

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R081-21

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

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

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

Legislative Counsel’s Digest:

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

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

Section 4 of this regulation requires a registered voter with a disability who applies for a ballot using the system of approved electronic transmission to indicate whether: (1) the local

elections official must send the ballot to the registered voter by mail or approved electronic transmission; and (2) the registered voter will return the ballot to the local elections official by mail or approved electronic transmission. **Section 4** further requires the local elections official to provide to the registered voter certain instructions depending on whether the registered voter will return the ballot by mail or approved electronic transmission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DECLARATION OF REGISTERED VOTER WITH A DISABILITY

I am a registered voter with a disability.

I am a citizen of the United States.

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

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

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

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

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

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

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

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

(Signed)

.....

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

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

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

DECLARATION OF REGISTERED VOTER WITH A DISABILITY

I am a registered voter with a disability.

I am a citizen of the United States.

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

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

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

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

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

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

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

(Signed)

.....

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

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

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

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

2. Record in the ballot record:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DECLARATION OF COVERED VOTER

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

I am a citizen of the United States.

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

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

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

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

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

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

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

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

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

(Signed)

.....

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

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

DECLARATION OF COVERED VOTER

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

I am a citizen of the United States.

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

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

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

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

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

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

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

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

(Signed)

.....

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DECLARATION AND INCLUDE IT WITH YOUR BALLOT.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R082-21

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

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

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

Legislative Counsel's Digest:

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

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

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

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

- (a) Files a written request for a waiver setting forth the basis for the waiver;
- (b) Properly files the appropriate report pursuant to the applicable provisions of chapter 294A of NRS; and

(c) Establishes that:

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

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

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

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

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

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

(II) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of chapter 294A of NRS has, without notice, severed his or her relationship with the entity within a reasonable time before or on the date that the applicable report was due; or

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

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

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

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

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

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R083-21

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

AUTHORITY: § 1, NRS 306.011 and 306.015.

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

(a) The Secretary of State;

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

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

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

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R084-21

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

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

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

306.023 The filing officer with whom a public officer to be recalled filed his or her declaration of candidacy shall notify that public officer, in writing, within 2 days after a petition to recall a public officer is filed pursuant to subsection ~~4~~ 5 of NRS 306.015.

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

306.025 If a county clerk or city clerk is the officer with whom a petition to recall a public officer is filed pursuant to subsection ~~4~~ 5 of NRS 306.015, the county clerk or city clerk shall, within 3 days after:

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

2. The county clerk or city clerk receives a court order pursuant to subsection ~~6~~ 7 of NRS 306.040 to call a special election,

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

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R087-21

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).

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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R088-21

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 ~~[-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 ~~[-]~~; *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 ~~[he]~~ :

(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,]~~ 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,]~~ 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,]~~ 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 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 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 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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R090-21

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

AUTHORITY: §§ 1 and 10, 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 sets 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 ballot central counting board for counting, the county clerk must post a statement in his or her office

that notifies the public that the mail ballot central counting board will begin performing the actions set forth in subsection 1 and the time at which the mail ballot central counting board is expected to begin.

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.

~~{4.}~~ 5. “Signature stamp” has the meaning ascribed to it in NRS 427A.755.

~~{5.}~~ 6. “Statewide voter registration list” has the meaning ascribed to it in NRS 293.111.

~~{6.}~~ 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.

~~{7.}~~ 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;

~~[(h)]~~ (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)]~~ (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. 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 to the mail ballot central counting board for counting, the city clerk must post a statement in his or her office that notifies the public that the mail ballot central counting board will begin performing the actions set forth in subsection 1 and the time at which the mail ballot central counting board is expected to begin.

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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R091-21

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

AUTHORITY: §§ 1-4, 6-8, 10 and 11, 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 ~~[-]~~

~~—(a) A]~~ a ballot is printed ~~[-; and~~

~~—(b) A]~~ *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.

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*

(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.

~~§~~ 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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R092-21

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.

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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R093-21

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

AUTHORITY: §§ 1 and 10, 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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R094-21

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

AUTHORITY: §§ 1-6, 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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R095-21

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

AUTHORITY: §§ 1 and 4, 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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R096-21

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.*

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R097-21

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

AUTHORITY: §§ 1, 2, 4-8, 12, 13 and 15, 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) ~~[A:]~~ *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) ~~{A:}~~ *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 ~~{precincts}~~ *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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R098-21

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 ~~[]~~, *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 ~~[, 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 , ~~[,]~~ *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 ~~[, "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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R099-21

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

AUTHORITY: § 1, NRS 293.124, 293.247 and 293.250, as amended by section 22 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1225, and sections 3, 4, 51 and 52 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216, 1217, 1243 and 1244 (NRS 293.269911, 293.269913, 293C.263 and 293C.26312).

