printing activation cards or ballot cards;*

(3) That a ballot issued by one electronic roster is reflected as issued on other electronic rosters;

(4) Preparing turnout reports;

(5) Preparing daily totals; and

(6) That the roster uploads correctly to the office of the city clerk.

Sec. 3. This regulation becomes effective on the later:

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

The following information is provided regarding the proposed regulations in R093-21P 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 interpreting the term “polling place” for the purpose of certain statutes relating to electioneering; requiring certain requests relating to the establishment or removal of ballot drop boxes within the boundaries of an Indian reservation or Indian colony to be submitted on a form prescribed by the Secretary of State; requiring ballot drop boxes to be affixed with a unique identifier and the county or city seal or similar design; requiring the county and city clerk to submit a list to the Secretary of State containing certain information about the ballot drop boxes established in the county or city; establishing certain requirements relating to the security and accessibility of ballot drop boxes; requiring the county and city clerk to submit a plan to the Secretary of State relating to ballot drop boxes that are tampered with or rendered inaccessible; establishing provisions relating to mail ballot retrieval teams; requiring the county and city clerk to submit a report to the Secretary of State relating to the costs associated with ballot drop boxes and retrieval teams; 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. R093-21

December 20, 2021

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

AUTHORITY: §§ 1, 10 and 19, NRS 293.124; § 2, NRS 293.124, 293.361 and 293.740; § 3, NRS 293.124 and 293.3733, as amended by section 26 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1228; §§ 4 and 5, NRS 293.124, 293.2733, as amended by section 26 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1228, and section 8 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1219-20 (NRS 293.269921); §§ 6-9, NRS 293.124 and section 8 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1219 (NRS 293.269921); § 11, NRS 293.124 and 293C.361; § 12, NRS 293.124 and 293C.2675, as amended by section 70 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1252; §§ 13 and 14; NRS 293.124, 293C.2675, as amended by section 70 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1252 and section 56 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1246 (NRS 293C.26321); §§ 15-18, NRS 293.124 and section 56 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1246 (NRS 293C.26321).

A REGULATION relating to elections; interpreting the term “polling place” for the purpose of certain statutes relating to electioneering; requiring certain requests relating to the establishment or removal of ballot drop boxes within the boundaries of an Indian reservation or Indian colony to be submitted on a form prescribed by the Secretary of State; requiring ballot drop boxes to be affixed with a unique identifier and the county or city seal or similar design; requiring the county and city clerk to submit a list to the Secretary of State containing certain information about the ballot drop boxes established in the county or city; establishing certain requirements relating to the security and accessibility of ballot drop boxes; requiring the county and city clerk to submit a plan to the Secretary of State relating to ballot drop boxes that are tampered with or rendered inaccessible; establishing provisions relating to mail ballot retrieval teams; requiring the county and city clerk to submit a report to the Secretary of State relating to the costs associated with ballot drop boxes and retrieval teams; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Secretary of State to adopt regulations relating to elections. (NRS 293.124)

Existing law provides that it is unlawful during early voting or on election day to electioneer inside of a polling place or within 100 feet from the entrance of a polling place. Existing law also requires the county and city clerk to ensure that certain notices relating to electioneering are posted at the outer limits of the area within which electioneering is prohibited. (NRS 293.361, 293.740, 293C.361) **Sections 2 and 11** of this regulation interpret the term “polling place” for the purpose of such electioneering statutes as meaning a place designated by the county or city clerk for the purpose of voting by personal appearance.

Existing law authorizes an Indian tribe to submit a request to the county or city clerk for the establishment of a ballot drop box within the boundaries of the Indian reservation or Indian colony for the day of certain elections. If the county or city clerk establishes such a ballot drop box, existing law requires the county or city clerk to continue to establish the ballot drop box for the day of any future primary election, presidential preference primary election or general election unless otherwise requested by the Indian tribe. (NRS 293.2733, as amended by section 8 of Assembly Bill No. 126, chapter 556, Statutes of Nevada 2021, at page 3882, and by section 26 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1228 and 293C.2675, as amended by section 70 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1252) **Sections 3 and 12** of this regulation require the request for the establishment or removal of the ballot drop box within the boundaries of the Indian reservation or Indian colony to be submitted to the county or city clerk on a form prescribed by the Secretary of State.

Existing law establishes various requirements relating to ballot drop boxes. (Sections 8 and 56 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1219, 1246 (NRS 293.269921, 293C.26321))

Sections 4 and 13 of this regulation require the county and city clerk to affix each ballot drop box with a unique identifier and the county or city seal, or similar design that signifies that the box is an official ballot drop box of the county or city.

Sections 5 and 14 of this regulation require the county and city clerk to submit a list to the Secretary of State of each ballot drop box established in the county or city. **Sections 5 and 14** require the list to include: (1) the unique identifier of the ballot drop box; (2) the location of the ballot drop box; and (3) the dates and times during which the ballot drop box will be unlocked and accessible for ballot submission. **Sections 5 and 14** also require the county and city clerk to submit an amended list to the Secretary of State not later than 24 hours after a change is made to the information contained in the list.

Sections 6 and 15 of this regulation establish various provisions relating to the security and accessibility of ballot drop boxes.

Sections 7 and 16 of this regulation require the county and city clerk to submit a plan to the Secretary of State that relates to ballot drop boxes that are tampered with or rendered inaccessible.

Sections 8 and 17 of this regulation require the county and city clerk to establish retrieval teams for the purpose of collecting and transporting mail ballots from ballot drop boxes to the receiving center or to the central counting place, as directed by the county or city clerk. **Sections 8 and 17** also establish the timeframe in which such retrieval teams must collect the mail ballots from the ballot drop boxes. Finally, **sections 8 and 17** require the retrieval teams to submit a form to the Secretary of State which describes the chain of custody of the mail ballots collected from the ballot drop boxes.

Sections 9 and 18 of this regulation require the county and city clerk to submit a report to the Secretary of State not later than 45 days after each general election. **Sections 9 and 18** require the report to include the costs associated with: (1) purchasing, installing and performing maintenance on the ballot drop boxes; and (2) the retrieval teams.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in NRS 293.361 and 293.740, the Secretary of State will interpret the term “polling place” to mean any place that is designated by the county clerk for voting by personal appearance.*

Sec. 3. *A request by an Indian tribe for the establishment or removal of a ballot drop box pursuant to NRS 293.2733, as amended by section 26 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1228, must be submitted to the county clerk on a form prescribed by the Secretary of State.*

Sec. 4. *1. The county clerk shall affix to each ballot drop box established in the county:*
(a) A unique identifier composed of:
(1) The abbreviation of the county name as prescribed by subsection 2; and
(2) A number; and
(b) The county seal or a similar design that indicates the ballot drop box is an official ballot drop box of the county.

