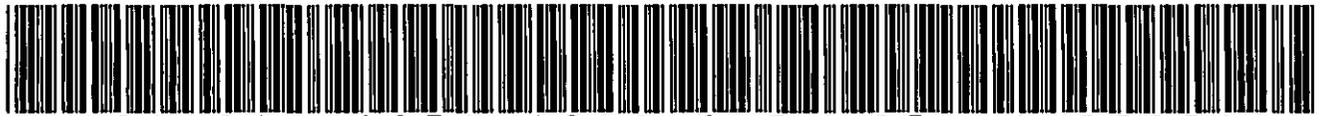


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State of Nevada

Election Laws

(TITLE 24 OF NRS)

1991

Compiled by

CHERYL LAU
Secretary of State



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as provided in NRS 293.247

TO ELECTION OFFICERS

**Please return to your County Clerk all copies of this Pamphlet with
other election supplies.**

TITLE 24
ELECTIONS

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 - 293B. Mechanical Voting Systems
 - 294A. Campaign Practices
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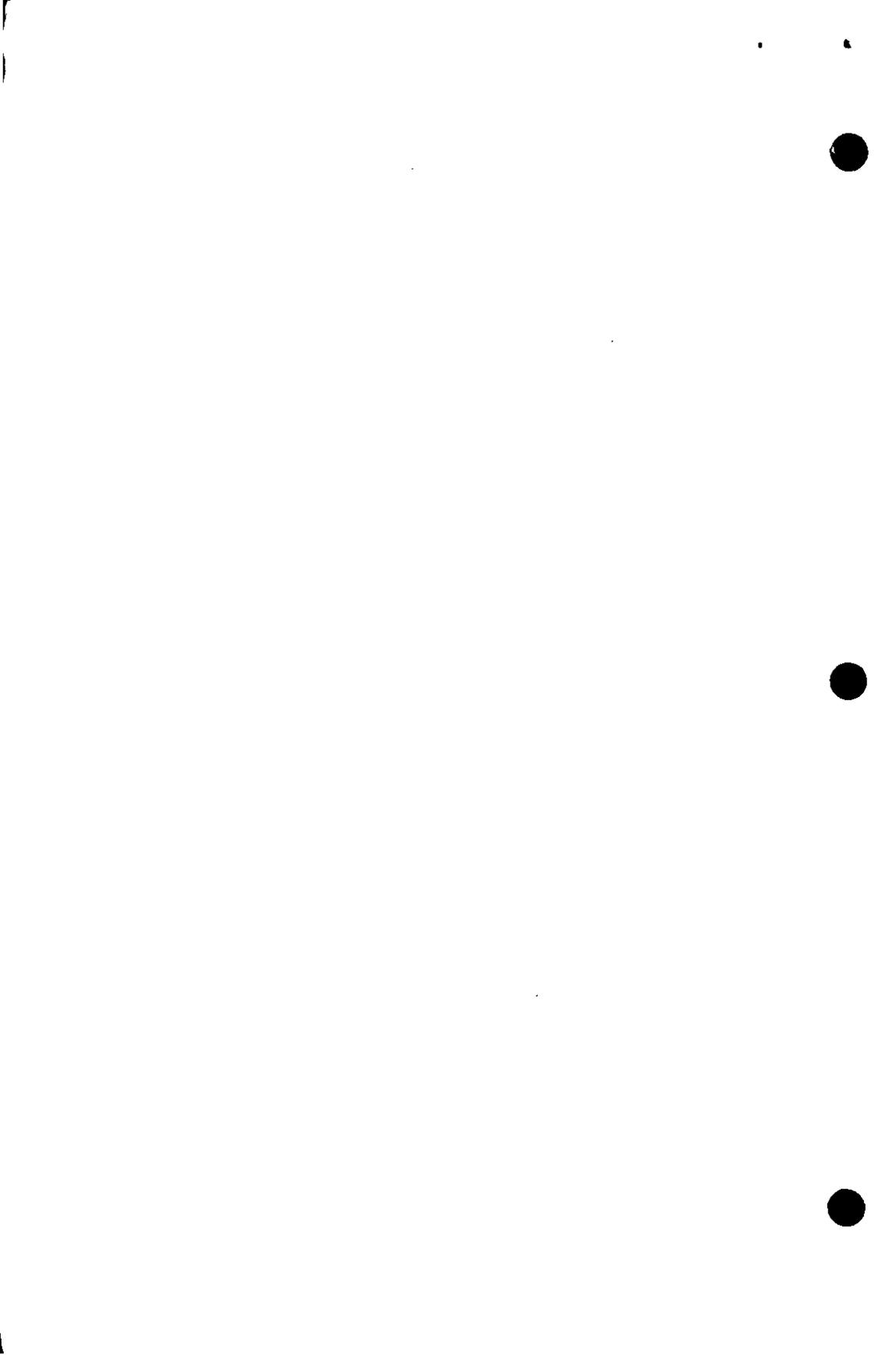
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CHAPTER 293

ELECTIONS

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- Improvement district elections, NRS 309.060
- Irrigation district elections, NRS 539.053
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- Advertising signs, posting on public utility poles unlawful, NRS 704.638
- Board of county commissioners defined, NRS 0.035
- Canvass of election returns, Const. Art. 5 § 4
- Color, servitude of citizen cannot abridge suffrage, Const. Art. 18 § 1
- Constitutional amendments and statewide measures, preparation of ballot questions and explanations, NRS 218.443
- County clerk's office, closing on election days, NRS 245.040
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- Election day to be the Tuesday after the 1st Monday in November, Const. Art. 15 § 5
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- Ethics in Government Law, Nevada, NRS 281.411 et seq.
- Felony conviction forfeits voting rights, Const. Art. 2 § 1
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—ANNOTATIONS—

Attorney General's Opinions.

