

**ADOPTED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R163-07

Effective December 4, 2007

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

AUTHORITY: §§1 and 2, NRS 293.124, 293.247, 293.250 and 293.309; §3, NRS 293.124, 293.247 and 293.403; §4, NRS 293.124, 293.247 and 293.1277; §§5-9 and 29, NRS 293.124 and 293.247; §10, NRS 293.124, 293.247, 293.250 and 293.330; §11, NRS 294.124, 294.247 and 293.3157; §12, NRS 293.124, 293.247, 293.403 and 293.405; §13, NRS 293.124, 293.247 and 293.547; §§14-19, NRS 293.124, 293.247, 293B.104 and 293B.105; §20, NRS 293.124, 293.247 and 293C.315; §§21 and 22, NRS 293.124, 293.247, 294A.380 and 294A.390; §§23 and 24, NRS 293.124, 293.247 and 294A.380; §25, NRS 293.124, 293.247, 294A.380 and 294A.420; §26, NRS 293.124, 293.247, 294A.230 and 294A.380; §27, NRS 293.124, 293.247 and 298.055; §28, NRS 293.124, 293.247 and 298.259.

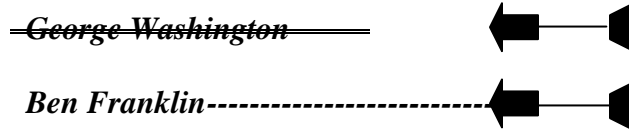
A REGULATION relating to elections; adding requirements relating to corrections marked on absent ballots; authorizing election recounts to be limited to ballots cast by mail; requiring a county clerk to notify a registered voter who has signed a petition if the address of that voter does not match the address in the file of applications to register to vote for that voter; prohibiting the verification of certain signatures; revising provisions relating to notices sent by the Secretary of State regarding offices for which candidates are to be elected; revising provisions relating to voting booths and voter receipts; authorizing the observation of voting at a polling place and the observation of voting machine testing under certain conditions; revising provisions relating to voting by provisional ballot and absent ballot; authorizing the cost of venter support to be included in the determination of the cost of election recounts; requiring audits and certifications of certain voting machines and components of voting machines; requiring certain reports to be submitted to county and city clerks and the Secretary of State; providing for the inactivation of ballot advocacy groups; authorizing the reduction of civil penalties imposed for violations of certain election laws; revising provisions relating to registration of committees for political action; revising requirement for individual documents of a petition for initiative or referendum; revising requirements relating to new residents of the State who wish to vote for the President and Vice-President of the United States; and providing other matters properly relating thereto.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set

forth as sections 2, 3 and 4 of this regulation.

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

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



2. A county clerk or city clerk shall not duplicate any absent ballot pursuant to NAC 293.301 or 293C.180 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. A candidate who demands a recount pursuant to subsection 1 of NRS 293.403 may specify that the recount be limited to ballots cast by mail.

Sec. 4. 1. If, while verifying signatures pursuant to NRS 293.1277, a county clerk discovers that an address included with a signature does not match the address for the registered voter who signed the petition as indicated in the file of applications to register to vote, the clerk shall notify the registered voter of the discrepancy.

2. A county clerk shall not verify any signature for a person who has been notified of a discrepancy pursuant to subsection 1 unless the person demonstrates to the satisfaction of the

clerk that the person is a registered voter of the State, county, district or municipality which is applicable for the ballot question or office that is the subject of the petition.

Sec. 5. NAC 293.040 is hereby amended to read as follows:

293.040 1. The Secretary of State will ~~[-, not]~~ :

(a) Not later than November 15 of the year before the year in which a primary election is held, prepare and send to each county clerk a written notice which designates the judicial offices for which candidates are to be nominated at the primary election; and

(b) Not later than March 15 of the year in which a primary election is held, prepare and send to each county clerk a written notice which designates the statewide and multicounty district offices for which candidates are to be nominated at the primary election.