2. The abbreviation of each county name is:

(a) Carson City—CC

(b) Churchill—CH

(c) Clark—CL

(d) Douglas—DO

- (e) Elko—EL*
- (f) Esmeralda—ES*
- (g) Eureka—EU*
- (h) Humboldt—HU*
- (i) Lander—LA*
- (j) Lincoln—LI*
- (k) Lyon—LY*
- (l) Mineral—MI*
- (m) Nye—NY*
- (n) Pershing—PE*
- (o) Storey—ST*
- (p) Washoe—WA*
- (q) White Pine—WP*

Sec. 5. 1. *The county clerk shall submit to the Secretary of State a list containing the following information for each ballot drop box established in the county:*

- (a) The unique identifier of the ballot drop box as described in section 4 of this regulation;*
- (b) The location of the ballot drop box; and*
- (c) The dates and times during which the ballot drop box will be unlocked and accessible to persons for the submission of mail ballots.*

2. *If there is a change during an election year to any of the information submitted on the list described in subsection 1, the county clerk must submit to the Secretary of State an explanation for the change and an amended list not later than 24 hours after the change is made.*

Sec. 6. 1. *If a ballot drop box is located outdoors and the county clerk or an employee of the county clerk is not constantly present at the location of the ballot drop box, the ballot drop box must be securely fastened in a manner that prevents it from being tampered with or moved.*

2. *In addition to any requirement set forth in subsection 1, if the county clerk or an employee of the county clerk is not constantly present at the location of a ballot drop box, the county clerk:*

(a) Shall ensure that the ballot drop box is locked at all times that a person is not authorized by law to submit a mail ballot; and

(b) May surveil the ballot drop box for its security, including, without limitation, by taking any of the following measures:

(1) Video recording the ballot drop box; or

(2) Partnering with a law enforcement agency or similar entity to patrol the ballot drop box.

3. *If a ballot drop box is located at a facility where the county clerk or an employee of the county clerk is constantly present, the county clerk must consider the ability of persons to access the ballot drop box for ballot submission on weekends and during evenings. The county clerk must take actions necessary to ensure that persons have adequate opportunity for ballot submission to the ballot drop box during early voting and on election day.*

Sec. 7. 1. *The county clerk shall develop and submit a plan to the Secretary of State relating to ballot drop boxes established in the county that are tampered with or rendered inaccessible during early voting or on election day. The plan must, include, without limitation:*

(a) Provision for the replacement of a ballot drop box that is tampered with or rendered inaccessible during early voting or on election day;

(b) The method that the county clerk will use to notify the public if a ballot drop box is tampered with or rendered inaccessible; and

(c) The location of the nearest ballot drop box to the ballot drop box that is tampered with or rendered inaccessible.

2. The plan described in subsection 1 must be submitted on a form prescribed by the Secretary of State.

Sec. 8. *1. The county clerk shall establish and use a retrieval team to collect and transport mail ballots from the ballot drop boxes established in the county to the receiving center or to the central counting place, as directed by the county clerk. If necessary, the county clerk may use multiple retrieval teams to collect and transport the mail ballots.*

2. A retrieval team shall be composed of at least two persons. If a ballot drop box is established within a polling place, the retrieval team must, if practicable, be composed of two members of the election board who are of differing political parties.

3. A retrieval team must frequently collect mail ballots from the ballot drop boxes established in the county beginning on the date that the mail ballots are issued and ending at the close of the polls on election day and as prescribed by subsection 4 or 5.

4. If there is a line of persons waiting to submit a mail ballot to the ballot drop box at the close of the polls on election day, a retrieval team shall:

(a) Hand the last person in line at the close of polls a card prepared by the county clerk that states “Last Person in Line”; and

(b) Refrain from collecting and transporting the mail ballots in the ballot drop box until the time that the person holding the card described in paragraph (a) has submitted the mail ballot.

5. If there is not a line of persons waiting to submit a mail ballot to the ballot drop box at the close of the polls on election day, the retrieval team shall immediately collect and transport the mail ballots.

6. Each retrieval team shall, on a form prescribed by the Secretary of State, submit to the Secretary of State, a description of the chain of custody of the mail ballots collected and transported by the retrieval team.

Sec. 9. *The county clerk shall, not later than 45 days after each general election, report to the Secretary of State:*

1. The cost of purchasing, installing and performing maintenance on the ballot drop boxes established in the county; and

2. Any costs associated with the retrieval teams described in section 8 of this regulation, including, without limitation, the cost of hiring, training and paying the retrieval teams.

Sec. 10. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 11 to 18, inclusive, of this regulation.

Sec. 11. *As used in NRS 293C.361, the Secretary of State will interpret the term “polling place” to mean any place that is designated by the city clerk for voting by personal appearance.*

Sec. 12. *A request by an Indian tribe for the establishment or removal of a ballot drop box pursuant to NRS 293C.2675, as amended by section 70 of Assembly Bill No. 321, chapter*

248, Statutes of Nevada 2021, at page 1252, must be submitted to the city clerk on a form prescribed by the Secretary of State.

Sec. 13. *The city clerk shall affix to each ballot drop box:*

1. A unique identifier composed of:

(a) The name of the city; and

(b) A number; and

2. The city seal or a similar design that indicates that the ballot drop box is an official ballot drop box of the city.

Sec. 14. *1. The city clerk shall submit to the Secretary of State a list containing the following information for each ballot drop box established in the city:*

(a) The unique identifier of the ballot drop box as described by section 13 of this regulation;

(b) The location of the ballot drop box; and

(c) The dates and times during which the ballot drop box will be unlocked and accessible to persons for the submission of mail ballots.

2. If there is a change during an election year to any of the information submitted on the list described in subsection 1, the city clerk must submit to the Secretary of State an explanation for the change and an amended list not later than 24 hours after the change is made.

Sec. 15. *1. If a ballot drop box is located outdoors and the city clerk or an employee of the city clerk is not constantly present at the location of the ballot drop box, the ballot drop box must be securely fastened in a manner that prevents it from being tampered with or moved.*

2. In addition to any requirement set forth in subsection 1, if the city clerk or an employee of the city clerk is not constantly present at the location of a ballot drop box, the city clerk:

(a) Shall ensure that the ballot drop box is locked at all times that a person is not authorized by law to submit a mail ballot; and

(b) May surveil the ballot drop box for its security, including, without limitation, by taking any of the following measures:

(1) Video recording the ballot drop box; or

(2) Partnering with a law enforcement agency or similar entity to patrol the ballot drop box.

3. If a ballot drop box is located at a facility where the city clerk or an employee of the city clerk is constantly present, the city clerk must consider the ability of persons to access the ballot drop box for ballot submission on weekends and during evenings. The city clerk must take actions necessary to ensure that persons have adequate opportunity for ballot submission to the ballot drop box during early voting and on election day.