A REGULATION relating to elections; requiring a county or city clerk to print in a unique color all return envelopes that are enclosed with mail ballots in that county or city; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each county and city clerk to send to certain registered voters a mail ballot for every election. The county or city clerk is also required to enclose a return envelope with the mail ballot that is sent to a voter. (Sections 3, 4, 51 and 52 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216, 1217, 1243 and 1244 (NRS 293.269911, 293.269913, 293C.263 and 293C.26312)) This regulation requires each county and city clerk to: (1) submit to the Secretary of State a request to use a unique color for all return envelopes that are enclosed with mail ballots in the county or city, as applicable; and (2) on and after January 1, 2024, print return envelopes in the unique color approved by the Secretary of State for that county or city, as applicable. This regulation also authorizes the county or city clerk to print return envelopes in the unique color approved by the Secretary of State for that county or city, as applicable, before January 1, 2024.

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

1. Each county and city clerk must submit to the Secretary of State a request to use a unique color for all return envelopes that are enclosed with mail ballots in the county or city, as applicable. If more than one clerk requests to use the same color for return envelopes, the

Secretary of State will determine which clerk is allowed to use that color for return envelopes.

The Secretary of State will inform the county or city clerk whether the request is approved.

2. Before January 1, 2024, the return envelope enclosed with each mail ballot sent to a registered voter by a county or city clerk may be printed in the unique color approved by the Secretary of State pursuant to subsection 1 for the county or city.

3 On and after January 1, 2024, the return envelope enclosed with each mail ballot sent to a registered voter by a county or city clerk must be printed in the unique color approved by the Secretary of State pursuant to subsection 1 for the county or city.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R100-21

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

AUTHORITY: § 1, NRS 293.124, 293.247 and 293.405.

A REGULATION relating to elections; revising provisions related to the withdrawal of a demand for an election recount; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain persons to demand and receive a recount of the vote at an election. A person who demands a recount must deposit in advance the estimated costs of the recount. (NRS 293.403) If the person who demanded the recount does not prevail, and it is found that the sum deposited was less than the cost of the recount, the person is required, upon demand, to pay the deficiency to the county clerk, city clerk or Secretary of State, as the case may be. If the sum deposited is in excess of the cost, the excess must be refunded to the person. If the person who demanded the recount prevails, the sum deposited with the Secretary of State, county clerk or city clerk must be refunded to the person. (NRS 293.405)

Existing regulations provide that: (1) a person who demands a recount of votes may withdraw the demand by filing a withdrawal in writing before the completion of the recount; and (2) the county or city clerk must stop the recount as soon as practicable after such a withdrawal is filed. (NAC 293.371) This regulation provides instead that: (1) a person may, before the completion of the recount, file a withdrawal of the demand in writing with the officer with whom the person filed the demand; and (2) each county or city clerk who was conducting the recount must stop the recount as soon as practicable. If it is found that the sum deposited for the purpose of the recount is: (1) less than the cost of the recount at the time of the withdrawal, the person must pay the deficiency to the county clerk, city clerk or Secretary of State, as applicable; or (2) in excess of the cost of the recount at the time of the withdrawal, the excess must be refunded to the person.

Section 1. NAC 293.371 is hereby amended to read as follows:

293.371 1. At the request of the city or county clerk, the Secretary of State will designate a representative to observe a recount of votes.

2. A person who demands a recount of votes may withdraw the demand by filing a withdrawal in writing *with the officer with whom the person filed the demand pursuant to NRS*

293.403 at any time before the completion of the recount. ~~[The city or]~~ **Each** county **or city** clerk ~~[shall]~~ **who was conducting the recount must** stop the recount as soon as practicable after the person demanding the recount ~~[notifies the clerk of]~~ **files** the withdrawal of the demand. A person who withdraws a demand for a recount of votes may not request a continuation of the recount or a new recount of those votes.

3. If a person files a withdrawal of a demand for a recount pursuant to subsection 2, each county or city clerk who was conducting the recount must determine the actual cost incurred before the withdrawal was filed. If the sum deposited for the purpose of the recount:

(a) Is less than the cost of the recount at the time of the withdrawal, the person shall, upon demand, pay the deficiency to the county clerk, city clerk or Secretary of State, as applicable.

(b) Is in excess of the cost of the recount at the time of the withdrawal, the excess must be refunded to the person.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R101-21

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

AUTHORITY: § 1, NRS 293.124 and 293.247; § 2, NRS 293.124, 293.247, 293.540 and 293.543.