2. Within 10 days after receipt of ~~the] a~~ notice required to be sent pursuant to subsection 1, the county clerk shall publish once in a newspaper published in his county that portion of the notice which applies to his county. If no newspaper is published in his county, the publication must be made in any newspaper of general circulation which is published in the nearest county of this State.

Sec. 6. 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, 293.2549, 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 voting is used in the county, the required notices in the appropriate foreign language.

2. The county clerk may prepare for each polling place any additional supplies he 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 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. 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 ~~provide a quantity of booths which is sufficient to~~ allow voters to vote their ballots conveniently and in a manner that allows their voting to be screened from the view of others.

~~[6.— Each of the booths must, during the election, be provided with the necessary supplies for voting ballots.]~~

Sec. 7. NAC 293.240 is hereby amended to read as follows:

293.240 1. After a person is identified as being a registered voter and has signed the roster, a member of the election board ~~shall~~ :

(a) *May* issue the voter a receipt ; and

(b) *Shall* direct him to a voting booth equipped to handle the voter's ballot.

2. A member of the election board shall not permit any person to enter a voting booth to vote until he ascertains that the person understands how to operate the vote recording device.

3. If it is obvious to the members of an election board that a voter is trying to delay an election by repeatedly voiding his selections and not casting a ballot, a member of the election board must warn the voter that such actions are unlawful and offer assistance if necessary. If the voter continues to try to delay the election, the election board may take any appropriate action to expedite the election, including, without limitation, removing the voter from the polling place if the county clerk has approved his removal.

4. Before the commencement of voting and periodically throughout the election, members of the election board shall examine the voting booths to ensure that each booth does not contain any campaign cards, political advertising, partisan notes or any other matter which constitutes an unauthorized attempt to influence the voters.

Sec. 8. NAC 293.245 is hereby amended to read as follows:

293.245 1. ~~[Any registered voter of this State may be appointed to]~~ *Subject to the provisions of subsections 2 to 6, inclusive, any person may* observe the conduct of voting at a polling place. ~~[as the representative of:~~

~~—(a) Any candidate whose name appears on a ballot for the election for which the representative is appointed; or~~

~~—(b) Any political party or committee sponsored by a political party.~~

~~—2.— A representative appointed pursuant to subsection 1:~~

~~—(a) Shall present a written certificate of his appointment to the chairman of the election board upon his arrival at the polling place. The certificate must contain:~~

- ~~—— (1) The name and signature of the representative;~~
- ~~—— (2) The name of the candidate, political party or committee appointing the person as its representative; and~~
- ~~—— (3) The precinct, polling place and date of the election for which the representative is appointed.~~
- ~~—— (b) Must]~~

2. Before observing the conduct of voting at a polling place pursuant to subsection 1, a person must sign a form prescribed by the Secretary of State stating that the person, during the time he observes the conduct of voting:

- (a) May not talk to voters within the polling place;*
- (b) May not use a mobile telephone within the polling place;*
- (c) May not advocate for or against a candidate, political party or ballot question;*
- (d) May not argue for or against or challenge any decisions of county or city election personnel;*
- (e) May not interfere with the conduct of voting; and*
- (f) 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 paragraphs (a) to (f), inclusive.*

3. The county or city clerk may, at his discretion, 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 paragraphs (a) to (f) 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.

~~[(e) May]~~ 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 ~~[representative]~~ *person* shall not interfere with the closing of the polling place.

~~[3.—The representative shall]~~ 6. *A person observing the conduct of voting at a polling place pursuant to subsection 1 may* remain in an area designated by the chairman of the election board to observe ~~[and hear conveniently]~~ the activities conducted at the polling place ~~[for which the representative is appointed]~~ 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.