Sec. 16. *1. The city clerk shall develop and submit a plan to the Secretary of State relating to ballot drop boxes established in the city that are tampered with or rendered inaccessible during early voting or on election day. The plan must, include, without limitation:*

(a) Provision for the replacement of a ballot drop box that is tampered with or rendered inaccessible during early voting or on election day;

(b) The method that the city clerk will use to notify the public if a ballot drop box is tampered with or rendered inaccessible; and

(c) The location of the nearest ballot drop box to the ballot drop box that is tampered with or rendered inaccessible.

2. The plan described in subsection 1 must be submitted on a form prescribed by the Secretary of State.

Sec. 17. *1. The city clerk shall establish and use a retrieval team to collect and transport mail ballots from the ballot drop boxes established in the city to the receiving center or to the central counting place, as directed by the city clerk. If necessary, the city clerk may use multiple retrieval teams to collect and transport the mail ballots.*

2. A retrieval team shall be composed of not less than two persons. If a ballot drop box is established within a polling place, the retrieval team must, if practicable, be composed of two members of the election board who are of differing political parties.

3. A retrieval team must frequently collect mail ballots from the ballot drop boxes established in the city beginning on the date that the mail ballots are issued and ending at the close of the polls on election day and as prescribed by subsection 4 or 5.

4. If there is a line of persons waiting to submit a mail ballot to the ballot drop box at the close of the polls on election day, a retrieval team shall:

(a) Hand the last person in line at the close of the polls a card prepared by the city clerk that states “Last Person in Line”; and

(b) Refrain from collecting and transporting the mail ballots in the ballot drop box until the time that the person holding the card described in paragraph (a) has submitted the mail ballot.

5. If there is not a line of persons waiting to submit a mail ballot to the ballot drop box at the close of the polls on election day, the retrieval team shall immediately collect and transport the mail ballots.

6. Each retrieval team shall, on a form prescribed by the Secretary of State, submit to the Secretary of State, a description of the chain of custody of the mail ballots collected and transported by the retrieval team.

Sec. 18. *The city clerk shall, not later than 45 days after each general election, report to the Secretary of State:*

1. The cost of purchasing, installing and performing maintenance on the ballot drop boxes established in the city; and

2. Any costs associated with the retrieval teams described in section 17 of this regulation, including, without limitation, the costs of hiring, training and paying the retrieval teams.

Sec. 19. This regulation becomes effective on the later of:

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

The following information is provided regarding the proposed regulations in R094-21P 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 establishing certain procedures for the processing of mail ballots and return envelopes; setting forth certain requirements relating to signature verification for mail ballots and return envelopes; 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. R094-21

December 20, 2021

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

AUTHORITY: §§ 1-7, NRS 293.124 and 293.247.

A REGULATION relating to elections; establishing certain procedures for the processing of mail ballots and return envelopes; setting forth certain requirements relating to signature verification for mail ballots and return envelopes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the county and city clerks to mail each active registered voter and each person who registers to vote or updates his or her voter registration information not later than 14 days before an election a mail ballot for all elections. (Sections 3 and 51 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216 and 1243 (NRS 293.269911, 293C.263)) Existing law also: (1) establishes certain procedures for processing and counting mail ballots received by a county or city clerk; and (2) authorizes a county or city clerk to process and count mail ballots by computer or other electronic means. (Sections 10, 11, 58 and 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1220 and 1247 (NRS 293.269925, 293.269927, 293C.26325, 293C.26327))

Sections 2 and 5 of this regulation require, beginning on the first day of the period for early voting, each county and city clerk to: (1) count all return envelopes returned by mail, in person at the clerk’s office or deposited in a ballot box; (2) batch the return envelopes; and (3) record the total number of return envelopes received. **Sections 2 and 5** further require each county and city clerk to forward any return envelope received for a different county or city to the county or city clerk of the correct county or city.

Sections 3 and 6 of this regulation require the county or city clerk to: (1) perform periodic audits of employees in the clerk’s office whose regular duties involve checking signatures on mail ballots; and (2) if the county or city clerk uses an electronic device to sort mail ballots or capture a digital image of a voter’s signature, to test the electronic device before it is so used to ensure the electronic device is able to properly sort mail ballots or clearly and accurately capture the digital image of a signature on a mail ballot, as applicable.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. Beginning on the first day of the period for early voting by personal appearance, the county clerk shall:

(a) Count all return envelopes received by mail, in person at the clerk's office or deposited in a ballot drop box;

(b) Batch the return envelopes; and

(c) Record the total number of return envelopes received.

2. If the county clerk receives a return envelope for a different county, the county clerk shall:

(a) Stamp the time and date that it was received on the return envelope of the mail ballot; and

(b) As soon as practicable, forward the return envelope and mail ballot to the county clerk of the correct county. The mail ballot shall be deemed to have been received by the correct county clerk at the time and on the date stamped on the return envelope pursuant to paragraph (a).

Sec. 3. 1. The county clerk or an employee in the office of the county clerk shall check the signature on the return envelope of a mail ballot in accordance with the provisions of section 11 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1220 (NRS 293.269927).

2. The county clerk shall perform periodic audits of each employee in the office of the county clerk whose regular duties include checking signatures on mail ballots. If the county clerk finds that an employee has an irregular acceptance or rejection rate, the county clerk must retrain the employee or prohibit the employee from checking signatures on mail ballots.

3. If the county clerk uses an electronic device to:

(a) Sort mail ballots, the county clerk must test the electronic device before it is so used to ensure that the electronic device properly sorts mail ballots.

(b) Capture the digital image of a voter's signature on a mail ballot, the county clerk must test the electronic device before it is so used to ensure that the electronic device is able to clearly and accurately capture the digital image of a signature on a mail ballot.

Sec. 4. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this regulation.

Sec. 5. 1. *Beginning on the first day of the period for early voting by personal appearance, the city clerk shall:*

(a) Count all return envelopes received by mail, in person at the clerk's office or deposited in a ballot drop box;

(b) Batch the return envelopes; and

(c) Record the total number of return envelopes received.

2. *If the city clerk receives a return envelope for a different city, the city clerk shall:*

(a) Stamp the time and date that it was received on the return envelope; and

(b) As soon as practicable, forward the return envelope and mail ballot to the city clerk of the correct city. The mail ballot shall be deemed to have been received by the correct city clerk at the time and on the date stamped on the return envelope pursuant to paragraph (a).

Sec. 6. 1. *The city clerk or an employee in the office of the city clerk shall check the signature on the return envelope of a mail ballot in accordance with the provisions of section 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1247 (NRS 293C.26327).*

2. The city clerk shall perform periodic audits of each employee in the office of the city clerk whose regular duties include checking the signatures on mail ballots. If the city clerk finds that an employee has an irregular acceptance or rejection rate, the city clerk must retrain the employee or prohibit the employee from checking signatures on mail ballots.

3. If the city clerk uses an electronic device to:

(a) Sort mail ballots, the city clerk must test the electronic device before it is so used to ensure that the electronic device properly sorts mail ballots.