A REGULATION relating to elections; revising certain election provisions related to persons convicted of a felony; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) requires a county clerk to cancel the voter registration of a person upon the determination that the person has been convicted of a felony and is currently serving a term of imprisonment; (2) provides that a person convicted of a felony who has served his or her sentence and has been released from prison is immediately restored the right to vote; and (3) authorizes any such person to reregister to vote upon release from prison. (NRS 213.157, 293.540, 293.543)

Existing regulations provide that the Secretary of State will immediately provide the county clerks with any information the Secretary of State receives from the Attorney General of the United States regarding the conviction of any person of a felony. (NAC 293.414) **Section 2** of this regulation provides instead that the Secretary of State will immediately provide the county clerks with any information that the Secretary of State receives from the Attorney General of the United States or the Department of Corrections regarding any person who is convicted of a felony and sentenced to a term of imprisonment.

Section 2 also removes obsolete language related to the former process of restoring the voting rights of a person who was convicted of a felony.

Existing regulations require a county clerk to count a provisional ballot under certain circumstances including that a voter has 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. (NAC 293.270) **Section 1** of this regulation removes this obsolete language in order to comply with the applicable provisions of the Nevada Revised Statutes.

Section 1. 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 mail-in ballot;~~

~~[(i)]~~ ;

(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)]~~ (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

~~[(k)]~~ (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. 2. NAC 293.414 is hereby amended to read as follows:

293.414 1. The Secretary of State will immediately provide the county clerks with any information the Secretary of State receives from the Attorney General of the United States *or the Department of Corrections* regarding ~~[(the conviction of)]~~ any person ~~[(of a felony.)]~~ *who is convicted of a felony and sentenced to a term of imprisonment.*

2. A county clerk may, for the purpose of making the determination to cancel the registration of a person required by *paragraph (c) of* subsection ~~[(3)]~~ 2 of NRS 293.540, rely upon any information the county clerk receives from the Secretary of State pursuant to subsection 1 or

from the Central Repository for Nevada Records of Criminal History regarding the conviction of any person of a felony.

3. ~~[The Secretary of State will immediately provide the county clerks with any information the Secretary of State receives regarding a person convicted of a felony who has had his or her right to vote restored and is currently eligible to register to vote.~~

~~—4.— A county clerk may, for purposes of determining whether a person applying to register to vote who was convicted of a felony has had his or her right to vote restored and is currently eligible to register, rely on:~~

~~—(a) The information received from the Secretary of State pursuant to subsection 3;~~

~~—(b) An order of any federal or state court restoring the right to vote to the applicant;~~

~~—(c) A document issued to the applicant by a penal agency of the State of Nevada, any other state or the Federal Government verifying that the right to vote of the applicant has been restored; or~~

~~—(d) A document issued by a penal agency of the State of Nevada, any other state or the Federal Government verifying that the applicant received a pardon or was discharged from probation, parole or prison before July 1, 2003.~~

~~—5.— If a county clerk has reason to believe that a document described in subsection 4 is invalid or forged, the county clerk shall attempt to verify the document. The county clerk must accept the document as legitimate unless the county clerk can verify that the document is invalid or forged.~~

~~—6.— If a county clerk does not receive a document described in subsection 4 within 15 days after a person who was convicted of a felony applies to register to vote, the county clerk shall reject the application of the person to register to vote. A person whose application to register to~~

~~vote is rejected pursuant to this subsection may submit a new application to register]~~ *Upon release from prison, a person whose registration has been cancelled pursuant to paragraph (c) of subsection 2 of NRS 293.540 may reregister to vote [x] by any method authorized pursuant to NRS 293.517.*

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R102-21

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

AUTHORITY: § 1, NRS 293.124, 293.247, 293.303 and 293.547.

A REGULATION relating to elections; revising provisions related to certain challenges to the right to vote of a person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a registered voter to challenge the right to vote of another person if: (1) he or she is registered to vote in the same precinct as the person whose right to vote is challenged; and (2) the challenge is based on the personal knowledge of the registered voter who submits the challenge. Any such written challenge must be filed with the county clerk after the 30th day but not later than the 25th day before any election. Further, any such written challenge must: (1) be signed and verified by the registered voter who submits the challenge; (2) name the person whose right to vote is challenged; and (3) name the ground or grounds, as applicable, of the challenge. (NRS 293.547) Existing regulations require any such written challenge to be on a form prescribed by the Secretary of State and contain certain information, including: (1) a statement of the facts upon which each ground for the challenge is based; and (2) a statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based. (NAC 293.416) This regulation requires that a written challenge also: (1) be filed with the county clerk after the 30th day but not later than the 25th day before the day of the election; and (2) contain any documentation or evidence supporting the facts upon which each ground for the challenge is based.