~~[4.—No person may be appointed pursuant to this section to observe the conduct of voting at more than one polling place.]~~

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

Sec. 9. 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 voter casts the provisional ballot at a polling place that is ~~is~~

~~—(a) Located~~ *located* in the congressional district in which the voter resides . ~~is; or~~

~~—(b) Not located in the congressional district in which the voter resides because the voter was directed to the incorrect polling place by an election official.]~~

3. ~~[Except as otherwise provided in subsection 5, a]~~ 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 registered to vote for at least 30 days;

(e) The voter had continuously resided in the precinct for which he 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) 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) If the voter did not show proof of residence and identity at the time he registered to vote, that the voter provided official identification establishing residence and identity by 5 p.m. on the Friday following election day;

(j) 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) 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.

~~{5. If a voter is directed by an election official to a polling place that was not located in the congressional district in which the voter resides, the voter may notify the county clerk not later than 5 p.m. on the day after election day. The county clerk must determine not later than 5 p.m. on the Friday immediately following election day whether the voter was directed to an incorrect polling place by an election official. If the county clerk determines that the voter satisfies the requirements of paragraphs (a) to (i), inclusive, of subsection 3 and was directed by an election official to an incorrect polling place not located in the congressional district in which the voter resides, the county clerk shall count the votes cast by the voter for the Office of President of the United States, the Office of Vice President of the United States and the Office of United States Senator.}~~

Sec. 10. NAC 293.291 is hereby amended to read as follows:

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

(a) ~~{Be 8 1/2 inches by 5 1/2 inches in size;~~

~~—(b)}~~ Include a line for:

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

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

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

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

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

- (a) He surrenders the absent ballot to the county clerk or his designee; or
- (b) He complies with the requirements set forth in subsection 3 of NRS 293.330.

Sec. 11. NAC 293.301 is hereby amended to read as follows:

293.301 1. A registered voter of this State who resides outside the continental United States and who uses a facsimile machine to request an absent ballot must request the absent ballot from the appropriate county clerk before 5 p.m. on the Tuesday preceding the election in which he wishes to vote.

2. A county clerk ~~shall~~ *may* use the electronic transmission network that is available through the Voting Assistance Program of the United States Department of Defense to send an absent ballot to a registered voter who requests a ballot in accordance with subsection 1.

3. After receipt of a request for an absent ballot, the county clerk shall confirm that the person requesting the absent ballot is a registered voter in his county. If the person is a registered voter, the county clerk shall:

(a) Use a facsimile machine to send the absent voter a ~~{sample ballot,}~~ ballot card and a cover sheet;

(b) Record the number of the ballot card, the name of the absent voter, his precinct or district, and his political affiliation, if any, in the roster for absent ballots;

(c) Record the destination of the ballot and the date that the ballot was sent; and

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

4. The cover sheet must:

(a) Contain instructions for marking the ballot;

(b) Contain instructions for returning the ballot;

(c) Instruct the voter to read and sign the statement required pursuant to subsection 5 and to sign the back of the mailing envelope ~~{;}~~, *if applicable*; and

(d) Contain a statement that failure to sign the back of the mailing envelope, *if applicable*, will result in the ballot not being counted.

5. The absent voter must sign and return with his ballot a statement in substantially the following form:

I understand that I am receiving this ballot via facsimile machine and that I must return it, *either* by mail *or facsimile machine*, to the county clerk or registrar of voters by 7 p.m. on the day of the election. I understand that my marked ballot will be duplicated onto a ballot card so that it can be counted by a computer and that this duplication could violate the secrecy of my ballot. I therefore swear or affirm that I am waiving the secrecy of my ballot.

6. The absent ballot must be received by the office of the county clerk by 7 p.m. on the day of the election. An absent ballot received after 7 p.m. must not be counted. ~~[An absent ballot that is returned to the county clerk by facsimile machine must not be counted.]~~ The county clerk shall place each rejected absent ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the ballot.