(b) Capture the digital image of a voter's signature on a mail ballot, the city clerk must test the electronic device before it is so used to ensure that the electronic device is able to clearly and accurately capture the digital image of a signature on a mail ballot.

Sec. 7. This regulation becomes effective on the later of:

1. January 1, 2021; or
2. The date upon which the regulation is filed with the Secretary of State.

The following information is provided regarding the proposed regulations in R095-21P 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 establishing certain security requirements for an electronic device used to verify signatures on mail ballots; setting forth certain requirements for the daily audit of an electronic device used to verify signatures on mail ballots; 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. R095-21

December 20, 2021

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

AUTHORITY: §§ 1, 4 and 7, NRS 293.124 and 293.247; § 2, NRS 293.124 and 293.247 and section 10 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1220 (NRS 293.269925); § 3, NRS 293.124 and 293.247 and section 17 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1223 (NRS 293.269937); § 5, NRS 293.124 and 293.247 and section 58 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1247 (NRS 293C.26325); § 6, NRS 293.124 and 293.247 and section 65 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1250 (NRS 293C.26337).

A REGULATION relating to elections; establishing certain security requirements for an electronic device used to verify signatures on mail ballots; setting forth certain requirements for the daily audit of an electronic device used to verify signatures on mail ballots; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) requires a county and city clerk to establish procedures for the processing and counting of mail ballots; and (2) authorizes a county and city clerk to review the signature of a voter on a mail ballot manually or by electronic means. (Sections 10, 11, 58 and 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1220 and 1247 (NRS 293.269925, 293.269927, 293C.26325 and 293C.26327)) **Sections 2 and 5** of this regulation provide that an electronic device used in an election to verify signatures on mail ballots may only be connected to a computer network for maintenance and support and such a computer network must be closed, secure and behind a firewall. **Sections 2 and 5** further require that the county and city clerk keep maintenance logs documenting certain information regarding maintenance performed on the electronic device.

Existing law provides that if a county or city clerk uses an electronic device to verify signatures on mail ballots, the clerk must: (1) conduct a test of the accuracy of every electronic device before the election; (2) perform daily audits of the electronic device during the processing of ballots for the election; and (3) prepare an audit report. (Sections 17 and 65 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1223 and 1250 (NRS 293.269937 and 293C.26337)) **Sections 3 and 6** of this regulation set forth requirements for the daily audit of an electronic device used to verify signatures on mail ballots. **Sections 3 and 6** provide that if during the daily audit a manual review of signatures verified by the electronic device results in a

signature being rejected by the auditors that was verified by the electronic device, the electronic device fails the audit and the county or city clerk must stop using the device immediately and notify the Secretary of State.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *An electronic device that is used to verify signatures on mail ballots may only be connected to a computer network for maintenance and support. When connected to the computer network, the electronic device must be operated on a closed, secure network behind a firewall. The county clerk shall keep maintenance logs documenting:*

- 1. The name of any person who provides maintenance or support to the electronic device;*
- 2. The time and date the electronic device was accessed; and*
- 3. The reason for accessing the electronic device.*

Sec. 3. *The daily audit of an electronic device used to verify signatures on mail ballots that is required pursuant to section 17 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1223 (NRS 293.269937), must comply with the following requirements:*

1. The county clerk shall select a random sample of 1 percent of the mail ballots received before 3:00 p.m. from the previous 24-hour period for which the electronic device has verified the signatures.

2. A team of bipartisan election board officers appointed by the county clerk shall manually review the signatures selected in accordance with the procedures set forth in section 11 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1220 (NRS 293.269927).

3. The election board officers shall sign and date the daily audit report. The audit report must be deposited in the vaults of the county clerk pursuant to NRS 293.391, as amended by section 34 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1232.

4. If the team of election board officers rejects a signature that the electronic device verified, then the electronic device fails the audit and the county clerk shall:

(a) Immediately stop using the electronic device;

(b) Notify the Secretary of State in writing within 48 hours after the electronic device has failed the audit; and

(c) Work with the Secretary of State to identify the issue and implement a solution.

Sec. 4. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this regulation.

Sec. 5. *An electronic device that is used to verify signatures on mail ballots may only be connected to a computer network for maintenance and support. When connected to the computer network, the electronic device must be operated on a closed, secure network behind a firewall. The city clerk shall keep maintenance logs documenting:*

1. The name of any person who provides maintenance or support to the electronic device;

2. The time and date the electronic device was accessed; and

3. The reason for accessing the electronic device.

Sec. 6. *The daily audit of an electronic device used to verify signatures on mail ballots that is required pursuant to section 65 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1250 (NRS 293C.26337), must comply with the following requirements:*

1. The city clerk shall select a random sample of 1 percent of the mail ballots received before 3:00 p.m. from the previous 24-hour period for which the electronic device has verified the signatures.

2. A team of bipartisan election board officers appointed by the city clerk shall manually review the signatures selected in accordance with the procedures set forth in section 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1247 (NRS 293C.26327).

3. The election board officers shall sign and date the daily audit report. The audit report must be deposited in the vaults of the city clerk pursuant to NRS 293C.390, as amended by section 80 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1257.

4. If the team of election board officers rejects a signature that the electronic device verified, then the electronic device fails the audit and the city clerk shall:

(a) Immediately stop using the electronic device;

(b) Notify the Secretary of State in writing within 48 hours after the electronic device has failed the audit; and

(c) Work with the Secretary of State to identify the issue and implement a solution.

Sec. 7. This regulation becomes effective upon the later of:

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

The following information is provided regarding the proposed regulations in R096-21P 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 authorizing the creation and setting forth the duties of vote adjudication boards; setting forth certain duties for ballot duplicating boards; 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. R096-21

December 20, 2021

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

AUTHORITY: §§ 1 and 4, NRS 293.124; § 2, NRS 293.124, 293.247, 293.3677 and 293B.360; § 3, NRS 293.124, 293.247, 293B.360 and 293B.375; § 5, NRS 293.124, 293.247, 293.3677 and 293C.640; § 6, NRS 293.124, 293.247, 293C.640 and 293C.655.

A REGULATION relating to elections; authorizing the creation and setting forth the duties of vote adjudication boards; setting forth certain duties for ballot duplicating boards; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a county or city clerk to create such boards and appoint officers as the clerk deems necessary for the expeditious processing of ballots. (NRS 293B.360, 293C.640) **Sections 2 and 5** of this regulation authorize a county clerk and city clerk to create vote adjudication boards for the purpose of resolving the intent of a voter in casting a ballot if the voter's selection in relation to a particular race or ballot question cannot be determined using a mechanical device or other electronic means.

Existing law authorizes a county clerk and city clerk to create ballot duplicating boards whose duties include receiving damaged ballots and preparing exact copies of damaged ballots so that the duplicated ballots may later be counted. (NRS 293B.360, 293B.375, 293C.640, 293C.655) **Section 3 and 6** of this regulation: (1) set forth certain procedures for a ballot duplicating board when duplicating a ballot; and (2) require each county and city clerk to submit for the approval of the Secretary of State a procedure for duplicating ballots before it is used in the county or city, as applicable.