Person in military service who has not resided in state for required time is not entitled to vote. Person, who as minor in sister state joined military service, and who thereafter acquired property in Nevada and intends to

make Nevada his domicile and to reside therein after completion of 20 years' military service, but who has not resided in Nevada for time required to vote under NRS ch. 293, is not entitled to vote in Nevada. AGO 257 (11-7-1961)

GENERAL PROVISIONS

293.010 Definitions. As used in this Title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1960, 235; A 1973, 350; 1979, 262; 1987, 334, 1361)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.013 "Absent ballot" defined. "Absent ballot" means a ballot voted by a person who expects to be or is absent from the polling place for his precinct or district on election day.

(Added to NRS by 1960, 235; A 1991, 2217)

293.015 "Absent voter" defined. "Absent voter" means a registered voter who has received or who has voted an absent ballot.

(Added to NRS by 1960, 235; A 1987, 690)

293.016 "Abstract of votes" defined. "Abstract of votes" means a compilation of votes cast for a particular candidate by office and precinct.

(Added to NRS by 1975, 935)

293.017 "Active registration" defined. "Active registration" means a current registration of a voter in the official register, entitling such voter to vote in the manner provided by this Title.

(Added to NRS by 1960, 235)

293.025 "Ballot" defined. "Ballot" means the printed paper bearing the listing of candidates' names, and of questions to be voted upon at an election.

(Added to NRS by 1960, 236)

293.030 "Ballot listing" defined. "Ballot listing" means the list of the names of candidates as they appear on the ballot.

(Added to NRS by 1960, 236)

293.032 “Canvass” defined. “Canvass” means a review of the election results by the board of county commissioners or the mayor and city council or the justices of the supreme court, by which any errors within the election results are officially noted and the official election results are declared.

(Added to NRS by 1975, 935; A 1987, 334)

293.033 “Central committee” defined. “Central committee” means the county or the state authority of a major political party.

(Added to NRS by 1960, 236; A 1989, 221)

293.034 “Certificate of election” defined. “Certificate of election” means a certificate prepared by the county or city clerk or governor, as the case may be, for the person having the highest number of votes for any district, county, township, city, state or statewide office as official recognition of the person’s election to office.

(Added to NRS by 1975, 935; A 1987, 334)

293.035 “Challenge list” defined. “Challenge list” means a form furnished election board officers to be used in making a record of all challenges.

(Added to NRS by 1960, 236)

293.037 “Checklist” defined. “Checklist” means an alphabetical list of the names of the registered voters in a precinct or district.

(Added to NRS by 1960, 236)

293.040 “Clerk” defined. “Clerk” means the election board officer designated or assigned to make the record of the election in the pollbook, tally list, challenge list and checklist in the precinct or district in which such officer is appointed.

(Added to NRS by 1960, 236)

293.042 “Contest” defined. “Contest” means an adversary proceeding between a candidate for a public office who has received the greatest number of votes and any other candidate for that office or, in certain cases, any registered voter of the appropriate political subdivision, for the purpose of determining the validity of an election.

(Added to NRS by 1975, 935)

293.044 “County clerk” defined; synonymous with “registrar of voters” in certain counties. Except as the term is used in NRS 293.393, whenever the term “county clerk” is used in this Title it means “registrar of voters” in those counties where such office has been created pursuant to the provisions of NRS 244.164.

(Added to NRS by 1965, 670; A 1983, 925)—(Substituted in revision for NRS 293.092)

293.050 “Election board officer” defined. “Election board officer” means a person appointed to assist in the conduct of an election.

(Added to NRS by 1960, 236)

293.053 “Election board register” defined. “Election board register” means the record of affidavits of registration provided to election boards.

(Added to NRS by 1960, 236)

293.055 “Elector” defined. “Elector” means a person who is eligible to vote under the provisions of section 1 of article 2 of the constitution of the State of Nevada.

(Added to NRS by 1960, 236)

293.057 “Filing officer” defined. “Filing officer” means the secretary of state, county or city clerk or any other officer authorized by law to receive designations and declarations of candidacy, certificates and acceptances of nomination or any other nomination papers.

(Added to NRS by 1960, 236; A 1987, 334)

293.059 “General city election” defined. “General city election” means an election held pursuant to NRS 293.630 or 293.640. The term includes a general municipal election held pursuant to the provisions of a special charter of an incorporated city.

(Added to NRS by 1987, 334)

293.060 “General election” defined. “General election” means the election held pursuant to NRS 293.12755.

(Added to NRS by 1960, 236; A 1987, 334)

293.063 “Independent candidate” defined. “Independent candidate” means a candidate who has been nominated for a partisan office but who is registered with no political party affiliation pursuant to the provisions of this Title.

(Added to NRS by 1960, 236; A 1961, 284; 1963, 1386; 1967, 844)

293.064 “Judicial office” defined. “Judicial office” means the office filled by any judicial officer.

(Added to NRS by 1961, 296)

293.0643 “Judicial officer” defined. “Judicial officer” means any justice of the supreme court, any judge of a district court or any justice of the peace.

(Added to NRS by 1961, 296)

293.065 "Mail" defined. "Mail" means the depositing of printed or written matter in a mailbox or post office for delivery by the United States Postal Service.

(Added to NRS by 1960, 236; A 1987, 712)

293.0655 "Major political party" defined. "Major political party" means any organization which qualifies as such pursuant to NRS 293.128.

(Added to NRS by 1989, 221)

293.066 "Minor political party" defined. "Minor political party" means any organization which qualifies as such pursuant to NRS 293.171.

(Added to NRS by 1987, 1359)

293.068 "Oath" defined. "Oath" includes affirmation.

(Added to NRS by 1961, 296)

293.070 "Physical disability" defined. "Physical disability" means blindness or any other physical handicap making it impracticable to cast a ballot.

(Added to NRS by 1960, 237; A 1961, 285; 1985, 1092)

293.073 "Political party" defined. "Political party" means any minor or major political party.

(Added to NRS by 1960, 237; A 1963, 1382; 1971, 434; 1987, 1361; 1989, 221)

—ANNOTATIONS—

Attorney General's Opinions.