7. When an absent ballot is returned by mail ~~[]~~ *or facsimile machine*, the county clerk shall make a record in the absent ballot record book. The county clerk shall check the signature on the return envelope *or facsimile* against the original signature of the voter on his application to register to vote. Each county clerk shall establish a procedure for duplicating absent ballots received pursuant to this section that must be approved by the Secretary of State before it is used by the county clerk.

8. If a voter who is living outside of the United States returns a voted ballot both by mail and by facsimile machine and the county clerk receives both ballots before the polls are closed on the day of the election, the county clerk shall count the ballot received first.

Sec. 12. NAC 293.375 is hereby amended to read as follows:

293.375 1. In determining the estimated or actual cost of any recount, the county or city clerk or Secretary of State:

(a) May include the cost of:

(1) Utilities used in a public building which is occupied for a recount before or after the normal hours of business;

(2) Rent for the use of a building not owned by the public;

(3) Salaries for overtime work of regularly employed members of the staff who normally handle elections;

(4) Salaries for other employees engaged for the recount;

(5) Services rendered by the personnel of the Department of Information Technology or the agency of the county or city that is charged with the responsibility of administering a telecommunications or computer system for the county or city and the computer time associated with the recount;

(6) Mileage and per diem allowances for county or city clerks who attend meetings at the request of the candidate; ~~and~~

(7) Extra materials ordered for the particular recount, such as tally books ~~and~~; *and*

(8) Any required support from vendors of equipment or materials used in the recount.

(b) May not include the cost of:

(1) Utilities used during the regular hours of business in a public building which is normally used for the purpose of elections;

(2) Rent in a public building which is normally used for the purpose of elections;

(3) During their normal hours of employment, the salaries of regularly employed members of the staff who normally handle elections; or

(4) Payment for overtime work which is not allowed by the county or city to the county or city clerk for conducting the recount.

2. Except as otherwise provided in subsection 1, the Secretary of State may charge the candidate for actual expenses incurred in organizing and conducting a statewide recount.

3. When two or more recounts are ordered in any election district in the State, the recounts must be conducted simultaneously. If all of the candidates who requested the recount fail to

prevail at the finish of the recount, the cost of the recount must be divided equally among those candidates.

Sec. 13. NAC 293.416 is hereby amended to read as follows:

293.416 A written challenge authorized by NRS 293.547 must contain, in addition to any other required information:

1. The address and, if readily available, the telephone number of the person whose right to vote is challenged.
2. The number of the precinct in which the person whose right to vote is challenged is registered to vote.
3. The name, address and telephone number of the person filing the challenge.
4. The precinct in which the person filing the challenge is registered to vote.
5. The date of the challenge.
6. A statement of the facts upon which each ground for the challenge is based.
7. *A statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based.*

Sec. 14. Chapter 293B of NAC is hereby amended by adding thereto the provisions set forth as sections 15 to 18, inclusive, of this regulation.

Sec. 15. *If a county uses bar codes on the paper printed by a VVPAT to verify the ballots on a mechanical recording device, the county clerk shall randomly select two bar codes for each paper record printed by the VVPAT to audit the paper record printed by the VVPAT.*

Sec. 16. *1. Before each election cycle for federal office, 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,

↳ have been certified by the Voting System Certification and Laboratory Accreditation Program of the Election Assistance Commission established pursuant to 42 U.S.C. § 15321.

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 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 that sets forth each instance that the mechanical recording 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;

(b) The reason for accessing the mechanical recording device; and

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

Sec. 17. 1. *After each election, each county clerk shall conduct a postelection audit of mechanical recording devices randomly selected pursuant to subsection 3 or 4 to verify that the operating systems, including, without limitation, software and firmware, installed on each mechanical recording device used in the election are the operating systems that were certified before the election pursuant to section 16 of this regulation.*

2. The county clerk shall verify operating systems pursuant to subsection 1 by confirming that each component of such operating systems matches the identity registered with the National Software Reference Library.