Section 1. Chapter 293B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *The county clerk may create a vote adjudication board and appoint its members. If practicable, the members must be of different political parties. The same person*

may be appointed to more than one board or perform additional functions as an election board officer.

2. A vote adjudication board shall resolve the intent of a voter in casting his or her ballot if the voter's selection in relation to a particular race or ballot question cannot be determined using a mechanical device or other electronic means.

Sec. 3. *1. The county clerk may create a ballot duplicating board and appoint its members. If practicable, the members must be of different political parties. The same person may be appointed to more than one board or perform additional functions as an election board officer.*

2. If a ballot is damaged or defective such that it cannot be read by a mechanical device or other electronic means, the ballot duplicating board must duplicate the ballot and the duplicate ballot must be counted in place of the damaged ballot.

3. The ballot duplicating board shall:

- (a) Ensure that the correct precinct and ballot style is used to create the duplicate ballot;*
- (b) Mark the duplicate ballot so that the duplicate is identical to the original ballot;*
- (c) After finishing marking the duplicate ballot, verify that the duplicate ballot is identical to the original ballot, including, without limitation, any overvotes or undervotes;*
- (d) Log the duplicate ballot and the serial number of the duplicate ballot in the ballot duplication log; and*
- (e) If any errors are made while marking the duplicate ballot, mark the duplicate ballot as "SPOILED" and repeat the procedures set forth in paragraphs (a) to (d), inclusive, to create a new duplicate ballot.*

4. Each county clerk shall establish a procedure for duplicating ballots that must be approved by the Secretary of State before being used in the county.

5. As used in this section:

(a) “Duplicate” means the process of preparing a new ballot to replace a damaged or defective ballot, including, without limitation, ballots that have been torn, bent or mutilated.

(b) “Duplicate ballot” means the ballot prepared by a ballot duplicating board to replace a damaged ballot.

Sec. 4. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this regulation.

Sec. 5. 1. *The city clerk may create a vote adjudication board and appoint its members. If practicable, the members must be of different political parties. The same person may be appointed to more than one board or perform additional functions as an election board officer.*

2. A vote adjudication board shall resolve the intent of a voter in casting his or her ballot if the voter’s selection in relation to a particular race or ballot question cannot be determined using a mechanical device or other electronic means.

Sec. 6. 1. *The city clerk may create a ballot duplicating board and appoint its members. If practicable, the members must be of different political parties. The same person may be appointed to more than one board or perform additional functions as an election board officer.*

2. If a ballot is damaged or defective such that it cannot be read by a mechanical device or other electronic means, the ballot duplicating board must duplicate the ballot and the duplicate ballot must be counted in place of the damaged ballot.

3. The ballot duplicating board shall:

- (a) Ensure that the correct precinct and ballot style is used to create the duplicate ballot;*
- (b) Mark the duplicate ballot so that the duplicate is identical to the original ballot;*
- (c) After finishing marking the duplicate ballot, verify that the duplicate ballot is identical to the original ballot, including, without limitation, any overvotes or undervotes;*
- (d) Log the duplicate ballot and the serial number of the duplicate ballot in the ballot duplication log; and*
- (e) If any errors are made while marking the duplicate ballot, mark the duplicate ballot as “SPOILED” and repeat the procedures set forth in paragraphs (a) to (d), inclusive, to create a new duplicate ballot.*

4. Each city clerk shall establish a procedure for duplicating ballots that must be approved by the Secretary of State before being used in the city.

5. As used in this section:

- (a) “Duplicate” means the process of preparing a new ballot to replace a damaged or defective ballot, including, without limitation, ballots that have been torn, bent or mutilated.*
- (b) “Duplicate ballot” means the ballot prepared by a ballot duplicating board to replace a damaged ballot.*

The following information is provided regarding the proposed regulations in R097-21P 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 revising certain procedures of election officers after voting is completed during the period for early voting and on election day; revising various provisions related to the preparation and distribution of elections materials by the county or city clerk; 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. R097-21

December 20, 2021

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

AUTHORITY: §§ 1, 2, 4-8, 12, 13, 15 and 17, NRS 293.124 and 293.247; § 3, NRS 293.124, 293.247, 293.3025 and 293.565; §§ 9 and 14, NRS 293.124, 293.247 and 293C.369; § 10, NRS 293.124, 293.247, 293.3025 and 293C.530; § 11, NRS 293.124, 293.227, 293.247 and 293C.220; § 16, NRS 293.124, 293.247 and 293C.380.

A REGULATION relating to elections; revising certain procedures of election officers after voting is completed during the period for early voting and on election day; revising various provisions related to the preparation and distribution of elections materials by the county or city clerk; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each county and city clerk to: (1) prepare and distribute sample ballots for an election; and (2) ensure that a copy of each sample ballot is posted at each polling place. (NRS 293.3025, 293.565, 293C.530) Existing regulations require that the county or city clerk prepare a sufficient number of explanations of the questions on the ballot so that, in relevant part, he or she can post at least two copies of the explanations in each precinct. (NAC 293.130, 293C.120) **Sections 3 and 10** of this regulation provide instead that the county or city clerk prepare a sufficient number of explanations of the questions on the ballot so that, in relevant part, he or she can post at least two copies of the explanations in each polling place.

Existing law authorizes: (1) a county clerk or city clerk to establish one or more polling places in the county or city, as applicable, where any person entitled to vote in the county or city by personal appearance may do so on the day of the primary election, primary city election, general election or general city election; and (2) any person entitled to vote in the county or city, as applicable, by personal appearance to do so at any such polling place. (NRS 293.3072, 293C.3032) A polling place where any person entitled to vote in the county or city by personal appearance may do so is commonly known as a "vote center." Existing regulations require that the county or city clerk, as applicable, prepare certain election supplies and equipment for each precinct, including at least three copies of each sample ballot which pertains to the election. (NAC 293.220, 293C.310) **Sections 4 and 13** of this regulation instead require that the county or city clerk, as applicable, prepare certain election supplies and equipment for each polling place. If the polling place is a vote center, the election supplies and equipment must include a means to

print each sample ballot which pertains to the election upon request. **Sections 2 and 8** of this regulation define the term “vote center.”

Existing law requires each voting system used by a county or city to provide voting materials in English and certain other languages, as required by federal law or as authorized by the clerk. (NRS 293.2699) Existing regulations provide that, if a procedure for bilingual voting is used in the county or city, each county and city clerk must prepare for each polling place certain required notices in the appropriate foreign language. (NAC 293.225, 293C.140) **Sections 5 and 12** of this regulation provide instead that if a procedure for multilingual voting is used in the county or city, certain notices must be provided in the appropriate foreign languages.

