

**PROPOSED REGULATION OF THE  
SECRETARY OF STATE**

**LCB FILE NO. R088-211**

**The following document is the initial draft regulation proposed  
by the agency submitted on 11/23/2021**

**PROPOSED REGULATIONS OF THE SECRETARY OF STATE**

**ELECTIONS DIVISION**

**LCB File No. \_\_\_\_\_**

**Section 1. Chapter 293 of NAC is hereby amended by amending the provisions set forth in Sections 2 to 17, inclusive of this regulation.**

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

**NAC 293.040 Notice of judicial, statewide and multicounty district offices to be filled.**

(NRS 293.124, 293.247)

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 and send to each county clerk a written notice which designates the judicial, statewide and multicounty district offices for which candidates are to be nominated in the primary election. *The Secretary of State will send an electronic version of this notice to each clerk by email and will post a copy of the document on the agency website.*

2. 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 that portion of the notice which applies to his or her county. *If publication deadlines prevent the county clerk from doing so, it should be done as soon as practicable.* If 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. *The county clerk shall also publish that portion of the notice which applies to his or her county on that county's website.*

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

**NAC 293.060 Designation of offices of justice of Supreme Court.** (NRS 293.124, 293.196, 293.247)

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, and each 6 years thereafter, are designated seats A and E. The office which will be filled at the general election of 1982, and each 6 years thereafter, is designated seat C. The offices which will be filled at the general election of 1984, 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, 2042, 2048, etc.; and

(g) Seat G — ~~1998, 2000, 2006, 2012,~~ 2018, 2024, 2030, 2036, 2042, 2048, etc.

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

**NAC 293.081 Change of manner in which candidate appears on ballot.** (NRS 293.124, 293.247, *SB123 (2019)*)

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 ~~or acceptance of candidaey~~. The request must be filed by the candidate in person with the filing officer with whom he or she filed the declaration of candidacy ~~or acceptance of candidaey~~ not later than 5 p.m. on the last day to file the declaration of candidacy ~~or acceptance of candidaey~~.

2. This section does not authorize the amendment of any matter contained in a declaration of candidacy ~~or 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:**

**NAC 293.120 Sample ballots: Primary elections** (NRS 293.124, 293.247, 293.565, *SB123 (2019)*)

The county clerk shall:

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

**Sec. 6. NAC 293.190 is hereby amended to read as follows:**

**NAC 293.190 Provision of registration and voting aids; notice of availability of registration aids, voting aids and procedures for voting by absentee mail ballot.** (NRS 293.124, 293.247, *AB321 (2021)*)

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.

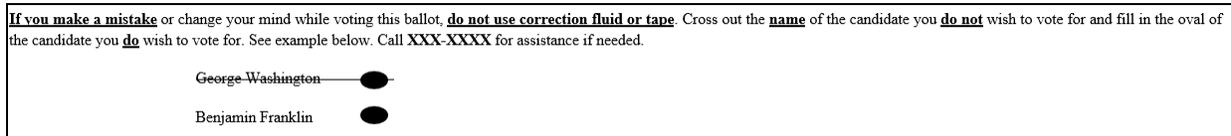
2. When the county clerk provides public notice of registration and voting, he or she shall also provide notice of the availability of registration aids, voting aids and procedures for voting by **absentee mail** ballot.

**Sec. 7. NAC 293.307 is hereby amended to read as follows:**

**NAC 293.307 Provision of instructions for correction of ~~absent~~ mail ballot; duplication of corrected ballot.** (NAC 293.123, 293.247, 293.250, **AB321 (2021)**)

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

*[Replace illustration with the one below]*



2. A county clerk or city clerk shall not duplicate any **mail absent** ballot which the voter has marked to indicate a correction 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. 8. NAC 293.311 is hereby amended to read as follows:**

**NAC 293.311 Procedures for handling ~~absent voters'~~ mail ballots in county with ~~absent~~ mail ballot central counting board.** (NAC 293.123, 293.247, **AB321 (2021)**)

1. In a county in which the county clerk has appointed *a mail an absent* ballot central counting board and posted a statement pursuant to subsection 2, the county clerk may, not earlier than **154** ~~working~~ days before election day ~~and not later than 5 p.m. on the second working day before election day~~, deliver the *mail absent* voters' ballots to the absent ballot central counting board.