3. For the postelection audit conducted pursuant to subsection 1, the county clerk of a county whose population is 100,000 or more shall randomly select a number of mechanical recording devices that is at least 2 percent of the number of mechanical recording devices used in the election, or not less than 20 mechanical recording devices, whichever is greater.

4. For the postelection audit conducted pursuant to subsection 1, the county clerk of a county whose population is less than 100,000 shall randomly select a number of mechanical recording devices that is at least 3 percent of the number of mechanical recording devices, or not less than four mechanical recording devices, whichever is greater.

Sec. 18. *1. Subject to the provisions of subsections 2, 3 and 4, any person may observe a test conducted pursuant to NRS 293B.155 in an area designated by the county clerk.*

2. Before observing a test pursuant to subsection 1, a person must sign a form stating that the person, during the time he observes the test:

(a) May not talk to county election personnel;

(b) May not take photographs within the designated area;

(c) May not use a mobile telephone within the designated area;

(d) May not advocate for or against a candidate, political party or ballot question;

(e) May not argue for or against or challenge any decisions of county election personnel;

(f) May not interfere with the test being conducted; and

(g) May be removed from the designated area by the county clerk for violating any provision of title 24 of NRS or any of the provisions of paragraphs (a) to (f), inclusive.

3. *The county clerk may, at his discretion, remove from the designated area a person observing a test pursuant to this section for violating any provision of title 24 of NRS or any of the provisions of paragraphs (a) to (f), inclusive, of subsection 2.*

4. *A person observing a test pursuant to this section must comply with the same requirements that apply to members of the general public pursuant to NRS 293.274, 293.305 and 293.730.*

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

Sec. 19. NAC 293B.010 is hereby amended to read as follows:

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

1. *“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. “Mechanical recording device” has the meaning ascribed to it in NRS 293B.032.

~~[2.]~~ 3. “Mechanical voting system” has the meaning ascribed to it in NRS 293B.033.

~~[3.]~~ 4. “Results cartridge” means a cartridge which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.

~~[4.]~~ 5. “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. 20. NAC 293C.180 is hereby amended to read as follows:

293C.180 1. A registered voter of this State who resides outside the continental United States and who uses a facsimile machine to request an absent ballot must request the absent ballot from the appropriate city clerk before 5 p.m. on the Tuesday preceding the election in which he wishes to vote.

2. A city clerk ~~{shall}~~ *may* use the electronic transmission network that is available through the Voting Assistance Program of the United States Department of Defense to send an absent ballot to a registered voter who requests a ballot in accordance with subsection 1.

3. After receipt of a request for an absent ballot, the city clerk shall confirm that the person requesting the absent ballot is a registered voter in his city. If the person is a registered voter, the city clerk ~~{shall:}~~ *may*:

(a) Use a facsimile machine to send the absent voter a ~~{sample ballot,}~~ ballot card and a cover sheet;

(b) Record the number of the ballot card, the name of the absent voter and his precinct in the roster for absent ballots;

(c) Record the destination of the ballot and the date that the ballot was sent; and

(d) Maintain the original ballot card in a secured area where access is allowed only with the approval of the city clerk.

4. The cover sheet must:

(a) Contain instructions for marking the ballot;

(b) Contain instructions for returning the ballot;

(c) Instruct the voter to read and sign the statement required pursuant to subsection 5 and to sign the back of the mailing envelope ~~{:}~~, *if applicable*; and

(d) Contain a statement that failure to sign the back of the mailing envelope , *if applicable*, will result in the ballot not being counted.

5. The absent voter must sign and return with his ballot a statement in substantially the following form:

I understand that I am receiving this ballot via facsimile machine and that I must return it , *either* by mail *or facsimile machine*, to the city clerk by 7 p.m. on the day of the election. I understand that my marked ballot will be duplicated onto a ballot card so that it can be counted by a computer and that this duplication could violate the secrecy of my ballot. I therefore swear or affirm that I am waiving the secrecy of my ballot.

