

**PROPOSED REGULATION OF THE
SECRETARY OF STATE**

LCB FILE NO. R060-211

**The following document is the initial draft regulation proposed
by the agency submitted on 10/18/2021**

PROPOSED REGULATIONS OF THE SECRETARY OF STATE

ELECTIONS DIVISION

LCB File No. _____

Section 1. Chapter 293D of NAC is hereby amended by amending the provisions set forth in Sections 2 to 6, and by adding thereto the provisions set forth in Section 7, inclusive of this regulation.

Sec. 2. The title of NAC 293D is hereby amended to read as follows:

CHAPTER 293D – UNIFORMED ~~MILITARY~~ AND OVERSEAS *CITIZENS* ABSENTEE VOTERS *AND VOTERS WITH DISABILITIES*

Sec. 3. NAC 293D.010 is hereby amended to read as follows:

NAC 293D.010 Application to request military-overseas ballot; provision of instructions for completing and returning military-overseas ballot. (NRS 293D.200; *AB121 (2021)*)

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.

(c) A Nevada resident with a disability pursuant to NRS 426.068 may use the system of electronic transmission to register to vote and apply for a ballot and return a ballot and shall otherwise be treated the same as a covered voter for purposes of using the system of electronic transmission. A Nevada resident with a disability using the system of electronic transmission may choose any of the available return methods and must comply with the same deadlines that are defined in this section.

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 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 the appropriate local elections official by 7 p.m. Pacific Standard Time on the day of the election.~~ *must be postmarked by 7 p.m. on the day of the election and received by the county clerk's office by the fourth day after 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 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 the appropriate local elections official by 7 p.m. Pacific Standard Time on the day of the election.

Sec. 4. NAC 293D.020 is hereby amended to read as follows:

NAC 293D.020 Declaration of covered voter. (NRS 293D.200; *AB121 (2021)*)

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, *or a Nevada resident with a disability pursuant to the provisions of chapter 426 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)

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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, *or a Nevada resident with a disability pursuant to the provisions of chapter 426 of NRS.*

I am a citizen of the United States.

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

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

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

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

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

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

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

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

(Signed)

.....

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

Sec. 5. NAC 293D.040 is hereby amended to read as follows:

NAC 293D.040 Use of Electronic Transmission Service. (NRS 293D.200; *AB121 (2021)*)

A local elections official may use the Electronic Transmission Service that is available through the Federal Voting Assistance Program of the United States Department of Defense to send a military-overseas ballot to a covered voter who requests a military-overseas ballot pursuant to this chapter and chapter 293D of NRS *or a Nevada resident with a disability pursuant to the provisions of chapter 426 of NRS.*

Sec. 6. NAC 293D.050 is hereby amended to read as follows:

NAC 293D.050 Counting of military-overseas ballots. (NRS 293D.200; *AB121 (2021)*) A local elections official shall count a military-overseas ballot signed by a covered voter *or a Nevada resident with a disability pursuant to the provisions of chapter NRS 426* using a digital signature or electronic signature unless the local elections official reasonably believes that someone other than the covered voter signed the ballot.

Sec. 7. NAC 293D.060 is hereby created as follows:

NAC293D.060 Emergency use of the system of electronic transmission. (NRS 293.124, 293.247, 293.316)

Any registered voter who is unable to vote in person or timely return a postmarked mail ballot by circumstances defined in NRS 293.316 may use the system of approved electronic transmission by contacting their county clerk to explain the applicable circumstances and to receive further instructions on entering a code designated by the Secretary of State for the specific election to establish that they are permitted to use the system. Permission to use the system of approved electronic transmission is intended for one specific election only because of the emergency circumstances and is not used in place of other available voting means.