Change of name of old political party already officially recognized in state. Old political party already officially recognized in this state, on change of its name, could get its candidates on ballot by petition only. Such change of name could be made by state committee, state convention or by petition filed with secretary of state. AGO 66 (7-21-1917)

Limitation on name of new political party. New political party cannot use name of any party already officially recognized, or adopt such name as would be liable to be misleading or confusing with any other existing parties. AGO 66 (7-21-1917)

New party must register voters who wish to participate in primary election. Organization of new party includes necessity of registration of voters as members of such new party, if they wish to participate in primary election. AGO 66 (7-21-1917)

Loss of status for failure to poll required number of votes. Political party failing to poll required number of votes at general election loses status as recognized party. AGO 146 (9-25-1922)

293.075 "Pollbook" defined. "Pollbook" means the form furnished election board officers to be used for recording the names of the registered voters issued ballots, the number on each ballot issued and whether or not such ballots were voted.

(Added to NRS by 1960, 237)

293.077 "Precinct" defined. "Precinct" means the smallest voting area in a political subdivision.

(Added to NRS by 1960, 237)

293.079 "Primary city election" defined. "Primary city election" means an election held pursuant to NRS 293.620. The term includes a primary municipal election held pursuant to the provisions of a special charter of an incorporated city.

(Added to NRS by 1987, 334)

293.080 "Primary election" defined. "Primary election" means the election held pursuant to NRS 293.175.

(Added to NRS by 1960, 237; A 1975, 374; 1983, 1116; 1987, 334)

293.090 "Registered voter" defined. "Registered voter" means an elector who has completed the procedure prescribed by law for registration as a voter.

(Added to NRS by 1960, 237)

293.0925 "Registrar of voters' register" defined. "Registrar of voters' register" means the record of affidavits of registration kept by the county clerk.

(Added to NRS by 1973, 351)

293.093 "Regular votes" defined. "Regular votes" means the votes cast by registered voters, except votes cast by absent ballot.

(Added to NRS by 1960, 237)

293.094 "Rejected ballot" defined. "Rejected ballot" means a ballot rejected by the election board or counting board for any reason required or authorized by this chapter.

(Added to NRS by 1961, 296)

293.095 "Roster" defined. "Roster" means the form furnished election board officers to be used for obtaining the signature of each person applying for a ballot.

(Added to NRS by 1960, 237)

293.097 "Sample ballot" defined. "Sample ballot" means a document distributed by a county or city clerk upon which is printed a facsimile of a ballot. The term includes any such document which is printed by a computer.

(Added to NRS by 1960, 237; A 1987, 334, 690)

293.100 "School office" defined. "School office" means an office filled by a school officer.

(Added to NRS by 1960, 237)

293.103 "School officers" defined. "School officers" means the regents of the University of Nevada, members of the state board of education and school district trustees.

(Added to NRS by 1960, 237)

293.105 "Service of the United States" defined. "Service of the United States" means the Armed Forces of the United States and the auxiliaries thereof, the United States Coast Guard, the merchant marine service of the United States, civilian employment by the Federal Government beyond the boundaries of the State of Nevada, and religious groups and welfare agencies officially attached to and serving with the Armed Forces of the United States.

(Added to NRS by 1960, 237)

293.107 "Spoiled ballot" defined. "Spoiled ballot" means a ballot defaced by a voter and exchanged for a new one.

(Added to NRS by 1960, 237)

293.113 "Tally list" and "tally book" defined. "Tally list" or "tally book" means the forms furnished election board officers to be used in tallying or recording the number of votes cast for each candidate and question on the ballot as such votes are called in counting.

(Added to NRS by 1960, 237)

293.115 "Township office" defined. "Township office" is an office filled by a township officer.

(Added to NRS by 1960, 238)

293.117 "Township officer" defined. "Township officer" means a public official elected in a township to serve the township.

(Added to NRS by 1960, 238)

293.121 "Voting district" defined. "Voting district" means an area formed by the consolidation of two or more contiguous precincts.

(Added to NRS by 1961, 296)

293.127 Liberal construction of Title. This Title shall be liberally construed to the end that all electors shall have an opportunity to participate in elections and that the real will of the electors may not be defeated by any informality or by failure substantially to comply with the provisions of this

Title with respect to the giving of any notice or the conducting of an election or certifying the results thereof.

(Added to NRS by 1960, 238; A 1963, 1372)

—ANNOTATIONS—

Nevada Cases.

Revote required in precinct where voting apparatus contained wrong list of candidates. Writ of mandamus was granted to compel board of county commissioners to conduct revote in voting precinct where voting appara-

tus contained wrong list of candidates, because ballots are construed to include any device designating candidates and, under NRS 293.465, absence of ballots prevented election guaranteed by NRS 293.127. *LaPorta v. Broadbent*, 91 Nev. 27, 530 P.2d 1404 (1975)

293.1275 Time for filing papers pursuant to Title when last day falls on Saturday, Sunday or holiday. If the last day limited for filing any paper mentioned in this Title shall fall on a Saturday, Sunday, legal holiday or any holiday proclaimed by the governor, then the period so limited shall expire on the preceding business day at 5 p.m.

(Added to NRS by 1960, 244)—(Substituted in revision for NRS 293.183)

GENERAL ELECTIONS

293.12755 Date. A general election must be held throughout the state on the 1st Tuesday after the 1st Monday of November in each even-numbered year.

(Added to NRS by 1987, 334)

—ANNOTATIONS—

Nevada Cases.

Purpose of general election. Under NCL § 2438 (cf. NRS 293.12755), general election is held biennially, but it is general only for pur-

pose of electing officers designated by law to be elected at particular biennial election. *Grant v. Payne*, 60 Nev. 250, 107 P.2d 307 (1940)

SUFFICIENCY OF PETITION FOR INITIATIVE OR
REFERENDUM, QUALIFICATION OF POLITICAL
PARTY OR RECALL OF PUBLIC OFFICER

293.1276 Transmittal of number of signatures to secretary of state; notice of failure to file required number of signatures.

1. Within 5 days excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.1715, 293.200, 295.056, 298.109 or 306.035, the county clerk shall determine the total number of signatures affixed to the documents and shall transmit that information to the secretary of state.

2. If the secretary of state finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of

registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the secretary of state shall also notify the officer with whom the petition is to be filed.