6. The absent ballot must be received by the office of the city clerk by 7 p.m. on the day of the election. An absent ballot received after 7 p.m. must not be counted. ~~[An absent ballot that is returned to the city clerk by facsimile machine must not be counted.]~~ The city clerk shall place each rejected absent ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the ballot.

7. When an absent ballot is returned by mail ~~[]~~ *or facsimile machine*, the clerk shall make a record in the absent ballot record book. The city clerk shall check the signature on the return envelope *or facsimile* against the original signature of the voter on his application to register to vote. Each city clerk shall establish a procedure for duplicating absent ballots received pursuant to this section that must be approved by the Secretary of State before it is used by the city clerk.

8. The city clerk shall place each absent ballot in a separate envelope and record on the outside of the envelope the precinct number of the voter and that the ballot contained therein is an absent ballot sent to the voter by facsimile machine.

9. If a voter who is living outside of the United States returns a voted ballot both by mail and by facsimile machine and the city clerk receives both ballots before the polls are closed on the day of the election, the city clerk shall count the ballot received first.

Sec. 21. Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as sections 23, 23 and 24 of this regulation.

Sec. 22. Each person or group of persons required to report compensation to individuals pursuant to NRS 294A.284 shall submit the report on a form prescribed by the Secretary of State within 15 days after the petition is submitted for the verification of signatures.

Sec. 23. Each county clerk and city clerk shall transmit to the Secretary of State a list of those candidates and elected officials who fail to file the reports required pursuant to NRS 294A.120, 294A.200 and 294A.360 by the date each report is due within 10 days after the date the report was due.

Sec. 24. 1. *An amended form for registration filed by a ballot advocacy group pursuant to subsection 3 of NRS 294A.230 must be signed by an officer of the ballot advocacy group or the resident agent of the ballot advocacy group.*

2. A ballot advocacy group becomes inactive:

(a) When the final vote is cast in the election in which the question or group of questions for which the ballot advocacy group is advocating the passage or defeat appears on the ballot;
or

(b) If the election in which the question or group of questions for which the ballot advocacy group is advocating the passage or defeat appears on the ballot is the subject of a challenge or recount, when the challenge or recount is completed.

3. A ballot advocacy group must file a notice of inactivity with the Secretary of State not later than 30 days after becoming inactive.

4. The notice of inactivity required pursuant to subsection 3:

(a) Must be on a form prescribed by the Secretary of State; and

(b) Must include, without limitation:

(1) The name, address and phone number of the ballot advocacy group;

(2) The name of the resident agent of the ballot advocacy group; and

(3) The question or group of questions for which the ballot advocacy group is advocating the passage or defeat.

5. As used in this section, “ballot advocacy group” means a person or group of persons required to report campaign contributions and expenditures pursuant to NRS 294A.150 and 294A.220.

Sec. 25. 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 or entity that is subject to a civil penalty pursuant to subsection 2 of NRS 294A.420:

~~{1.}~~ **(a)** Files a written request for a waiver setting forth the basis for the waiver;

~~{2.}~~ **(b)** Properly files the appropriate report pursuant to the applicable provisions of NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360; and

~~[(3)]~~ (c) Establishes that:

~~[(a)]~~ (I) 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;

~~[(b)]~~ (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;

~~[(e)]~~ (3) The candidate or each officer and representative of the 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 entity executes an affidavit under penalty of perjury attesting to such facts;

~~[(d)]~~ (4) The candidate has been directly impacted by a natural disaster;

~~[(e)]~~ (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:

~~[(4)]~~ (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 NRS 294A.140, 294A.150, 294A.210, 294A.220, 294A.270 or 294A.280, or a member of the family of such a representative, meets the conditions set forth in ~~[(paragraph (a));]~~ *subparagraph (1) of paragraph (c)*; or

~~[(2)]~~ (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 NRS 294A.140, 294A.150,

294A.210, 294A.220, 294A.270 or 294A.280 has, without notice, severed his relationship with the entity within a reasonable time before or on the date that the applicable report was due; or

~~(6)~~ (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 subsection 2 of 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 or entity that is subject to a civil penalty pursuant to subsection 2 of NRS 294A.420 first properly files the appropriate report or form.