Existing regulations provide that if a difference exists between the number of persons voting and the number of ballots cast in an election, the difference must be reported in writing to the county or city clerk, as applicable, together with any known reasons for the difference. (NAC 293.250, 293C.340) **Sections 6 and 14** of this regulation provide instead that after the close of polls on the day of the election, the election board must determine the total number of: (1) persons who applied to vote and voted in person at the polling place; and (2) ballots cast at the polling place. If a difference exists between those numbers, the difference must be reported to the county or city clerk, as applicable, together with any known reasons for the difference. **Sections 1 and 9** of this regulation provide a similar process for each day of voting during the period for early voting.

Existing law requires the city clerk to appoint and notify registered voters to act as election board officers for the various polling places and precincts in the city. (NRS 293C.220) Existing regulations provide that if an election board of more than three members is required to accommodate the number of registered voters in any precinct, the city clerk may appoint as many additional members as he or she believes are necessary or desirable. (NAC 293C.130) **Section 11** of this regulation provides instead that if an election board of more than three members is required to accommodate the number of registered voters who may vote at a polling place or in any precinct, the city clerk may appoint as many additional members as he or she believes are necessary or desirable.

Existing regulations require that there be an adequate supply, as determined by the city clerk, of voting booths for each precinct. (NAC 293C.390). **Section 15** of this regulation requires instead that there be an adequate supply of voting booths, as determined by the city clerk, for each polling place.

Existing regulations provide that for a city election, if any polling place is closed early because all the voters registered in the precinct have voted, the election board is required to notify the members of the counting board of the closing immediately. (NAC 293C.400) **Section 16** of this regulation provides instead that if any polling place that is not a vote center is closed early because all the voters registered in the precinct have voted, the election board is required to notify the members of the counting board of the closing immediately.

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

1. After the close of voting on each day during the period for early voting, the election officer in charge of a polling place for early voting must determine the total number of:

(a) Persons who applied to vote and voted in person at the polling place on that day; and

(b) Ballots cast at the polling place on that day.

↪ If a difference exists between the numbers determined pursuant to paragraphs (a) and (b), the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The numbers determined pursuant to paragraphs (a) and (b) of subsection 1 must be entered by the election board on the forms provided by the county clerk.

Sec. 2. NAC 293.010 is hereby amended to read as follows:

293.010 As used in this chapter, unless the context otherwise requires:

1. “Ballot stock” means the material upon which:

(a) A ballot is printed; and

(b) A voter directly indicates his or her vote.

2. “Department” means the Department of Motor Vehicles.

3. “Results cartridge” means the cartridge of a mechanical recording device which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

4. “Signature stamp” has the meaning ascribed to it in NRS 427A.755.

5. “Statewide voter registration list” has the meaning ascribed to it in NRS 293.111.

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 has accurately recorded the votes of the voter.

7. “Voting booth” means any place or compartment used to screen a voter from the observation of others.

8. *“Vote center” means a polling place established by the county or city clerk, as applicable, pursuant to the provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to 293C.3035, inclusive, as applicable, where any person entitled to vote by personal appearance in the county or city, as applicable, may do so on the day of the election.*

Sec. 3. NAC 293.130 is hereby amended to read as follows:

293.130 Sample ballots for general elections must be prepared in the same manner, quantity and form as sample ballots for primary elections and must be distributed and posted in the same manner. The county clerk shall prepare a sufficient number of explanations of the questions on the ballot so that he or she can mail one with each sample ballot, post one in a conspicuous place in his or her office and post at least two in each ~~precinct~~ *polling place*.

Sec. 4. NAC 293.220 is hereby amended to read as follows:

293.220 1. At least 2 days before any election, the county clerk shall prepare the following supplies for each ~~precinct~~ *polling place*:

- (a) The ~~election~~ roster;
- (b) A quantity of mechanical voting devices which assures an efficient flow of voters;
- (c) A means for transporting ballots and VVPATs which allows the ballots and VVPATs to be secured with a lock and key, numbered seal or other device which prevents unauthorized entry;
- (d) ~~At~~ *If the polling place*:

(1) Is a vote center, a means to print each sample ballot which pertains to the election upon request; or

(2) Is not a vote center, at least three copies of each sample ballot which pertains to the election;

(e) A procedural checklist for election boards; and

(f) One list of the inventory of the supplies provided to the election board.

2. Each county clerk may prepare for the ~~precincts~~ *polling places* any additional supplies he or she considers necessary or desirable for carrying out the election.

Sec. 5. NAC 293.225 is hereby amended to read as follows:

293.225 1. At least 2 days before any election, every county clerk shall prepare the following supplies for each polling place:

(a) One flag of the United States.

(b) Any notices or other materials required to be posted at each polling place pursuant to NRS ~~293.177,~~ *293.184, 293.2045,* 293.2549, 293.2955, 293.301, 293.302, 293.3025, 293.361, 293.740 and 293.780.

(c) ~~One copy of the statutes and regulations governing elections, or one copy of a compilation of the statutes and regulations governing elections.~~

~~—(d)~~ If a procedure for ~~bilingual~~ *multilingual* voting is used in the county, the required notices in the appropriate foreign ~~language~~ *languages*.

2. The county clerk may prepare for each polling place any additional supplies he or she considers necessary or desirable for carrying out the election.

3. On or before the day preceding the day of an election, each county clerk may deliver the election supplies to the sheriff of his or her county or a person designated by the clerk for further

distribution. The election supplies may be delivered in sealed containers and may include any other accountable items. The sheriff or other designated person shall sign a receipt for all of the items received by him or her. The sheriff or other designated person shall immediately, and in a safe manner, distribute the election supplies to those polling places or to those members of election boards who are designated by the county clerk to receive and take custody of the supplies.

4. When an election board accepts delivery of election supplies, it shall check the supplies against the list of inventory and immediately notify the county clerk of any shortage. The county clerk shall immediately correct the shortage.

5. At each polling place within the county, the county clerk shall allow voters to vote their ballots conveniently and in a manner that allows their voting to be ~~screened~~ *protected* from the view of others.

Sec. 6. NAC 293.250 is hereby amended to read as follows:

293.250 1. *After the close of polls on the day of the election, the election board must determine the total number of:*

(a) Persons who applied to vote and voted in person at the polling place; and

(b) Ballots cast at the polling place.

↪ If a difference exists between the ~~number of persons voting and the number of ballots cast,~~ *numbers determined pursuant to paragraphs (a) and (b),* the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The ~~total number of voters~~ *numbers determined pursuant to paragraphs (a) and (b) of subsection 1* must be entered by the election board on the forms provided by the county clerk.

3. The chair of an election board is responsible for the safe delivery of the ballots and VVPATs to the central place designated by the county clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its results cartridges, VVPATs, mechanical recording devices and other essential election supplies which were furnished by the county clerk with the county clerk's inventory, shall note any shortages and shall immediately notify the county clerk if any shortages are noted. The chair of the election board is responsible for the safe return of all supplies, including all records, equipment pertaining to the election and essential election supplies, in accordance with the directions of the county clerk.