(Added to NRS by 1985, 1090; A 1987, 1361)

—ANNOTATIONS—

Federal and Other Cases.

Former provisions of statute unconstitutional when inherent bar to filing as candidate for third party created. Provisions of NRS 293.128 which require petition to qualify as political party to be filed not less than 90 days before primary election was unconstitu-

tional where, when coupled with requirement that signatures on petition be verified pursuant to procedure established in NRS 293.1276 et seq., inherent bar to filing as candidate for third party was created. Libertarian Party of Nevada v. Swackhamer, 638 F. Supp. 565 (D. Nev. 1986)

293.1277 Verification of signatures by county clerks.

1. If the secretary of state finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 15 days after such a notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration what number of registered voters have signed the documents, the county clerk may use the file of affidavits of registered voters or facsimiles of the voters' signatures.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination and transmit the documents with the certificate to the secretary of state. A copy of this certificate must be filed in the clerk's office.

5. For any petition other than a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.1715, 293.200, 295.056 or 298.109, or a petition containing signatures which are required to be verified pursuant to NRS 306.035 for any statewide office or district office comprising more than one county, the county clerk shall not transmit to the secretary of state the documents containing the signatures of the registered voters.

6. The secretary of state may by regulation establish further procedures for carrying out the purposes of this section.

(Added to NRS by 1985, 1090; A 1987, 1361)

293.1278 Qualification or disqualification of petition upon receipt of certificates by secretary of state.

1. If the certificates received by the secretary of state from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the secretary of state shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the secretary of state shall also notify the officer with whom the petition is to be filed.

2. If those certificates establish that the petitioners have more than 110 percent of the number of registered voters needed to make the petition sufficient, the petition shall be deemed to qualify as of the date of receipt by the secretary of state of certificates showing the petition to have reached 110 percent, and the secretary of state shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the secretary of state shall also notify the officer with whom the petition is to be filed.

(Added to NRS by 1985, 1091)

293.1279 Qualification or disqualification of petition upon verification of all signatures.

1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more but less than 110 percent of the number of signatures of registered voters needed to declare the petition sufficient, the secretary of state shall order the county clerks to examine every signature for verification.

2. If the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than 110 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county, the secretary of state may order the county clerk in that county to examine every signature for verification.

3. Within 30 days after receipt of such an order, the clerk shall determine from the records of registration what number of registered voters have signed the petition. If necessary, the board of county commissioners shall allow the clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition, the clerk may use any file or list of registered voters maintained by his office or facsimiles of voters' signatures.

4. Except as otherwise provided in subsection 5, upon completing the examination, the clerk shall immediately attach to the documents of the petition an amended certificate properly dated, showing the result of the examination and shall immediately transmit the documents with the amended certificate to the secretary of state. A copy of the amended certificate must be filed in the clerk's office.

5. For any petition other than a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.1715, 293.200, 295.056 or 298.109, or a petition containing signatures which are required to be verified pursuant to NRS 306.035 for any statewide office or district office comprising more than one county, the county clerk shall not transmit to the secretary of state the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the secretary of state as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the state.

7. If the amended certificates received from all county clerks by the secretary of state establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the secretary of state shall also notify the officer with whom the petition is to be filed.

(Added to NRS by 1985, 1091; A 1985, 551; 1987, 1362)

MAJOR POLITICAL PARTIES

293.128 Procedure for qualification.

1. To qualify as a major political party any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the affidavits of registration of at least 10 percent of the total number of registered voters in the state; or

(b) File a petition with the secretary of state not later than the last Friday in April before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by at least one of its signers to the effect that the signers are registered voters of the state according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification

pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 65 days before the last Friday in April preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the secretary of state a certificate of existence which includes the:

- (a) Name of the political party;
- (b) Names and addresses of its officers;
- (c) Names of the members of its executive committee; and
- (d) Name of the person who is authorized by the party to act as resident agent in this state.

4. A political party shall file with the secretary of state an amended certificate of existence within 5 days after any change in the information contained in the certificate.

(Added to NRS by 1971, 433; A 1975, 936; 1979, 262; 1985, 1092; 1987, 1363; 1989, 221, 1727, 2158)

—ANNOTATIONS—

Federal and Other Cases.

Former provisions of statute infringed upon political party's access to ballot and voters' right to cast vote. Provisions of NRS 293.128 which require petition to qualify as political party to include declaration that persons signing petition represent political party or principle named in petition, unnecessarily infringed upon political party's access to ballot and voters' right to cast their vote, because declaration was not least restrictive means by which state could advance its interest in protecting integrity of primary ballot, ensuring that third party had significant support among electorate, and preventing enticement of voters to change their political affiliation. *Libertarian Party of Nevada v. Swackhamer*, 638 F. Supp. 565 (D. Nev. 1986)

Former provisions of statute unconstitutional when inherent bar to filing as candidate for third party created. Provisions of NRS 293.128 which require petition to qualify

as political party to be filed not less than 90 days before primary election was unconstitutional where, when coupled with requirement that signatures on petition be verified pursuant to procedure established in NRS 293.1276 et seq., inherent bar to filing as candidate for third party was created. *Libertarian Party of Nevada v. Swackhamer*, 638 F. Supp. 565 (D. Nev. 1986)

Attorney General's Opinions.

Currently registered voters may sign petitions despite failure to vote in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205, and 306.020, currently registered voters may sign petitions in furtherance of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 80-4 (2-26-1980)

293.130 County conventions: Place; notice.

1. On the dates set by the respective state central committees in each year in which a general election is to be held, a county convention of each major political party must be held at the county seat of each county or at such other place in the county as the county central committee designates.