Sec. 26. NAC 294A.110 is hereby amended to read as follows:

294A.110 1. An amended form for registration required pursuant to subsection 3 of NRS 294A.230 must be signed by an officer of the committee for political action filing the form or the resident agent of the committee.

2. A committee for political action becomes inactive when:

(a) An officer or the resident agent of the committee files with the Secretary of State a written notice that the committee for political action has ceased to engage in political activities in this State; or

(b) The Secretary of State receives ~~certified~~ mail stamped by the postal service and returned from the address of record of the committee for political action on the most recent registration

form on file in the office of the Secretary of State stating that the addressee has moved and did not leave a forwarding address.

3. Upon receipt of such a notice or returned ~~certified~~ mail, the Secretary of State will delete the name of the committee from each list of active committees for political action which he maintains in his office.

4. As used in this section, an “officer” or “resident agent” of a committee for political action means a person who is listed as such on the committee’s form for registration on file with the Secretary of State.

Sec. 27. NAC 295.020 is hereby amended to read as follows:

295.020 1. A person who submits a petition that consists of more than one document to the county clerk for verification of the signatures shall sequentially number each page of each document in the petition, beginning with the number 1.

2. If a petition for an initiative or referendum consists of more than one document, each document must, in addition to any other requirements, contain the full text of the proposed measure and:

(a) Include sequentially numbered spaces for:

- (1) The name of each person who signs the petition.
- (2) The signature of the person signing the petition.
- (3) The street address of the residence where the person signing the petition actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document may contain the mailing address of the person signing the petition.
- (4) The name of the county where the person who signs is a registered voter.
- (5) The date of the signature.

(6) If the petition is a municipal initiative or referendum proposed pursuant to the provisions of NRS 295.195 to 295.220, inclusive, the name of the city in which the person who signs is registered to vote.

(b) Have attached to it, when filed, an affidavit signed by the person who circulated the document in substantially the following form:

STATE OF NEVADA

COUNTY OF _____

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) ~~that I believe them to be genuine signatures; and (6)~~ that I believe each person who signed was at the time of signing a registered voter in the county of his residence ~~;~~ *;* ***(6) that the number of signatures affixed thereon is _____ ; and (7) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.***

Signature of circulator

Subscribed and sworn to or affirmed

before me this _____ day of _____, _____.

Notary public or other person licensed

to administer an oath

3. Any document of a petition may consist of more than one page. If a document consists of more than one page:

(a) Each page, including a blank signature page, must be numbered sequentially, beginning with the number 1 for each document;

(b) All the pages must be permanently attached together in numerical order; and

(c) The affidavit of the circulator required by NRS 295.095 or 295.205 must appear on the last pages of the document.

4. As used in this section, “petition” means a petition described in Article 19 of the Nevada Constitution or NRS 295.015 or 295.045.

Sec. 28. NAC 298.010 is hereby amended to read as follows:

298.010 1. If a new resident of the State of Nevada wishes to vote for the President and Vice President of the United States pursuant to subsection 2 of NRS ~~298.250,~~ **298.259**, he must apply to the county clerk for the appropriate ballot using the form prescribed by the Secretary of State.

2. Such a new resident may vote only in the office of the county clerk during regular office hours.

3. ~~Each county clerk shall provide such an applicant a ballot page assembly and ballot which will permit him to vote only for President and Vice President.~~

~~4.]~~ Votes cast pursuant to the procedure set forth in this section must not be:

(a) Combined with the total of a precinct but must be segregated at the precinct and then combined with the totals for the county.

(b) Included in precinct, district, county or state totals for other electoral purposes.