Sec. 7. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this regulation.

Sec. 8. *As used in this chapter, "vote center" means a polling place established by the county or city clerk, as applicable, pursuant to the provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to 293C.3035, inclusive, as applicable, where any person entitled to vote by personal appearance in the county or city, as applicable, may do so on the day of the election.*

Sec. 9. *1. After the close of voting on each day during the period for early voting, the election officer in charge of a polling place for early voting must determine the total number of:*

- (a) Persons who applied to vote and voted in person at the polling place on that day; and*
- (b) Ballots cast at the polling place on that day.*

↪ If a difference exists between the numbers determined pursuant to paragraphs (a) and (b), the difference must be reported in writing to the city clerk, together with any known reasons for the difference.

2. The numbers determined pursuant to paragraphs (a) and (b) of subsection 1 must be entered by the election board on the forms provided by the city clerk.

Sec. 10. NAC 293C.120 is hereby amended to read as follows:

293C.120 Sample ballots for general city elections must be prepared in the same manner, quantity and form as sample ballots for primary city elections and must be distributed and posted in the same manner. The city clerk shall prepare a sufficient number of explanations of the questions on the ballot so that he or she can mail one with each sample ballot, post one in a conspicuous place in the city clerk's office and post at least two in each ~~precinct~~ *polling place*.

Sec. 11. NAC 293C.130 is hereby amended to read as follows:

293C.130 1. If an election board of more than three members is required to accommodate the number of registered voters *who may vote at a polling place or* in any precinct, the city clerk may appoint as many additional members as he or she believes are necessary or desirable.

2. The city clerk may permit any member of an election board or any other interested person to attend the school described in NRS 293.227. The city clerk shall, when possible, give preference to persons who have attended the school when appointing members of election boards.

3. After the city clerk's school for chair has been conducted and before the day of the election, each chair shall instruct the members of his or her election board in the procedures to be followed at the election.

Sec. 12. NAC 293C.140 is hereby amended to read as follows:

293C.140 1. At least 2 days before any election, every city clerk shall prepare the following supplies for each polling place:

(a) One flag of the United States.

(b) Any notices or other materials required to be posted at each polling place pursuant to NRS ~~293.177,~~ **293.184, 293.2045,** 293.2549, 293.2955, 293.301, 293.302, 293.3025, 293.361, 293.740 and 293.780.

(c) ~~One copy of the statutes and regulations governing elections, or one copy of a compilation of the statutes and regulations governing elections.~~

~~—(d)~~ If a procedure for ~~bilingual~~ **multilingual** voting is used in the city, the required notices in the appropriate foreign ~~language~~ **languages**.

2. The city clerk may prepare for each polling place any additional supplies the city clerk considers necessary or desirable for carrying out the election.

3. On or before the day preceding the day of a city election, each city clerk may deliver the election supplies to a person designated by the city clerk for further distribution. The election supplies may be delivered in sealed containers and may include any other accountable items. The designated person shall sign a receipt for all of the items received. The designated person shall immediately, and in a safe manner, distribute the election supplies to those members of election boards who are designated by the city clerk to receive and take custody of the supplies. The designated person shall obtain a signed receipt from each member of an election board to whom the sealed container or any other accountable item is delivered.

4. When an election board accepts delivery of election supplies, it shall check the supplies against the list of inventory and immediately notify the city clerk of any shortage. The city clerk shall immediately correct the shortage.

5. At each polling place within the city, the city clerk shall provide a quantity of booths that is sufficient to allow voters to vote their ballots conveniently and in a manner that allows their voting to be ~~screened~~ *protected* from the view of others.

6. Each of the booths must, during the election, be provided with the necessary supplies for voting ballots, and must be sufficiently lighted to enable voters to read clearly all of the printing on ballots or ballot page assemblies and to enable members of election boards to perform their duties.

7. Before opening the polls, the members of the election board shall carefully inspect the ballot box to ensure that nothing remains in the ballot box from a previous election. The ballot box must be locked after the inspection, and the key to any lock on the ballot box must be delivered to the chair of the election board or, if there is no lock, the ballot box must be sealed by a seal approved by the Secretary of State. The ballot box must not be opened during the election except as otherwise provided in NRS 293C.625.

Sec. 13. NAC 293C.310 is hereby amended to read as follows:

293C.310 1. At least 2 days before any election, the city clerk shall prepare the following supplies for each ~~precinct~~ *polling place*:

- (a) The ~~election board~~ register;
- (b) Copies of the roster in such a quantity and form as the city clerk determines appropriate;
- (c) A quantity of mechanical voting devices that ensures an efficient flow of voters;
- (d) A container for transporting ballots that is equipped with a lock and key, numbered seal or other device that prevents unauthorized entry;
- (e) ~~At~~ *If the polling place*:

(1) Is a vote center, a means to print each sample ballot which pertains to the election upon request; or

(2) Is not a vote center, at least three copies of each sample ballot that pertains to the election;

(f) A procedural checklist for election boards; and

(g) One list of the inventory of the supplies provided to the election board, including a notation whether the supplies have been inserted into the container for transporting ballots.

2. Each city clerk may prepare for the ~~{preinets}~~ *polling places* any additional supplies he or she considers necessary or desirable for carrying out the election.

Sec. 14. NAC 293C.340 is hereby amended to read as follows:

293C.340 1. *After the close of polls on the day of the election, the election board must determine the total number of:*

(a) Persons who applied to vote and voted in person at the polling place; and

(b) Ballots cast at the polling place.

↪ If a difference exists between the ~~{number of persons voting and the number of ballots cast,}~~ *numbers determined pursuant to paragraphs (a) and (b),* the difference must be reported in writing to the city clerk, together with any known reasons for the difference.

2. The ~~{total number of voters}~~ *numbers determined pursuant to paragraphs (a) and (b) of subsection 1* must be entered by the election board on the forms provided by the city clerk.

3. The chair of an election board is responsible for the safe delivery of the ballots and VVPATs to the central place designated by the city clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its results cartridges, VVPATs, mechanical recording devices and other essential election supplies that were furnished by the city clerk with the city clerk's inventory, note any shortages and immediately notify the county and city clerk if any shortages are noted. The chair of the election board is responsible for the safe return of all supplies, including all records and equipment pertaining to the election, in accordance with the directions of the city clerk.

