

**PROPOSED REGULATION OF  
THE SECRETARY OF STATE**

**LCB File No. R080-21**

December 20, 2021

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

AUTHORITY: §§ 1-10, NRS 293.124, 293.247 and 293.250, as amended by section 2 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1871, and section 1 of Assembly Bill No. 121, chapter 315, Statutes of Nevada 2021, at page 1870 (NRS 2963.269951).

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

**Legislative Counsel’s Digest:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(b) Provide to the registered voter:*

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

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

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

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

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

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

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

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

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

#### ***DECLARATION OF REGISTERED VOTER***

*I am a registered voter.*

*I am a citizen of the United States.*

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

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

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

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

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

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

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

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

*(Signed)*

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

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

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

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

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

*2. Record in the ballot record:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. January 1, 2022; or

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

