

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R183-01

January 4, 2002

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

AUTHORITY: §§1-11, NRS 293.124; §12, NRS 293B.105; §§13 and 25, NRS 293.124 and 293.247; §§14-24, NRS 294A.380; §26, NRS 306.011.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *The front page of the sample ballot must be on the inside front page of the mailing cover of the ballot.*

2. The notices required to be included on a sample ballot that indicate a change of location of the polling place or the availability of a sample ballot in large type pursuant to NRS 293.565 must also be on the inside front cover of the ballot.

3. If a ballot and sample ballot are provided to all voters in 14-point type, the sample ballot is not required to contain a notice of the availability of a sample ballot in large type.

Sec. 3. *An alternative format for the purposes of providing information concerning elections, information concerning how to register to vote and information concerning the manner of voting for use by a person who is elderly or disabled pursuant to NRS 293.469 includes, without limitation:*

- 1. An audio tape;*
- 2. The telephone;*
- 3. A telecommunications device that is accessible to a person who is deaf;*

4. An Internet site that has been approved by Bobby WorldWide at <<http://www.cast.org/bobby/Approval1504.cfm>>; or

5. A closed-captioned video.

Sec. 4. NAC 293.010 is hereby amended to read as follows:

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

1. “Ballot stock” means the material upon which:

(a) A ballot is printed; and

(b) A voter directly indicates his vote.

2. “Department” means the department of motor vehicles . ~~[and public safety.]~~

3. “Voting booth” means any place or compartment used to screen a voter from the observation of others.

Sec. 5. NAC 293.120 is hereby amended to read as follows:

293.120 The county clerk shall:

1. Mail a copy of the sample ballot for the primary election , *as provided in NRS 293.565*, to each candidate who has filed with him 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 him 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 each sample ballot for a primary election , *as provided in NRS 293.565*, to the secretary of state.

5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in his office.

Sec. 6. NAC 293.164 is hereby amended to read as follows:

293.164 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;

(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*

(c) ~~Include a notice that sets forth the provisions of subsection 2; and~~

~~—(d)]~~ 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 ~~[not]~~ vote at a polling place ~~[unless he surrenders]~~ *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. 7. NAC 293.167 is hereby amended to read as follows:

293.167 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 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; and

(d) Contain a statement that failure to sign the back of the mailing envelope 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 by mail 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, the county clerk shall make a record in the absent ballot record book. The county clerk shall check the signature on the return envelope 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.—The county 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.]~~

Sec. 8. NAC 293.182 is hereby amended to read as follows:

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

2. If a petition consists of more than one document, each of those documents must, in addition to any other requirements:

(a) Contain sequentially numbered spaces for:

- (1) The name of each person signing the petition;
- (2) The signature of the person;
- (3) The residential address of the person;
- (4) The name of the county where the person is a registered voter; and
- (5) The date of the signature.

(b) Have attached to it, when filed ~~[, an]~~ :

(1) The affidavit required pursuant to section 3 of article 19 of the constitution of the State of Nevada; and

(2) 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.

Signature of circulator

Subscribed and sworn to or affirmed

before me this _____ day of _____, _____.

Notary public or other person licensed

to administer an oath

~~[2:]~~ 3. Any document of a petition may consist of more than one ~~[sheet:]~~ *page*. If a document consists of more than one ~~[sheet:]~~ *page*:

- (a) Each ~~[sheet]~~ *page, including a blank signature page*, must be numbered sequentially ~~[:]~~, *beginning with the number 1 for each document*;
- (b) All the ~~[sheets]~~ *pages* must be permanently attached in numerical order; and
- (c) The ~~[affidavit]~~ *affidavits* required by paragraph (b) of subsection ~~[H]~~ 2 must appear on the last ~~[sheet]~~ *pages* of the document.

~~[3.]~~ 4. As used in this section, “petition” means a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 298.109, 306.035 or 306.110.

Sec. 9. NAC 293.250 is hereby amended to read as follows:

293.250 1. If a difference exists between the number of persons voting and the number of ballots cast, the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The total number of voters must be entered by the election board on the forms provided by the county clerk.

3. The chairman of an election board is responsible for the safe delivery of the ballot cards to the central place designated by the county clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its supplies which were furnished by the county clerk with the county clerk’s inventory and shall note any shortages. The chairman of the election board is responsible for the safe return of all supplies, including all records and equipment pertaining to the election, in accordance with the directions of the county clerk.

5. ~~If any extraneous writing or other mark, such as a cross, check, tear or scratch, has been placed on a ballot card, the votes on the card must be counted unless the writing or other mark identifies the ballot as being that of the voter. Whether or not such an extraneous writing or other mark identifies the voter, the writing or other mark must not be counted as a vote.~~

~~—6.—~~ Votes on a ballot card must not be counted if it is impossible or extremely difficult to determine the voter's intention because he has placed his ballot incorrectly in the vote recording device.