When the ballots are received, the *mail absent* ballot central counting board shall:

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

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

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

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

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

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

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

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

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

**Sec. 9. NAC 293.313 is hereby amended to read as follows:**

**NAC 293.313 *Absent Mail* ballot sent by electronic transmission: Recording of *absent mail* ballot and maintenance of original ballot card.** (NAC 293.123, 293.247, 293.250, *AB321 (2021)*)

If a county clerk or the authorized representative of a county clerk sends an *absent mail* ballot by approved electronic transmission, the county clerk or the county clerk's authorized representative shall:

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

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

**Sec. 10. NAC 293.315 is hereby amended to read as follows:**

**NAC 293.315 ~~Absent Mail~~ ballot sent by facsimile: Contents and form.** (NAC 293.123, 293.247, 293.250, *AB321 (2021)*)

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

(a) Contain instructions for marking the ~~absent mail~~ ballot.

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

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

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

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

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

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

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

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

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

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

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

**Sec. 11. NAC 293.318 is hereby amended to read as follows:**

**NAC 293.318 ~~Absent Mail~~ ballot: Plan for disposition in case of emergency.** (NRS 293.124, 293.247, *AB321 (2021)*)

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

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

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

**Sec. 12. NAC 293.319 is hereby amended to read as follows:**

**NAC 293.319 ~~Absent Mail~~ ballot: Reporting requirements after election.** (NRS 293.124, 293.247, *AB321 (2021)*)

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

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

**Sec. 13. NAC 293.395 is hereby amended to read as follows:**

**NAC 293.395 “Official identification” interpreted.** (NRS 293.124, 293.247, 293.517)

For the purposes of NRS 293.517:

1. The Secretary of State interprets “official identification” to mean a government-issued, or otherwise official, article or combination of articles, which establishes both the identity and residence of a person submitting an application to register to vote.
2. The following articles may be used to establish identity:
  - (a) A current and valid Nevada driver’s license;
  - (b) A current and valid identification card issued by the Department *of Motor Vehicles*;
  - (c) A current and valid identification card issued by a branch of the Armed Forces of the United States;
  - (d) A current and valid identification card issued by a sheriff of a Nevada county to an employee as a condition of employment by certain business enterprises;
  - (e) A current and valid identification card issued by an agency of the State of Nevada or political subdivision thereof or the United States, including, without limitation, a public school, college or university;

(f) A current and valid student identification card from an accredited private school, college or university;

(g) A current and valid United States passport;

(h) A current and valid insurance plan identification card which the county clerk determines, in his or her discretion, to be a reliable indication of the true name and identity of the person; or

(i) A current and valid tribal identification card.

3. The following articles may be used to establish residency if the current residential address of the applicant, as indicated on the application to register to vote, is displayed on the article:

(a) Any article set forth in subsection 2;

(b) A current and valid utility bill, including, without limitation, a bill for electricity, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television;

(c) A current and valid bank or credit union statement;

(d) A current and valid paycheck;

(e) A current and valid income tax return;

(f) A current and valid statement concerning the mortgage, rental or lease of a residence;

(g) A current and valid motor vehicle registration;

(h) A current and valid document issued by a governmental agency;

(i) A current and valid property tax statement; or

(j) Any other official article which the county clerk determines, in his or her discretion, to be a reliable indication of the true residential address of the person.

**Sec. 14. NAC 293.409 is hereby amended to read as follows:**

**NAC 293.409 Registration through Department of Motor Vehicles: Procedures for Department *of Motor Vehicles* to follow if person ineligible to use automatic voter**

**registration system based upon documentation submitted.** (NRS 293.5737, 483.290, 483.850)

1. If an applicant for the issuance or renewal of or a change of address for a driver's license or identification card submits with his or her application to the Department of Motor Vehicles any of the documents set forth in NAC 293.408:

(a) The Department *of Motor Vehicles* will notify the applicant in writing that:

(1) He or she is not an applicant to register to vote using the automatic voter registration system and his or her information will not be transmitted electronically to the Secretary of State and county clerks through the automatic voter registration system because he or she submitted at least one of the documents set forth in NAC 293.408;

(2) If the applicant meets the qualifications to vote in this State, as provided in NRS 293.485, he or she may submit to the Department *of Motor Vehicles* a paper application to register to vote pursuant to NRS 293.5727; and

(3) He or she may contact the Office of the Secretary of State for questions regarding registering to vote and the automatic voter registration system. The notice required pursuant to this paragraph must include, without limitation, the Internet address of the Office of the Secretary of State.

(b) The Department *of Motor Vehicles* will not submit the applicant's information into the automatic voter registration system.