Existing law provides that if a written challenge to the right to vote of another person is filed and the challenged person applies to vote, an election board officer is required to tender the challenged person an oath or affirmation. The oath or affirmation is required to be in a certain form, depending on the reason set forth in the challenge. If the challenged person executes the appropriate oath or affirmation, he or she is allowed to vote. If the challenged person does not execute the appropriate oath or affirmation, with certain exceptions, the challenged person must not be issued a ballot. (NRS 293.303) Existing regulations require that the oath or affirmation of a challenged person must be on a form prescribed by the Secretary of State and contain certain information, including: (1) a statement of the facts upon which each ground for the challenge is based; and (2) a statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based. (NAC 293.416) This regulation requires that the oath or affirmation also contain any documentation or evidence supporting the facts upon which each ground for the challenge is based.

Section 1. NAC 293.416 is hereby amended to read as follows:

293.416 1. A written challenge authorized by NRS 293.547 must ~~be~~ :

(a) *Be* on a form prescribed by the Secretary of State ;

(b) *Be filed with the county clerk after the 30th day but not later than the 25th day before the day of the election;* and ~~contain,~~

(c) *Contain,* in addition to any other required information:

~~(a)~~ (1) The address and, if readily available, the telephone number of the person whose right to vote is challenged ~~;~~

~~(b)~~ ;

(2) The number of the precinct in which the person whose right to vote is challenged is registered to vote ~~;~~

~~(c)~~ ;

(3) The name, address and telephone number of the person filing the challenge ~~;~~

~~(d)~~ ;

(4) The precinct in which the person filing the challenge is registered to vote ~~;~~

~~(e)~~ ;

(5) The date of the challenge ~~;~~

~~(f)~~ ;

(6) A statement of the facts upon which each ground for the challenge is based ~~;~~

~~(g)~~ ;

(7) A statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based ~~;~~ *and*

(8) Any documentation or evidence supporting the facts upon which each ground for the challenge is based.

2. In addition to the requirements set forth in NRS 293.303, the oath or affirmation of a challenged person must be on a form prescribed by the Secretary of State and include, without limitation:

(a) The address and, if readily available, the telephone number of the person whose right to vote is challenged.

(b) The number of the precinct in which the person whose right to vote is challenged is registered to vote.

(c) The name, address and telephone number of the person filing the challenge.

(d) The precinct in which the person filing the challenge is registered to vote.

(e) The date of the challenge.

(f) A statement of the facts upon which each ground for the challenge is based.

(g) A statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based.

(h) Any documentation or evidence supporting the facts upon which each ground for the challenge is based.

3. As used in this section, “personal knowledge” means that the person who files the challenge has firsthand knowledge through experience or observation of the facts upon each ground that the challenge is based.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R103-21

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

AUTHORITY: § 1, NRS 293.124 and 293.247 and sections 3, 11 and 13 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216, 1220 and 1222 (NRS 293.269911, 293.269927 and 293.269931, respectively); § 2, NRS 293.124 and 293.675; § 3, NRS 293.124 and 293.247 and sections 51, 59 and 61 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1243, 1247 and 1249 (NRS 293C.263, 293C.26327 and 293C.26331, respectively).

A REGULATION relating to elections; requiring county and city clerks to report certain information to the Secretary of State regarding mail ballots; revising the requirements related to the transfer of certain information to the statewide voter registration list; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) requires the county and city clerks to prepare and distribute to certain registered voters a mail ballot for every election; (2) requires the county and city clerks to check the signatures on received mail ballots; (3) authorizes each mail ballot central counting board to begin counting the received mail ballots 15 days before the day of the election; and (4) requires each mail ballot central counting board to complete the count of all mail ballots on or before the seventh day following the election. (Sections 3, 11, 13, 51, 59 and 61 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216, 1220, 1222, 1243, 1247 and 1249 (NRS 293.269911, 293.269927, 293.269931, 293C.263, 293C.26327, 293.26331, respectively))

Sections 1 and 3 of this regulation require each county and city clerk, as applicable, to report to the Secretary of State during certain periods: (1) each registered voter that the clerk has sent a mail ballot; (2) each registered voter whose mail ballot has been received by the clerk; (3) an indication of whether the clerk has completed the process for checking the signature on a mail ballot; and (4) whether the signature of a registered voter has been accepted and the mail ballot has been processed by the mail ballot central counting board.

Existing regulations require each county clerk to electronically transfer certain information to the statewide voter registration list at least once each business day. When a county clerk electronically transfers such information to the statewide voter registration list, the county clerk must certify that the county clerk has complied with such applicable technical requirements for security as may be prescribed by the Secretary of State to ensure the confidentiality of the information transferred. (NAC 293.458) **Section 2** of this regulation requires instead that when a county clerk electronically transfers such information to the statewide voter registration list, the county clerk must certify that the county clerk has complied with such applicable technical

requirements for security as may be prescribed by the Secretary of State to ensure the confidentiality of the personally identifiable information transferred.