~~[7.— If a chip on a ballot card is found in any of the following conditions, the chip must be counted as an intended vote:~~

~~—(a) A chip which is attached to the card at one or two corners.~~

~~—(b) A chip which is attached to the card at three corners with the fourth corner obviously disconnected.~~

~~—(c) A chip which is attached to the card at three or four corners with the paper fibers on one or two sides broken in a way that permits unimpeded light to be seen through the ballot. If no unimpeded light is visible on any side of a chip, the vote must not be counted.]~~

Sec. 10. NAC 293.411 is hereby amended to read as follows:

293.411 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]~~ *an* identification number to a person who wishes to register to vote pursuant to NRS 293.507 and is unable, or does not wish, to provide the clerk with the number indicated on the identification described in subparagraph (1) of paragraph (a) of subsection 4 of NRS 293.507.

Sec. 11. NAC 293.420 is hereby amended to read as follows:

293.420 1. The secretary of state will create a standard form for use by persons who are applying to register to vote by mail. The form will include:

- (a) An application to register to vote by mail;
- (b) An explanation of Nevada's laws on closed primary elections;
- (c) Instructions to assist the applicant in completing the application;

(d) A notice stating that the application will not be processed unless an identification number is on the application;

(e) A list of the addresses and telephone numbers of county election officers;

(f) A notice that the application must be complete before it is effective; and

(g) Instructions to the applicant to contact the county clerk if the applicant does not within 20 days after he submits the application to the county clerk receive his voter registration card indicating that his registration has been accepted.

2. The secretary of state will assign a control number to each application and will determine the sequence of the control numbers. The control numbers will consist of a two-digit alphabetical code followed by a five-digit numerical code.

3. The control number must be printed ~~[on a]~~ :

(a) *On a* duplicate copy of the application ~~[marked as the]~~ *or a receipt of the application;* and ~~[on]~~

(b) *On* the application to be returned to the county clerk.

4. Each county clerk shall, after obtaining a series of control numbers from the secretary of state, cause the forms to be printed. The county clerk shall continue to make available a sufficient number of the forms to meet the needs of the residents of the county.

Sec. 12. Chapter 293B of NAC is hereby amended by adding thereto a new section to read as follows:

1. Before each election, the county clerk in a county using a mechanical voting system shall ensure that each mechanical recording device which directly records votes electronically and the automatic tabulating equipment and programs to be used in the election will

accurately record the votes cast for all offices and on all measures by completing the tests required pursuant to chapter 293B of NRS.

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

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

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

- (a) Instructions for casting a vote;*
- (b) A method for a voter to select his vote in each contest;*
- (c) A method for a voter to change his selection;*
- (d) Visual verification of the selections made by the voter for each contest;*
- (e) A notice indicating any contest in which an undervote is detected;*
- (f) Protection from an overvote;*
- (g) A confirmation page verifying the selections of the voter and the intent of the voter to submit the ballot as the confirmation page states;*
- (h) A method for the voter to indicate he is finished selecting his votes and is ready to submit his selections;*
- (i) A verification that the vote has been cast; and*
- (j) A digital image of each ballot stored by the mechanical voting system.*

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

(a) Only ballots cast by authorized voters have been included in the tally list;

(b) All ballots have been unmodified since they were cast;

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

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

Sec. 13. NAC 293C.110 is hereby amended to read as follows:

293C.110 The city clerk shall:

1. Mail a copy of the sample ballot for the primary city election , *as provided in NRS 293.565*, to each candidate.

2. Mail a copy of the sample ballot for the primary city election , *as provided in NRS 293.565*, to each candidate who has been certified to him by the secretary of state.

3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the city clerk shall make a copy of each sample ballot available to the candidate upon request.

4. Mail a copy of each sample ballot for a primary city election , *as provided in NRS 293.565*, to the secretary of state.

5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in his office.

Sec. 14. Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as sections 15 to 20, inclusive, of this regulation.

Sec. 15. *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. Files a written request for a waiver setting forth the basis for the waiver;

2. Properly files the appropriate report pursuant to the applicable provisions of NRS 294A.120, 294A.140, 294A.150, 294A.180, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360; and

3. Establishes that:

(a) 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, died, had a serious medical condition or was hospitalized; or

(b) The candidate is experiencing extreme financial hardship.

Sec. 16. *A candidate shall not use campaign contributions to satisfy a civil penalty imposed by the first judicial district court pursuant to NRS 294A.420.*

Sec. 17. *For the purposes of NRS 294A.340, the use of the term “elect” or “for” in any material, statement or publication supporting the election of a candidate creates the implication of nonincumbency in office.*

Sec. 18. *1. The use of personal funds of a candidate for campaign expenses shall be deemed contributions to his campaign that:*

(a) Are not subject to any limits; and

(b) Must be properly reported.

2. A contribution to a candidate for any office from a member of the family of the candidate is subject to the same limits and reporting requirements set forth in chapter 294A of NRS that apply to any other contribution.