2. The county central committee of each major political party shall cause notice of the holding of the county convention of its party to be published in one or more newspapers, if any, published in the county, which notice must be in substantially the following form:

NOTICE OF.....(NAME OF PARTY).....CONVENTION

Notice is hereby given that the county Convention of the Party for County will be held at in, on, the day of, 19...; that at the convention delegates to the State Convention will be elected, a county central committee to serve for the ensuing 2 years will be chosen, and other party affairs may be considered; that delegates to such county convention shall be chosen at(name of party)..... precinct meetings to be held in each voting precinct in the county on or before the day of, 19...; and that each of the voting precincts is entitled to the number of delegates specified below after the name of such precinct, as follows:

| Name of precinct | Number of delegates |
|--|----------------------|
| | to |
| | to |
| | (Name of party)..... |
| County Central Committee of County, Nevada | |
| By(Its Chairman) | |
| And(Its Secretary) | |

(Added to NRS by 1960, 238; A 1971, 434; 1987, 1364; 1989, 222)

293.133 Number of delegates from voting precincts to county convention.

1. The number of delegates from each voting precinct in each county to the county convention of any major political party for that county must be in proportion to the number of registered voters of that party residing in the precinct as follows:

(a) In the counties in which the total number of registered voters of that party has not exceeded 400, each precinct is entitled to one delegate for each five registered voters.

(b) In counties in which the total number of registered voters of that party has exceeded 400 but has not exceeded 600, each precinct is entitled to one delegate for each eight registered voters.

(c) In counties in which the total number of registered voters of that party has exceeded 600 but has not exceeded 800, each precinct is entitled to one delegate for each 10 registered voters.

(d) In counties in which the total number of registered voters of that party has exceeded 800 but has not exceeded 1,400, each precinct is entitled to one delegate for each 15 registered voters.

(e) In counties in which the total number of registered voters of that party has exceeded 1,400 but has not exceeded 2,000, each precinct is entitled to one delegate for each 20 registered voters or major fraction thereof.

(f) In counties in which the total number of registered voters of that party has exceeded 2,000 but has not exceeded 3,000, each precinct is entitled to one delegate for each 30 registered voters or major fraction thereof.

(g) In counties in which the total number of registered voters of that party has exceeded 3,000 but has not exceeded 4,000, each precinct is entitled to one delegate for each 35 registered voters or major fraction thereof.

(h) In counties in which the total number of registered voters of that party has exceeded 4,000, each precinct is entitled to one delegate for each 50 registered voters or major fraction thereof.

2. The county clerk shall determine the number of registered voters of each party in each precinct as of the first Monday in January of each year in which a convention is held, and shall notify the secretary of state and the county central committee of each major political party of those numbers within 30 days after the determinative date.

3. In all counties every precinct is entitled to at least one delegate to each county convention.

(Added to NRS by 1960, 239; A 1967, 1206; 1969, 456; 1971, 435; 1973, 593; 1975, 375; 1981, 1738; 1989, 222)

293.135 Precinct meetings of registered voters before county convention: Time and place; notice.

1. The county central committee of each major political party in each county shall have a precinct meeting of the registered voters of the party residing in each voting precinct entitled to delegates in the county convention called and held on or before the fifth day preceding the dates set by the respective state central committees in each year in which a general election is held.

2. The meeting must be held in one of the following places in the following order of preference:

(a) Any public building within the precinct if the meeting is for a single precinct, or any public building which is in reasonable proximity to the precincts and will accommodate a meeting of two or more precincts; or

(b) Any private building within the precinct or one of the precincts.

3. The county central committee shall give notice of the meeting by:

(a) Posting in a conspicuous place outside the building where the meeting is to be held at least 5 days before the date of the meeting; and

(b) Publishing at least 5 days before the date of meeting in one or more newspapers of general circulation in the precinct, published in the county, if any are so published.

4. The notice must be printed in conspicuous display advertising format of not less than 10 column inches, and must include the following language, or words of similar import:

NOTICE TO ALL VOTERS REGISTERED
IN THE (STATE NAME OF MAJOR POLITICAL PARTY)

Nevada state law requires each major political party, in every year during which a general election is held, to have a precinct meeting held for each precinct. All persons registered in the party and residing in the precinct are entitled to attend the precinct meeting. Delegates to your party's county convention will be elected at the meeting by those in attendance. Set forth below are the time and place at which your precinct meeting will be held, together with the number of delegates to be elected from each precinct. If you wish to participate in the organization of your party for the coming 2 years, attend your precinct meeting.

5. The notice must specify:

- (a) The date, time and place of the meeting; and
- (b) The number of delegates to the county convention to be chosen at the meeting.

(Added to NRS by 1960, 239; A 1967, 1128; 1971, 436; 1973, 594; 1979, 1350; 1981, 1697; 1987, 1364; 1989, 223)

293.137 Election of delegates to county convention; procedure if precinct fails to elect delegates; certificates given to elected delegates; party to adopt procedural rules.

1. Promptly at the time and place appointed therefor, the mass meeting must be convened and organized for each precinct. If access to the premises appointed for any such meeting is not available, the meeting may be convened at an accessible place immediately adjacent thereto. The meeting must be conducted openly and publicly and in such a manner that it is freely accessible to any registered voter of the party calling the meeting who resides in the precinct and is desirous of attending the meeting, until the meeting is adjourned. At the meeting the delegates to which the members of the party residing in the precinct are entitled in the party's county convention must be elected by ballot. The result of the election must be certified to the county convention of the party by the chairman and the secretary of the meeting upon the forms specified in subsection 3.

2. At the precinct meetings, the delegates and alternates to the party's convention must be elected. If a meeting is not held for a particular precinct at the location specified, that precinct must be without representation at the county convention unless the meeting was scheduled, with proper notice, and no registered voter of the party appeared. In that case, the meeting shall be deemed to have been held and the position of delegate is vacant. If a position of delegate is vacant, it must be filled by the designated alternate, if any. If there is no designated alternate, the county central committee shall appoint a delegate from among the qualified members of the party residing in the precinct in which the vacancy occurred, and the secretary of the county

central committee shall certify the appointed delegate to the county convention.

3. The county central committee shall prepare and number serially a number of certificate forms equal to the total number of delegates to be elected throughout the county, and deliver the appropriate number to each precinct meeting. Each certificate must be in duplicate. The original must be given to the elected delegate, and the duplicate transmitted to the county central committee.

4. All duplicates must be delivered to the chairman of the preliminary credentials committee of the county convention. Every delegate who presents a certificate matching one of the duplicates must be seated without dispute.