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

1. Beginning the 45th day before an election and through the 7th day following the election, each county clerk shall, at least once each business day, inform the Secretary of State of:

(a) Each registered voter to whom the county clerk sent a mail ballot for the election;
(b) Each registered voter whose mail ballot has been received by the county clerk; and
(c) For each registered voter whose mail ballot has been received by the county clerk, an indication of whether the process set forth in section 11 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1220 (NRS 293.269927), has been completed.

2. In addition to the information required pursuant to subsection 1, beginning the 15th day before an election and through the 7th day following the election, each county clerk shall, at least once each business day, inform the Secretary of State of whether the signature of a registered voter has been accepted and the mail ballot has been processed.

3. The information required pursuant to this section must be sent electronically and in the form and manner prescribed by the Secretary of State.

Sec. 2. NAC 293.458 is hereby amended to read as follows:

293.458 1. Each county clerk shall, at least once each business day, electronically transfer the information contained in the computerized database established pursuant to NAC 293.454 to the statewide voter registration list. Each transfer must comply with such technical requirements as may be prescribed by the Secretary of State.

2. When a county clerk electronically transfers information to the statewide voter registration list pursuant to subsection 1, the county clerk must certify that:

- (a) The information is accurate and complies with relevant state and federal law; and
- (b) The county clerk has complied with such applicable technical requirements for security as may be prescribed by the Secretary of State to ensure the confidentiality of the *personally identifiable* information transferred pursuant to subsection 1.

3. Each county clerk shall ensure that only authorized personnel may access the computerized database established pursuant to NAC 293.454.

Sec. 3. Chapter 293C of NAC is hereby amended by adding thereto a new section to read as follows:

1. Beginning the 45th day before an election and through the 7th day following the election, each city clerk shall, at least once each business day, inform the Secretary of State of:

- (a) Each registered voter to whom the city clerk sent a mail ballot for the election;*
- (b) Each registered voter whose mail ballot has been received by the city clerk; and*
- (c) For each registered voter whose mail ballot has been received by the city clerk, an indication of whether the process set forth in section 59 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1247 (NRS 293C.26327), has been completed.*

2. In addition to the information required pursuant to subsection 1, beginning the 15th day before an election and through the 7th day following the election, each city clerk shall, at least once each business day, inform the Secretary of State of whether the signature of a registered voter has been accepted and the mail ballot has been processed.

3. The information required pursuant to this section must be sent electronically and in the form and manner prescribed by the Secretary of State.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R104-21

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

AUTHORITY: § 1, NRS 293.124 and 293.675, as amended by section 44 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1239.

A REGULATION relating to elections; requiring the Secretary of State to determine on a monthly basis whether county clerks have cancelled the registration of voters who are indicated as deceased in vital statistics records; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Secretary of State to: (1) establish and maintain the statewide voter registration list; and (2) enter into a cooperative agreement with the State Registrar of Vital Statistics concerning the death of residents of the State to maintain the statewide voter registration list. (NRS 293.675, as amended by section 44 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at page 1239)

Existing regulations provide that on each business day the Secretary of State will compare the statewide voter registration list to the vital statistics records maintained by the State Registrar of Vital Statistics. If the Secretary of State determines that a registered voter is indicated as deceased in the vital statistics records: (1) the Secretary of State will notify the county clerk; and (2) if the county clerk determines that the voter is deceased, the county clerk must cancel the registration of the voter in the county’s computerized database of voters and in the statewide voter registration list. (NAC 293.464)

This regulation provides that the Secretary of State will determine on a monthly basis whether each county clerk has indicated in the county’s computerized database of voters and the statewide voter registration list that the registrations of the voters in the county that are indicated as deceased in the vital statistics records have been cancelled.

Section 1. NAC 293.464 is hereby amended to read as follows:

293.464 1. On each business day, the Secretary of State will compare the statewide voter registration list to the vital statistics records maintained by the State Registrar of Vital Statistics.

2. If the Secretary of State determines from the comparison made pursuant to subsection 1 that a registered voter is indicated as deceased in the vital statistics records:

(a) The Secretary of State will notify the county clerk of the county in which the voter is registered to vote.

(b) Upon receipt of the notification described in paragraph (a), the county clerk shall determine whether the registered voter is deceased and, if so, indicate that the registration of the voter is cancelled in the computerized database established pursuant to NAC 293.454 and in the statewide voter registration list.

3. The Secretary of State will determine on a monthly basis whether each county clerk has indicated in the computerized database established pursuant to NAC 293.454 and in the statewide voter registration list that the registration of each voter in the county that is indicated as deceased in the vital statistics records is cancelled. If the Secretary of State determines that a county clerk has not done so:

(a) The Secretary of State will notify the county clerk.