Sec. 29. NAC 293.140, 293.163 and 293.400 are hereby repealed.

TEXT OF REPEALED SECTIONS

293.140 Members of election boards. (NRS 293.124, 293.217, 293.227)

1. If an election board of more than three members is required to accommodate the number of registered voters in any precinct, the county clerk may appoint as many additional members as he believes are necessary or desirable.

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

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

293.163 Prerequisites to voting by certain voters. (NRS 293.124, 293.2725)

1. The Secretary of State interprets “current and valid photo identification,” for purposes of NRS 293.2725, to mean an article described in subsection 2 of NAC 293.395, which also bears a legible photograph of the voter.

2. A document issued by an election official to a person in the course of the administration of voter registration or an election, including, without limitation, a voter registration card, sample ballot or receipt, does not satisfy the requirements of paragraph (a) or (b) of subsection 1 of NRS 293.2725.

3. The requirements set forth in NRS 293.2725 are in addition to the requirements set forth in subsection 1 of NRS 293.517 and do not affect the mandate that a voter who failed to show proof of both identity and residency at the time the voter registered to vote 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.

293.400 Citizens residing outside United States. (NRS 293.124)

1. Before any election for the nomination or election of the President and Vice President of the United States or a member of the United States Senate or House of Representatives, each county clerk shall prepare a form for the registration of American citizens living outside the United States. The Secretary of State will prescribe the form to be used. A copy of the form must be furnished to any citizen living outside of the United States upon his request.

2. The county clerk shall register any citizen who properly completes the form, returns it not later than 30 days before the election and who:

- (a) Is 18 years of age or older;
- (b) Was last domiciled in Nevada;

(c) Has complied with all applicable laws of the State of Nevada which are not inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act of 1986 regarding registration for and voting by absentee ballots;

(d) Intends to retain the State of Nevada as his residence for the purpose of voting;

(e) Does not maintain a domicile, is not registered to vote, and is not voting in any other state, territory or possession of the United States; and

(f) Has a valid passport or card of identity and registration issued by the Secretary of State of the United States.

3. Each county clerk shall promptly send to any citizen who is registered pursuant to subsection 2 an absentee ballot which meets the requirements of the Uniformed and Overseas Citizens Absentee Voting Act of 1986, and shall include instructions on the procedure for voting. An airmail envelope must be included for the mailing of the ballot to the county clerk. County clerks should note that the sender is not charged postage for the ballot when it is in the United States postal system.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R163-07**

The Secretary of State adopted regulations assigned LCB File No. R163-07 which pertain to chapters 293, 294A, 295 and 298 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for the adopted regulations pertaining to Nevada Administrative Code chapters 293, 293B, 293C, 294A, 295, and 298 in accordance with NRS 233B.066(2).

- 1. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
- (a) Both adverse and beneficial effects; and**
 - (b) Both immediate and long-term effects.**

These adopted regulations do not have any economic effect on any business. The effect on the public will be to allow anyone to observe voting at a polling place.

- 2. The estimated cost to the agency for enforcement of the proposed regulation.**

No additional cost is anticipated to enforce these adopted regulations. These regulations revise the provisions relating to the testing of voting machines and authorizing the observation of tests of the voting machines; repeals the requirement for county/city clerks to issue a voter receipt; authorizes observation of voting at the polling place by anyone; includes the cost of vendor support when determining the cost of a recount; revises the provisions related to provisional voting; revises provisions relating to voter registration; repeals NAC 293.140, 293.163, and 293.400.

- 3. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The adopted regulations do not duplicate or overlap any other state or government agency regulations.

- 4. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.**

The adopted regulations do not include provisions that are more stringent than a federal regulation regulating the same activity.

5. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The adopted regulations do not establish a new fee or increase an existing fee.

6. The Secretary of State held a public workshop on November 27, 2008 and an adoption hearing on November 29, 2008. Three people attended the public workshop and four people attended the Adoption Hearing. .