5. Each major political party shall adopt written rules not less than 95 days before the date set by the state central committee or fixed by law for the county convention or by January 1 of the calendar year of the national convention or conference, whichever is earlier, governing, but not limited to, the following procedures:

- (a) The selection, rights and duties of committees of a convention;
- (b) Challenges to credentials of delegates; and
- (c) Majority and minority reports of committees.

(Added to NRS by 1960, 240; A 1967, 842; 1979, 1351; 1981, 27; 1989, 224)

293.140 County conventions: Manner of organization; authorized action of delegates.

1. At a time and date set by the respective state central committees in each year in which a general election is to be held, the delegates so elected to each party county convention shall convene at the county seat, or at such other place in the county as the county central committee shall designate, and there organize, elect the delegates to which the registered voters of the party residing in the county are entitled in the state convention of the party, and elect the members of the county central committee of their party for the ensuing term. They may also adopt a county platform and take such other action, consistent with the provisions of this chapter, pertaining to the affairs of their party in that county, as they may deem proper.

2. The manner of organizing each convention must be as follows:

(a) The county central committee shall, before the date of the convention, designate a preliminary credentials committee to examine the credentials of all persons claiming to be delegates. All such persons whose credentials are not in dispute must be seated as delegates.

(b) The persons so seated shall elect a temporary chairman, who shall appoint a temporary secretary and a credentials committee to examine and report on all cases of disputed credentials.

(c) When all such disputes have been determined, the convention shall complete its organization and adopt its agenda.

3. The chairman and the secretary of each county convention shall certify to the state convention the result of the election by the county convention of delegates to the state convention.

(Added to NRS by 1960, 240; A 1967, 843; 1971, 436; 1973, 595; 1987, 1365)

293.143 County central committee: Number; change in membership.

1. The county central committee of a major political party to be elected by the county convention of the party must consist of such number of members as may be determined by the convention, but each voting precinct, entitled to one or more delegates in the convention, is entitled to have at least one committeeman and no precinct may have more committeemen than its authorized number of delegates to the county convention.

2. After the county convention of the party, the composition of the county central committee may be changed by the county central committee to reflect changes in the organization of precincts and in the number of registered voters of the party, using the same standards adopted by the party to elect delegates to the county convention.

(Added to NRS by 1960, 240; A 1981, 1698; 1985, 568; 1989, 225)

293.145 Number of delegates to state convention. The number of delegates to the state convention of each party which shall be chosen at each county convention of such party shall be one delegate for each 150 registered voters of that party, or major fraction of such number, residing in such county; but each county shall be entitled to at least one delegate.

(Added to NRS by 1960, 240; A 1967, 1208)

293.150 State conventions: Place and actions; additional conventions.

1. The delegates elected to the state convention of each major political party by the several county conventions of that party shall convene on such respective dates as the state central committees of the parties designate in each year in which the general election is to be held, at the state capital, or at such other place in the state as the state central committee of that party designates. The delegates shall there organize, adopt a state party platform, and elect a state central committee for that party for the ensuing term and the chairman thereof.

2. The state central committee of each major political party may convene additional state conventions of its party at such times and places as it designates during the period between the state conventions, as provided in subsection 1, and the next ensuing precinct meetings, as provided in NRS 293.135. The composition of the delegates at those conventions must be the same as that certified pursuant to subsection 3 of NRS 293.140.

(Added to NRS by 1960, 241; A 1973, 595; 1987, 335, 1366; 1989, 225)

293.153 Number of members of state central committee. The state central committee of each major political party shall consist of as many registered voters affiliated with the party as may be determined by the state convention of the party, but there must be at least one member from each county in the state.

(Added to NRS by 1960, 241; A 1971, 437; 1989, 226)

293.155 Rules of county and state conventions; delegate must be qualified elector; unit rule of voting prohibited.

1. Except as otherwise prescribed in this chapter, the state and county party conventions may each adopt its own rules, and each is the judge of the election of its own delegates.

2. No person may act as a delegate at any convention unless he is a duly qualified elector of the county or precinct which he seeks to represent.

3. Adoption or application of the so-called unit rule of voting, whereby the votes of all delegates from any precinct or precincts, or county or counties, are required to be cast in the manner determined by the majority of delegates from that precinct or precincts, county or counties, and against the protest of a minority of the delegates, in the proceedings of any state or county party convention is prohibited.

(Added to NRS by 1960, 241; A 1981, 1698)

—ANNOTATIONS—

Attorney General's Opinions.

Delegate or proxy to convention must be qualified elector and resident of area he represents. Under sec. 24, ch. 283, Stats. 1915, primary election law (cf. NRS 293.155), delegate or his proxy to state convention must be

qualified elector and resident of county he represents, and delegate or his proxy to county convention must be qualified elector and resident of precinct he represents. AGO 96 (9-13-1915)

293.157 State and county central committees: Terms of office; termination of membership; vacancies.

1. The state and county central committeemen shall serve for 2 years and until their successors have been elected.

2. The membership of a member of a county or state central committee may be terminated only for cause by a vote of a majority of the membership present at a regular meeting of the committee.

3. If such membership is terminated or if any position on the county or state central committee remains unfilled at the county or state convention, the position, if filled, must be filled by a vote of a majority of the membership present at a regular or special meeting of the committee.

4. If a vacancy occurs among the officers of a county or state central committee, the vacancy must be filled by the membership present by ballot at a regular or special meeting of the committee.

(Added to NRS by 1960, 241; A 1987, 1515)

293.160 State and county central committees: Election of officers and executive committee; other powers.

1. Each state central committee and each county central committee may elect from its membership an executive committee and shall, except as otherwise provided in this chapter, choose its officers by ballot.

2. Any elections to choose the officers of a county central committee must be held, beginning in 1983, in odd-numbered years and during regular meetings of the committee. The terms of officers so elected are 2 years, and the officers are eligible for reelection to their positions. The officers shall assume their offices and serve as provided in the bylaws and regulations of the central committee.