(b) Upon receipt of the notification described in paragraph (a), the county clerk shall determine whether the registered voter is deceased and, if so, indicate that the registration of the voter is cancelled in the computerized database established pursuant to NAC 293.454 and in the statewide voter registration list.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R105-21

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

AUTHORITY: §§ 1 and 2, NRS 293.124 and 293.247.

A REGULATION relating to elections; requiring county and city clerks to notify the Secretary of State about certain elections; providing that the Secretary of State will confer with the applicable county or city clerk regarding certain issues related to such elections; 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 special elections in all cities and counties. (NRS 293.247) This regulation provides that if a recall or special election is called in a county or city and will not be held on the same day as the primary election, primary city election, general election or general city election, as applicable: (1) the appropriate clerk must notify the Secretary of State of the election; and (2) the Secretary of State will confer with the clerk regarding, if applicable: (a) the use of the system of approved electronic transmission established pursuant to NRS 293D.200; (b) the locations of polling places, including, without limitation, polling places for early voting by personal appearance and vote centers; (c) the locations of ballot drop boxes for mail ballots; (d) a plan for the security of ballots for early voting; (e) a plan for allowing members of the general public to observe the conduct of voting at a polling place; and (f) a plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

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

If a recall or other special election is called in a county and will not be held on the same day as the primary election or general election:

1. The county clerk must, as soon as practicable, notify the Secretary of State of the election on the form and in the manner prescribed by the Secretary of State; and

2. The Secretary of State will confer with the county clerk regarding, if applicable:

(a) The use of the system of approved electronic transmission established pursuant to NRS 293D.200;

(b) The locations of polling places, including, without limitation, polling places for early voting by personal appearance and vote centers;

(c) The locations of ballot drop boxes for mail ballots;

(d) A plan for the security of ballots for early voting;

(e) A plan for allowing members of the general public to observe the conduct of voting at a polling place; and

(f) A plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

3. As used in this section, “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. 2. Chapter 293C of NAC is hereby amended by adding thereto a new section to read as follows:

If a recall or other special city election is called in a city and will not be held on the same day as the primary city election or general city election:

1. The city clerk must, as soon as practicable, notify the Secretary of State of the election on the form and in the manner prescribed by the Secretary of State; and

2. The Secretary of State will confer with the city clerk regarding, if applicable:

(a) The use of the system of approved electronic transmission established pursuant to NRS 293D.200;

(b) The locations of polling places, including, without limitation, polling places for early voting by personal appearance and vote centers;

(c) The locations of ballot drop boxes for mail ballots;

(d) A plan for the security of ballots for early voting;

(e) A plan for allowing members of the general public to observe the conduct of voting at a polling place; and

(f) A plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

3. As used in this section, “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.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R107-21

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

AUTHORITY: §§ 1-3, NRS 293.124 and 293.247 and 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).

A REGULATION relating to elections; setting forth a process for a registered voter to elect not to receive a mail ballot; requiring, under certain circumstances, a county or city clerk to distribute a second mail ballot to a registered voter; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires, with certain exceptions, a county or city clerk to prepare and distribute a mail ballot for every election to: (1) each active registered voter in the county or city, as applicable; and (2) each person in the county or city, as applicable, who registers to vote or updates his or her voter registration information not later than 14 days before the election. Existing law also authorizes a voter to elect not to receive a mail ballot by submitting to the county or city clerk a written notice which must be received not later than 60 days before the election. (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))

Section 2 of this regulation authorizes a registered voter to elect not to receive a mail ballot by submitting such written notice to: (1) the Secretary of State, who will notify the applicable county and city clerks; (2) the county clerk, who will notify the applicable city clerk; or (3) the city clerk, who will notify the applicable county clerk. **Section 2** further provides that if a voter has previously elected not to receive a mail ballot, the voter may submit written notice that he or she wants to receive a mail ballot in future elections.

Section 3 of this regulation provides that if a registered voter updates his or mailing address in the voter registration information after the date on which a mail ballot has been sent to the voter but not later than 14 days before the election, the county or city clerk, as applicable, must cancel the first mail ballot and, on or before the 13th day before the election, send the voter a second mail ballot to the updated mailing address.

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. A registered voter may elect not to receive a mail ballot pursuant to section 3 or 51 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216 and 1243 (NRS 293.269911 or 293C.263), as applicable, by submitting written notice to the Secretary of State or applicable county or city clerk. If the voter submits written notice to:*

(a) The Secretary of State, the written notice must be submitted in the form and manner prescribed by the Secretary of State. Upon receipt of such written notice, the Secretary of State will notify the applicable county clerk and city clerk, if any.

(b) The county clerk, the written notice must be submitted in the form and manner prescribed by the county clerk. Upon receipt of such written notice, the county clerk must notify the applicable city clerk, if any.