(c) The Department *of Motor Vehicles* will not give the applicant the paper or electronic affirmation described in paragraph (a) of subsection 1 of NRS 293.5742, the Automatic Voter Registration Initiative.

2. The computer system used by the Department *of Motor Vehicles* to process an application for the issuance or renewal of or a change of address for a driver's license or identification card must determine whether an applicant submitted any of the documents set forth in NAC 293.408 based only on the documents submitted to the Department *of Motor Vehicles* with the applicant's current application.

3. An employee of the Department *of Motor Vehicles* shall not make an individualized determination of the eligibility of any applicant for the issuance or renewal of or a change of address for a driver's license or identification card to apply to register to vote using the automatic voter registration system.

4. The Department *of Motor Vehicles* will:

(a) Develop a standardized form that provides uniform notification of the information set forth in subsection 1; and

(b) Provide the standardized form to all applicants for the issuance or renewal of or a change of address for a driver's license or identification card who submit with an application to the Department *of Motor Vehicles* any of the documents set forth in NAC 293.408.

5. As used in this section:

(a) "Automatic voter registration system" means the automatic voter registration system established pursuant to NRS 293.5732, the Automatic Voter Registration Initiative.

(b) "Driver's license" has the meaning ascribed to it in NAC 293.407.

(c) "Identification card" has the meaning ascribed to it in NAC 293.407.

**Sec. 15. NAC 293.411 is hereby amended to read as follows:**

**NAC 293.411 Assignment of identification numbers to certain persons.** (NRS 293.124, 293.247, 293.507)

The Secretary of State will assign to each county a series of numbers that must be used by the county clerk in assigning a unique identification number to a person who does not have a current and valid driver's license issued by the Department *of Motor Vehicles* or a social security number and wishes to register to vote pursuant to NRS 293.507. Before the clerk may issue the person an identification number, the person must sign an affidavit under penalty of perjury pursuant to subsection 5 of NRS 293.507 stating that he or she does not have a current and valid driver's license or a social security number.

**Sec. 16. NAC 293.474 is hereby amended to read as follows:**

**NAC 293.474 Voting history: Formats and contents.** (NRS 293.124, 293.675)

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 indicate the dates on which and locations at which each registered voter cast a ballot.

**Sec. 17. NAC 293.515 is hereby amended to read as follows:**

**NAC 293.515 Filing; form; delivery of copy to respondents.** (NRS 293.124, 293.247, 293.4685)

1. A person who believes that a violation of Title III of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. §§ 15481 to 15502, 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 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 U.S.C. §§ 15481 to 15502, 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 U.S.C. §§ 15481 to 15502, 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 U.S.C. §§ 15481 to 15502, 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.

PROPOSED REGULATIONS OF THE SECRETARY OF STATE

ELECTIONS DIVISION

LCB File No. \_\_\_\_\_

**Section 1.** Chapter 293 of NAC is hereby amended by amending the provisions set forth in Sections 2, inclusive of this regulation.

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

**NAC 293.010 Definitions** (NRS 293.124, 293.675, *AB321 (2021)*, *AB432 (2021)*)

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

1. *“Adjudication” means the process of resolving the question of voter intent upon a cast ballot where the voter’s mark cannot be determined by a mechanical process.*
2. *“Ballot stock” means ~~the material upon which~~ the following:*
  - a. *The paper on which a ballot is printed and/or on which a voter directly indicates his or her vote; ~~A ballot is printed; and~~*
  - b. *The entire mail ballot package, including instructions to the voter, the return envelope, the secrecy envelope or sleeve, and an “I Voted” sticker. ~~A voter directly indicates his or her vote.~~*
- ~~2. *“Department” means the Department of Motor Vehicles.*~~
3. *“Duplication” means the process of creating a new ballot to replace a ballot that cannot be tabulated because it is damaged or unreadable.*
4. *“Mail ballot” means a ballot mailed to an active registered voter for an election for which the voter is eligible to vote.*
5. *“Provisional ballot” means a ballot cast by a voter at a polling place or early voting location that cannot be counted until the voter’s voter registration status is confirmed by the clerk.*

**6. 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.

**7.** *“Same day registration” or “SDR” means the act of registering a person or individual to vote at the same time that individual appears to vote in person. This includes a person or individual who was a previously registered voter who updates their name, address, or political party affiliation when voting in person.*

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

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

**10.** *“Vote center” means a polling location established pursuant to NRS 293.3072 through 293.3075 where any registered voter in the county (or if applicable, in the city) can vote.*

**11. 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 recoded the votes of the voter.

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