3. Each committee and its officers have general charge of the affairs of the party in the state or county, as the case may be, and have the powers usually exercised by such committees and their officers, subject to the provisions of this chapter.

(Added to NRS by 1960, 241; A 1981, 1698)

293.161 Right of participation as delegate to county or state convention or member of county or state central committee. A person's right to participate or vote as a delegate to a county or state convention or as a member of a county or state central committee may not be conditioned upon the payment of money, except that a reasonable fee may be charged to attend a county or state convention.

(Added to NRS by 1987, 1515)

293.163 Selection of delegates and alternates to national party convention and members of national committee by state convention in presidential election year.

1. In presidential election years, on the call of a national party convention, but one set of party conventions and but one state convention shall be held on such respective dates and at such places as the state central committee of the party shall designate. If no earlier dates are fixed, the state convention shall be held 30 days prior to the date set for the national convention and the county conventions shall be held 60 days prior to the date set for the national convention.

2. Delegates to such conventions shall be selected in the same manner as prescribed in NRS 293.130 to 293.160, inclusive, except as to time, and each convention shall have and exercise all of the power granted it under NRS 293.130 to 293.160, inclusive. In addition to such powers granted it, the state convention shall select the necessary delegates and alternates to the national convention of the party, and, if consistent with the rules and regulations of the party, shall select the national committeeman and committeewoman of the party from the State of Nevada.

(Added to NRS by 1960, 242)

293.165 Procedure for filling vacancy in party or nonpartisan nomination.

1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a party nomination for office may be filled by a candidate designated by the party central committee of the county or state, as the case may be, subject to the provisions of subsections 3 and 4.

2. A vacancy occurring in a nonpartisan nomination after a primary election and before the second Tuesday in September must be filled by the person who received the next highest vote for the nomination in the primary.

3. No change may be made on the ballot after the second Tuesday in September of the year in which the general election is held. If a nominee dies after that date, his name must remain on the ballot and, if elected, a vacancy exists.

4. All designations provided for in this section must be filed before 5 p.m. of the second Tuesday in September. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed before 5 p.m. of that date.

(Added to NRS by 1960, 242; A 1965, 668; 1967, 845; 1971, 437; 1981, 1698; 1989, 2159)

—ANNOTATIONS—

Nevada Cases.

Court refused under circumstances to consider whether county health officer was prohibited from serving on county central committee. Where county health officer acted as member of county central committee in appointing successor nominee under sec. 27, ch. 3, ch. 284, Stats. 1913 (cf. NRS 293.165), after death of party nominee for justice of the peace, court refused to consider on petition for writ of prohibition to prevent placing of successor's name on ballot whether health officer was prohibited by statute from serving on committee, because attack was indirect and health officer was at least de facto member of committee. *State ex rel. Busted v. Harmon*, 38 Nev. 5, 143 Pac. 1183 (1914)

Electors of judicial district could nominate by petition successor to judge for unexpired term when judge died after primary election and before general election. Where district court judge died after primary election and 22 days before general election, leaving 3 years of his term of office unexpired, qualified electors of his judicial district were permitted to make nomination for his successor by petition under provisions of RL 2812 (cf. NRS 3.080) authorizing election of someone to fill unexpired term where vacancy occurs before general election, and provisions

of sec. 25, ch. 155, Stats. 1917 (cf. NRS 293.165), authorizing vacancy in nonpartisan nomination to be filled by petition under specified circumstances. *Ex rel. Penrose v. Greathouse*, 48 Nev. 419, 233 Pac. 527 (1925)

Word "vacancies" defined. Word "vacancies" as used in sec. 25, ch. 155, Stats. 1917 (cf. NRS 293.165), in respect to nonpartisan nominations means vacancy in some such nomination. *Ex rel. Penrose v. Greathouse*, 48 Nev. 419, 233 Pac. 527 (1925), cited, *Brown v. Georgetta*, 70 Nev. 500, at 509, 275 P.2d 376 (1954)

Statute neither repeals nor limits other provisions concerning conduct of election to fill vacancy in nonpartisan office occurring shortly before general election. Provisions of sec. 25, ch. 155, Stats. 1917 (cf. NRS 293.165), authorizing filling of vacancy in nonpartisan nomination under certain circumstances after holding of primary election by filing petition on or before 15 days before general election, neither repeal nor limit provisions of RL 2812 (cf. NRS 3.080) touching conduct of election to fill vacancy in such office occurring shortly before general election. *Ex rel. Penrose v. Greathouse*, 48 Nev. 419, 233 Pac. 527 (1925)

Statute applicable when U.S. Senator dies after primary election and before general election. Where U. S. Senator died after primary election and before general election, 1943 NCL § 2429, as amended by sec. 25, ch. 145, Stats. 1947 (cf. NRS 293.165), providing that when vacancy in party nomination occurs after primary election the appropriate party central committee may designate candidate, was applicable, because death created vacancy in office which had to be filled at general election, and because there were no candidates for such office, there was vacancy in nomination. *Brown v. Georgetta*, 70 Nev. 500, 275 P.2d 376 (1954), cited, *Kelly v. Reed*, 76 Nev. 389, at 391, 355 P.2d 969 (1960)

Central committee could designate successor to candidate who died before general election where both candidates at primary election were members of same party; purpose of statute. Where both candidates nominated for office at primary election were members of same political party, death of one candidate before general election created vacancy in party nomination to be filled by candidate designated by central committee of that party pursuant to NRS 293.165, because purpose of statute and NRS 293.260, providing that where only one political party has candidates for office two highest in primary are nominees for general election, was to remove possibility that nomination at primary be equivalent to absolute election. *State ex rel. Springer v. Koontz*, 87 Nev. 111, 482 P.2d 301 (1971)

Attorney General's Opinions.