Sec. 15. NAC 293C.390 is hereby amended to read as follows:

293C.390 1. There must be an adequate supply, as determined by the city clerk, of voting booths for each ~~{precinct:}~~ *polling place.*

2. The city clerk shall, at least 2 days before the day of any election, prepare the following supplies for each ~~{precinct:}~~ *polling place:*

(a) The ~~{election board register:}~~ *roster;*
(b) Copies of the roster in such a quantity and form as the city clerk determines appropriate;
(c) A container for transporting ballots that is equipped with a lock and key, numbered seal or other device that prevents unauthorized entry;

(d) ~~{At}~~ *If the polling place:*

(1) Is a vote center, a means to print each sample ballot which pertains to the election upon request; or

(2) Is not a vote center, at least three copies of each sample ballot that pertains to the election; and

(e) Such other supplies as are necessary for conducting the election.

3. The city clerk shall print, in plain type, sets of instructions for voters for obtaining and marking their ballots. On the day of an election, the election board shall post at least one set of

instructions in each voting booth and at least three additional sets of instructions at places open to public view in or about the polling place.

4. The chair of each election board shall require the members of the board to prepare the ballots and any other supplies or equipment necessary for voting and may assign specific duties to the members of the election board to complete the preparation.

Sec. 16. NAC 293C.400 is hereby amended to read as follows:

293C.400 1. After all eligible voters have cast their votes, the election board shall, in the following manner, count the number of official ballots it received:

(a) The board shall total the number of voters' signatures recorded in the roster book and enter that number on the ballot statement provided by the city clerk.

(b) The board shall then unlock or unseal the ballot box and count the number of official ballots, comparing this number with the number of signatures recorded on the ballot statement.

(c) The numbers of signatures and ballots should be the same. If they are not, the board shall recount the number of signatures and the number of ballots. If a discrepancy still exists, the board shall make a notation to that effect on the ballot statement.

2. Each member of the counting board must be present in the polling place where the member is to serve not later than the time set for the closing of the polling place. If any polling place *that is not a vote center* is closed early because all of the voters registered in the precinct have voted, the election board shall immediately notify the members of the counting board of the closing.

3. After the polls are closed, the election board shall compare the quantity of its supplies that were furnished by the city clerk with the city clerk's inventory and make a notation upon the inventory of any materials that were lost, used or stolen.

4. After voting is completed, the chair of the election board shall deliver the keys to the ballot boxes to the chair of the counting board.

5. Each chair of a counting board shall assign duties to the members of his or her board in a manner that facilitates the counting of votes. If any person interferes in any way with the counting of the votes, the chair of the counting board shall request a law enforcement officer of the city to remove the person.

6. The members of the counting board shall count and make the record of the votes in the manner prescribed by the city clerk.

7. If the counting board rejects a ballot, it shall place that ballot in a separate envelope, seal the envelope and write upon the envelope the word “Rejected” and the reason for the rejection.

8. Every member of the counting board or the computer program and processing accuracy board as created by the city clerk pursuant to NRS 293C.665 shall sign the copy of the election return that is required by NRS 293C.380 to be posted on the outside of the polling place.

Sec. 17. This regulation becomes effective upon the later of:

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

The following information is provided regarding the proposed regulations in R098-21P 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 revising provisions relating to the observation of voting at a polling place; 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. R098-21

December 20, 2021

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

AUTHORITY: § 1, NRS 293.124 and 293.247.

A REGULATION relating to elections; revising provisions relating to the observation of voting at a polling place; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing regulations authorize any person to observe the conduct of voting at a polling place in an area designated by the chair of the election board. The designated area must allow for meaningful observation, but must not be located in an area that would allow an observer to infringe on the privacy and confidentiality of the ballot of the voter. (NAC 293.245) This regulation: (1) clarifies that the term “polling place” includes a polling place for early voting and a vote center; and (2) defines the term “meaningful observation.”

This regulation also authorizes the county or city clerk to limit the number of persons observing the conduct of voting at a polling place for reasons of public safety or to preserve voter privacy or maintain order.

Section 1. NAC 293.245 is hereby amended to read as follows:

293.245 1. Subject to the provisions of subsections 2 to 8, inclusive, any person may observe the conduct of voting at a polling place ~~H~~, *including, without limitation, a polling place for early voting and a vote center.*

2. Before observing the conduct of voting at a polling place pursuant to subsection 1, a person must sign an acknowledgment in the form prescribed by the Secretary of State stating that the person, during the time the person observes the conduct of voting:

(a) Acknowledges that he or she is prohibited from:

(1) Talking to voters within the polling place;

(2) Using a mobile telephone or computer within the polling place;

(3) Advocating for or against a candidate, political party or ballot question;

(4) Arguing for or against or challenging any decisions of county or city election personnel; and

(5) Interfering with the conduct of voting; and

(b) May be removed from the polling place by the county or city clerk for violating any provision of title 24 of NRS or any of the provisions of paragraph (a).

3. The county or city clerk may, at his or her discretion ~~to remove~~ :

(a) Limit the number of persons in the polling place who are observing the conduct of voting pursuant to this section for reasons of public safety or to protect voter privacy or maintain order.

(b) Remove from a polling place a person observing the conduct of voting pursuant to this section for violating any provision of title 24 of NRS or any of the provisions of paragraph (a) of subsection 2.

4. A person observing the conduct of voting at a polling place pursuant to subsection 1 must comply with the same requirements that apply to members of the general public pursuant to NRS 293.274, 293.305 , ~~and~~ 293.730 , ~~and~~ *293C.269 and 293C.297.*

5. A person observing the conduct of voting at a polling place pursuant to subsection 1 may remain in the designated area in the polling place after the polls close ~~pursuant to NRS 293.273~~ so as to observe the closing of the polling place. The person shall not interfere with the closing of the polling place.

6. A person observing the conduct of voting at a polling place pursuant to subsection 1 may remain in an area designated by the chair of the election board to observe the activities conducted at the polling place without interfering with the voting. The designated area must allow for meaningful observation, but must not be located in an area that would allow an observer to infringe on the privacy and confidentiality of the ballot of the voter.

7. A person observing the conduct of voting at a polling place pursuant to subsection 1 must wear a name tag denoting the person's full name.

8. The county and city clerk shall retain the signed acknowledgments described in subsection 2 for at least 180 days following the election observed by the person who signed the acknowledgment.

9. As used in this section ~~the~~, ~~“advocate”~~:

(a) *“Advocate”* includes, without limitation, speaking, displaying or disseminating written material and wearing identifying clothing, buttons or other paraphernalia.

(b) *“Meaningful observation” means a person may observe the identification of voters who appear at a polling place to vote, the distribution of a ballot or voting machine card to a voter, the movement of a voter to a voting booth, the return of a ballot or voting machine card by a voter and the exiting of a polling place by a voter. The term does not include allowing a person to:*

(1) View the personal information of a voter, a voter's ballot or selections on a voting machine; or

(2) Listen to any conversation between election board officers or between a voter and an election board officer.

(c) “Vote center” means a polling place established by the county or city clerk, as applicable, pursuant to the provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to 293C.3035, inclusive, as applicable, where any person entitled to vote by personal appearance in the county or city, as applicable, may do so on the day of the election.