(c) The city clerk, the written notice must be submitted in the form and manner prescribed by the city clerk. Upon receipt of such written notice, the city clerk must notify the applicable county clerk.

2. A registered voter who has previously elected not to receive a mail ballot may later request to receive a mail ballot by submitting written notice to the Secretary of State or applicable county or city clerk. If the voter submits written notice to:

(a) The Secretary of State, the written notice must be submitted in the form and manner prescribed by the Secretary of State. Upon receipt of such written notice, the Secretary of State will notify the applicable county clerk and city clerk, if any.

(b) The county clerk, the written notice must be submitted in the form and manner prescribed by the county clerk. Upon receipt of such written notice, the county clerk must notify the applicable city clerk, if any.

(c) The city clerk, the written notice must be submitted in the form and manner prescribed by the city clerk. Upon receipt of such written notice, the city clerk must notify the applicable county clerk.

3. If any written notice described in subsection 1 or 2 is received after the 60th day before an election, the written notice must be treated as a request to receive or not receive, as applicable, a mail ballot for subsequent elections.

Sec. 3. *1. If a registered voter updates his or her mailing address in the voter registration information after the date on which his or her mail ballot is sent pursuant to section 3 or 51 of Assembly Bill No. 321, chapter 248, Statutes of Nevada 2021, at pages 1216 and 1243 (NRS 293.269911 or 293C.263), as applicable, but on or before the 14th day before the election, the county or city clerk, as applicable, must:*

(a) On or before the 13th day before the election, send a second mail ballot to the registered voter at the updated mailing address;

(b) Indicate in the roster of mail ballots:

(1) The name of the registered voter to whom the second mail ballot is issued;

(2) The date that the second mail ballot is issued;

(3) The number of the second mail ballot; and

(4) That the first mail ballot is cancelled.

2. Nothing in this section authorizes:

(a) A registered voter to cast more than one mail ballot; or

(b) A county or city clerk to count more than one mail ballot received by a registered voter.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R108-21

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

AUTHORITY: § 1, NRS 293.124, 293.247 and 293B.353.

A REGULATION relating to elections; setting forth certain requirements for a person to observe the processing and counting of ballots at a central counting place; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county or city clerk to allow members of the general public to observe the counting of the ballots at the central counting place if those members do not interfere with the counting of ballots. (NRS 293B.353) The central counting place is the location designated by the county or city clerk for the compilation of election returns. (NRS 293.0335)

This regulation: (1) authorizes, with certain limitations, any person to observe the processing and counting of ballots at the central counting place; (2) requires that before a person may observe the processing and counting of ballots, the person must sign an acknowledgement that certain behavior is prohibited at the central counting place; (3) authorizes, under certain circumstances, the county or city clerk to limit the number of persons observing in the central counting place; (4) authorizes, under certain circumstances, the county or city clerk to remove a person from the central counting place; and (5) requires a person to wear a name tag while observing the processing and counting of ballots.

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

- 1. Subject to the provisions of subsections 2 to 5, inclusive, any person may observe the processing and counting of ballots at the central counting place.*
- 2. Before observing the processing and counting of ballots at the central counting 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 processing and counting of ballots at the central counting place:

(a) Acknowledges that he or she is prohibited from:

(1) Talking to workers within the central counting place other than the county or city clerk or a person designated by the county or city clerk to address questions from observers;

(2) Using a mobile telephone or computer within the central counting place;

(3) Advocating for or against a candidate, political party or ballot question;

(4) Interfering with the statutory duties of county or city election personnel; and

(5) Interfering with the processing and counting of ballots; and

(b) May be removed from the central counting 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:

(a) Limit the number of persons in the central counting place who are observing the processing and counting of ballots pursuant to this section for reasons of public safety or to protect voter privacy or maintain order.

(b) Remove from a central counting place a person observing the processing and counting of ballots 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 processing and counting of ballots at the central counting place may remain in an area designated by the county or city clerk without interfering with the processing and counting of ballots. 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 a voter.

5. A person observing the processing and counting of ballots at a central counting place pursuant to subsection 1 must wear a name tag denoting the person's full name.

6. The county and city clerk shall retain the signed acknowledgments described in subsection 2 for at least 180 days following the election.