Sec. 19. 1. *Every person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party and committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates shall:*

(a) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.140, file an additional report at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.140 is due indicating that no contributions were received during the period set forth in paragraph (a) of subsection 1 of NRS 294A.140.

(b) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.140, file an additional report at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.140 is due indicating that no contributions were received during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.140.

(c) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.210, file an additional report at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.210 is due indicating

that no expenditures were made during the period set forth in paragraph (a) of subsection 1 of NRS 294A.210.

(d) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.210, file an additional report at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.210 is due indicating that no expenditures were made during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.210.

2. If a report is timely filed pursuant to subsection 1, the secretary of state will waive any civil penalty imposed pursuant to NRS 294A.420 because of the date the report is filed.

Sec. 20. 1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at any election including any recall or special election shall:

(a) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.150, file an additional report at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.150 is due indicating that no contributions were received during the period set forth in paragraph (a) of subsection 1 of NRS 294A.150.

(b) If the first contribution that is received is a contribution required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.150, file an additional report at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.150 is due indicating that no contributions were received during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.150.

(c) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (b) of subsection 1 of NRS 294A.220, file an additional report at the time the report required pursuant to paragraph (b) of subsection 1 of NRS 294A.220 is due indicating that no expenditures were made during the period set forth in paragraph (a) of subsection 1 of NRS 294A.220.

(d) If the first expenditure that is made is an expenditure required to be reported pursuant to paragraph (c) of subsection 1 of NRS 294A.220, file an additional report at the time the report required pursuant to paragraph (c) of subsection 1 of NRS 294A.220 is due indicating that no expenditures were made during the periods set forth in paragraphs (a) and (b) of subsection 1 of NRS 294A.220.

2. If a report is timely filed pursuant to subsection 1, the secretary of state will waive any civil penalty imposed pursuant to NRS 294A.420 because of the date the report is filed.

Sec. 21. NAC 294A.045 is hereby amended to read as follows:

294A.045 A candidate for state, district, county, municipal ~~H~~ or township office who withdraws his candidacy *or loses a primary election* may, if he does not accept any additional campaign contributions and has no additional campaign expenses relating to that office, file all the reports of campaign contributions and expenses required by NRS 294A.120, 294A.200 ~~H~~ and 294A.360 at the time he submits his notice of withdrawal to the appropriate filing officer.

Sec. 22. NAC 294A.075 is hereby amended to read as follows:

294A.075 The form of the report of campaign expenses required to be filed pursuant to NRS 294A.125, ~~NRS~~ 294A.200, 294A.210, 294A.220, 294A.280 or 294A.360 must include:

1. For each expenditure of more than \$100:

(a) The category of the expenditure;

(b) The name and address of the person who received payment for the expenditure; and

(c) The amount and date of the payment for the expenditure.

2. ~~The total amount spent for each category of expenditure.~~

~~3.]~~ The total amount spent for all categories of expenditures.

Sec. 23. 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. ~~If a] A~~ committee for political action ~~ceases to engage in political activities in this state,~~
~~an] becomes inactive when:~~

(a) An officer or the resident agent of the committee ~~shall file] 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* ~~is inactive.] ; 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.

~~3.] 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. 24. NAC 294A.120 is hereby amended to read as follows:

294A.120 ~~[The]~~ *If the* secretary of state ~~[will, within 5 working days after he]~~ receives written notice that a candidate or public officer is alleged to have violated a provision of chapter 294A of NRS, *the secretary of state will* notify the candidate or public officer of the alleged violation by certified mail.

Sec. 25. 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 separate the documents by each county and 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 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.

(3) The street address of the residence where the person signing 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.

(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]~~ :

(1) The affidavit required pursuant to section 3 of article 19 of the constitution of the State of Nevada; and

(2) 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.

Signature of circulator

Subscribed and sworn to or affirmed

before me this ____ day of _____, _____.

Notary public or other person licensed

to administer an oath

~~[2.]~~ 3. A document may consist of more than one ~~[sheet.]~~ *page*. If a document consists of more than one ~~[sheet:]~~ *page*:

(a) Each ~~[sheet]~~ *page, including a blank signature page*, must be numbered sequentially ~~[:]~~, *beginning with the number 1 for each document;*

(b) All the ~~[sheets]~~ *pages* must be permanently attached together in numerical order; and

(c) The ~~[affidavit]~~ *affidavits* of the circulator required by NRS 295.095 or 295.205 must appear on the last ~~[sheet]~~ *pages* of the document.

~~[3.]~~ 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. 26. NAC 306.007 is hereby amended to read as follows:

306.007 *1.* The filing officer with whom a public officer to be recalled filed his declaration of candidacy shall notify that public officer, in writing, within 2 days after a notice of intent is filed pursuant to subsection 1 of NRS 306.015. If the filing officer is not the county clerk, the filing officer shall also notify the county clerk, in writing, within 2 days after the notice of intent is filed.

2. Within 1 day after the county clerk receives a notice of intent to circulate a petition to recall a public officer, he shall deliver a copy of the notice to the secretary of state.