

**APPROVED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R013-23

Filed September 29,2023

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

AUTHORITY: § 1, NRS 293.247 and 293.269951, as amended by section 3.5 of Senate Bill No. 216, chapter 244, Statutes of Nevada 2023, at page 1530; §§ 2 and 3, NRS 293.247 and 293D.200.

A REGULATION relating to elections; providing that only the first ballot received by a local elections official may be counted if certain voters who vote by approved electronic transmission inadvertently submit more than one ballot; requiring a local elections official to provide covered voters with instructions relating to the declaration of a covered voter that is required to be submitted with a military-overseas ballot; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Secretary of State to establish a system of approved electronic transmission through which certain military and overseas voters and electors and registered voters with a disability may register to vote and apply for and cast a ballot using the system of approved electronic transmission. (NRS 293.269951, 293D.200) Senate Bill No. 216 of the 2023 Legislative Session authorized electors and registered voters who are tribal members and who reside on an Indian reservation or Indian colony to also use the system of approved electronic transmission. (NRS 293.269951, as amended by section 3.5 of Senate Bill No. 216, chapter 244, Statutes of Nevada 2023, at page 1530) **Section 1** of this regulation provides that if a registered voter with a disability or a tribal member residing on an Indian reservation or Indian colony who is authorized to cast a ballot by approved electronic transmission attempts to submit a ballot by approved electronic transmission and inadvertently submits more than one ballot, only the first ballot received by the local elections official may be counted.

Existing law requires the Secretary of State to prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter’s identity, eligibility to vote, status as a covered voter and timely and proper completion of a military-overseas ballot. (NRS 293D.200) Existing regulations prescribe the form of such a declaration, which differs depending on whether the covered voter indicates that he or she will return the military-overseas ballot by approved electronic transmission or by mail. (NAC 293D.020) Existing regulations further require the local elections official to provide to a covered voter certain instructions for marking and returning a military-overseas ballot. (NAC 293D.010) **Section 2** of this regulation provides that such instructions must include an

explanation that the covered voter must complete and sign the applicable declaration indicating that he or she will return the military-overseas ballot either by approved electronic transmission or by mail.

Existing regulations require a local elections official to count a military-overseas ballot signed by a covered voter using a digital signature or electronic signature unless the local elections official reasonably believes that someone other than the covered voter signed the ballot. (NAC 293D.050) **Section 3** of this regulation provides that if a covered voter attempts to submit a military-overseas ballot by approved electronic transmission and inadvertently submits more than one military-overseas ballot, only the first military-overseas ballot received by the local elections official may be counted.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If a registered voter who is authorized to cast a ballot by approved electronic transmission pursuant to NRS 293.269951, as amended by section 3.5 of Senate Bill No. 216, chapter 244, Statutes of Nevada 2023, at page 1530, attempts to submit a ballot by approved electronic transmission and inadvertently submits more than one ballot, only the first ballot received by the local elections official may be counted.

2. Nothing in this section authorizes:

(a) A registered voter who is authorized to cast a ballot by approved electronic transmission pursuant to NRS 293.269951, as amended by section 3.5 of Senate Bill No. 216, chapter 244, Statutes of Nevada 2023, at page 1530, to cast more than one ballot; or

(b) A local elections official to count more than one ballot received from a registered voter who is authorized to cast a ballot by approved electronic transmission pursuant to NRS 293.269951, as amended by section 3.5 of Senate Bill No. 216, chapter 244, Statutes of Nevada 2023, at page 1530.

Sec. 2. NAC 293D.010 is hereby amended to read as follows:

293D.010 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.

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.~~ *set forth in subsection 2 of NAC 293D.020.*

(f) An explanation of the deadline for the registered voter to cast and return the military-overseas ballot and any other necessary voting materials, including, without limitation, the declaration set forth in *subsection 2 of NAC 293D.020*, to the appropriate local elections official.

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 *subsection 1 of* 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 of the deadline for the registered voter to cast and return the military-overseas ballot and any other necessary voting materials, including, without limitation, the declaration set forth in *subsection 1 of* NAC 293D.020, to the appropriate local elections official.

Sec. 3. NAC 293D.050 is hereby amended to read as follows:

293D.050 *1.* A local elections official shall count a military-overseas ballot signed by a covered voter using a digital signature or electronic signature unless the local elections official reasonably believes that someone other than the covered voter signed the ballot.

2. If a covered voter attempts to submit a military-overseas ballot by approved electronic transmission and inadvertently submits more than one military-overseas ballot, only the first military-overseas ballot received by the local elections official may be counted.

3. Nothing in this section authorizes:

(a) A covered voter to cast more than one military-overseas ballot; or

(b) A local elections official to count more than one ballot received from a covered voter.