7. As used in this section, "advocate" includes, without limitation, speaking, displaying or disseminating written material and wearing identifying clothing, buttons or other paraphernalia.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R109-21

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 related to a postelection audit of voter verifiable paper audit trail printers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing regulations require, after each election, a county clerk to conduct a postelection certification audit of a certain number of voter verifiable paper audit trail printers, known as “VVPATs,” that are randomly selected to ensure that the paper record produced by a VVPAT accurately records all votes cast by voters on a mechanical recording device. (NAC 293.255) A VVPAT is 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. (NAC 293.010)

This regulation provides that if a discrepancy of four or more votes is discovered during the postelection certification audit, the county clerk must immediately notify the Secretary of State and investigate the cause of the discrepancy. If the discrepancy cannot be resolved, the county clerk must randomly select an additional number of mechanical recording devices with attached VVPATs used in the election to audit. This regulation also requires the county clerk to include in the audit results transmitted to the Secretary of State an explanation of any discrepancy discovered by the county clerk and, if determined, an explanation of what caused the discrepancy to occur.

Section 1. NAC 293.255 is hereby amended to read as follows:

293.255 1. After each election, a county clerk shall conduct a postelection certification audit of VVPATs randomly selected pursuant to subsection 3 or 4, as applicable, to ensure that the paper record produced by a VVPAT accurately records all votes cast by voters on a mechanical recording device.

2. A county clerk must conduct a postelection certification audit of a VVPAT by comparing each vote cast for each candidate and on each measure which was electronically recorded on the mechanical recording device to each vote cast for each candidate and on each measure which was recorded on the attached VVPAT. Such comparison may be conducted manually or by a mechanical device determined by the Secretary of State to be capable of accurately reading the votes cast and printed and otherwise qualified for use in the State pursuant to applicable state and federal law.

3. The county clerk of a county whose population is 100,000 or more must randomly select a number of mechanical recording devices equal to 2 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than 20 mechanical recording devices, whichever is greater, for the postelection certification audit. *If a discrepancy of four or more votes is discovered during the postelection certification audit, the county clerk must immediately notify the Secretary of State and investigate the cause of the discrepancy. If the discrepancy cannot be resolved, the county clerk must randomly select an additional number of mechanical recording devices equal to 2 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than 20 mechanical recording devices, whichever is greater, for the postelection certification audit.*

4. The county clerk of a county whose population is less than 100,000 must randomly select a number of mechanical recording devices equal to 3 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than four mechanical recording devices, whichever is greater, for the postelection certification audit. *If a discrepancy of four or more votes is discovered during the postelection certification audit, the county clerk must immediately notify the Secretary of State and investigate the cause of the discrepancy. If*

the discrepancy cannot be resolved, the county clerk must randomly select an additional number of mechanical recording devices equal to 3 percent of the number of mechanical recording devices with attached VVPATs used in the election, or not less than four mechanical recording devices, whichever is greater, for the postelection certification audit.

5. The county clerk shall transmit the results of the audit to the Secretary of State within 7 working days after the date of the election. *The results of the audit must include, without limitation, an explanation of any discrepancy discovered by the county clerk during the audit and, if determined, an explanation of what caused the discrepancy to occur.*

6. Any member of the public who observes the postelection certification audit shall not interfere with the conduct of the audit.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R110-21

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

AUTHORITY: §§ 1-4, NRS 293.124, 293.247 and 293.394 and section 37.7 of Assembly Bill No. 422, chapter 554, Statutes of Nevada 2021, at page 3848.

A REGULATION relating to elections; setting forth requirements for risk-limiting audits of the 2022 Primary and General Elections; establishing certain deadlines for submitting and posting the results of a risk-limiting audit that is conducted beginning January 1, 2024; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

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

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

Section 3 of this regulation requires, beginning on January 1, 2024: (1) each county clerk to submit the results of a risk-limiting audit to the Secretary of State not later than 15 days after completing the risk-limiting audit; and (2) the Secretary of State to publish the results of the risk-limiting audit on the website of the Secretary of State not later than 10 days after receiving the results from a county clerk.

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

2. Each county clerk:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Ballot comparison;

(2) Ballot polling; or

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

8. As used in this section:

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

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

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

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

Sec. 3. *1. Not later than 15 days after completing a risk-limiting audit required pursuant to NRS 293.394, each county clerk shall submit the results of the risk-limiting audit to the Secretary of State.*

2. Not later than 10 days after receiving the results of a risk-limiting audit from a county clerk pursuant to subsection 1, the Secretary of State will post the results of the risk-limiting audit on the Internet website of the Secretary of State.

Sec. 4. *1. This section and section 1 of this regulation becomes effective on the date that this regulation is filed with the Secretary of State.*

2. Section 2 of this regulation:

(a) Becomes effective on the date that this regulation is filed with the Secretary of State; and

(b) Expires by limitation on December 31, 2023.

3. Section 3 of this regulation becomes effective on January 1, 2024.

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R111-21

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

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

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

Legislative Counsel’s Digest:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The software used to tabulate ballots; and

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

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

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

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

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

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

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

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

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

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R112-21

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

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

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

Legislative Counsel's Digest:

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

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

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

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

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