Petition to nominate candidate for nonpartisan office may be deemed petition to fill vacancy in nomination when no candidate nominated at primary election. Although candidate for nonpartisan office may not be nominated by petition pursuant to sec. 31, ch. 155, Stats. 1917, primary election law (cf. NRS 293.200), such petition, if otherwise proper, may be deemed petition to fill vacancy in nomination pursuant to sec. 25, ch. 155, Stats. 1917, primary election law (cf. NRS 293.165), if no candidate was nominated at primary. AGO 224 (8-29-1918)

Vacancy in nomination may be filled only when vacancy due to death or insanity; no voluntary withdrawal by nominated candidates. Provisions of sec. 25, ch. 155, Stats. 1917, primary election law (cf. NRS 293.175

et seq.), regarding filling vacancy in nominations, apply only to vacancy occurring by death or insanity of nominee, since sec. 5, ch. 155, Stats. 1917 (cf. NRS 293.177), prohibits voluntary withdrawal by nominated candidates. AGO 229 (9-16-1918)

Vacancy may not be filled unless nomination made. Vacancy that is permitted to be filled must be one that occurs after nomination has been made. Mere facts that no one has filed to become candidate for given office and that there is, therefore, no candidate for such office do not create vacancy. AGO 174 (9-10-1920)

Power of county central committee to fill nomination when candidate dies. Where candidate for office dies, county central committee of his party has power to fill nomination by appointment of member of same party, who then becomes candidate at general election. AGO 158 (8-21-1944)

Statute applicable to vacancy in office of justice of supreme court. Person seeking election to fill vacancy in office of justice of supreme court should follow procedure set forth in NCL § 2429 (cf. NRS 293.165). AGO 344 (8-21-1946)

Acceptability of petitions to fill vacancies in nonpartisan nominations despite failure to certify nominees immediately after primary election. Petitions to fill vacancies in nonpartisan nominations must be accepted if offered for filing pursuant to NCL § 2429 (cf. NRS 293.165), despite provisions of NCL § 2470 (cf. NRS 293.190) requiring certification of nominees "immediately following the primary election." Under such circumstances, certification should be made "as soon as may be." AGO 372 (9-27-1946)

Statute applicable where names of two candidates from party omitted from primary ballot and one candidate dies after primary but before general election. Where names of two party candidates are omitted from primary ballot because they are only candidates for office and one such candidate dies after primary but before general election, vacancy in nomination exists and should be filled in manner provided in NCL § 2429 (cf. NRS 293.165). AGO 373 (9-30-1946). But see AGO 360 (9-29-1966)

Statute applicable to vacancies in nominations for hospital trustee. Office of hospi-

tal trustee being nonpartisan office, vacancies in nominations for such office should be filled in manner provided in NCL § 2429 (cf. NRS 293.165). AGO 376 (10-7-1946)

Appointment to fill vacancy where county officer resigns after primary election. Where county officer resigns after primary election, county commissioners should make appointment to fill vacancy until November election and county central committees should pick candidates to go on ballot. AGO 657 (7-26-1948)

Party candidate may not fill vacancy of incumbent who files for reelection as independent candidate for partisan office, who is only candidate, and who dies after primary but before general election. Where incumbent who files for reelection as independent candidate for partisan office, is only candidate for such office and dies after primary but prior to general election, vacancy in nomination may be filled only by independent candidates who must file and qualify in manner provided in 1943 NCL § 2435 (cf. NRS 293.200). Party candidates may not be appointed to fill such vacancy. AGO 335 (5-27-1954)

Scope of term "vacancies." Term "vacancies" in NCL § 2429 (cf. NRS 293.165) is not limited to vacancies on nomination list, but also includes vacancy occurring in office after primary election, but before general election. AGO 350 (10-1-1954)

Procedure where vacancy created in office of district attorney before general election and after last day to file declaration of candidacy. Where vacancy is created in office of district attorney prior to biennial general election but subsequent to last day of filing declaration of candidacy under NRS 294.120 (cf. NRS 293.177), such office shall be placed upon ballot for next biennial general election and party nominees shall be provided in manner prescribed by NRS 294.300 (cf. NRS 293.165), relating to vacancies in party nomination after primary election. AGO 179 (9-20-1960)

Appointment to fill office of hospital trustee when nominee's name cannot be placed on ballot for general election. Where vacancy occurs on board of county hospital trustees and nominee's name cannot be placed on ballot for general election in November

under NRS 293.165, necessity exists for appointment to be made to fill such vacancy by board of county commissioners, as provided by NRS 450.110, in same manner as original appointment is made under NRS 450.070. Such appointee holds office until next general election. AGO 179 (10-21-1964)

Time within which procedure required by statute must be followed. Where vacancy occurs in public office after primary election and before general election, provision is made by NRS 293.165 for placing name of nominee for such vacant office on general election ballot, but procedure required under this section must be followed before 5 p.m. of 1st Wednesday of October. AGO 179 (10-21-1964)

Statute applicable only when candidates are of opposing political parties. Where two candidates of same political party are only candidates for same county office and one of such candidates dies after primary election but before general election, another candidate cannot be nominated pursuant to NRS 293.165 by that political party to oppose remaining candidate because NRS 293.165 only applies where candidates are of opposing political parties. AGO 360 (9-29-1966). But see AGO 373 (9-30-1946)

Death of one candidate out of two from same political party did not create vacancy in nomination for other parties. When both candidates nominated for office at primary election were members of same political party, death of one candidate before general election created vacancy in party nomination to be filled by candidate to be designated by central committee of that party pursuant to NRS 293.165. Death did not create vacancy in nomination for other political parties because they did not nominate any candidates for primary election. AGO 685 (9-29-1970)

Procedure where county officer resigns after last day to file declaration of candidacy. Where county officer resigns after last day for filing declaration of candidacy under NRS 293.177, that office must be placed on ballot for next biennial general election because NRS 245.170 limits duration of appointment to fill vacancy, and candidate for that office must be designated pursuant to NRS 293.165, relating to vacancy in party nomination after primary election. AGO 84-4 (2-6-1984)

Procedure where county commissioner resigns after 3rd Tuesday in September of year of general election. Where county commissioner resigns after 3rd Tuesday in September of year in which general election is held, resulting vacancy may not be filled at

ensuing general election by filling vacancy in party nomination pursuant to NRS 293.165, but must be filled pursuant to procedures for appointment contained in NRS 244.040, and that appointment extends through balance of unexpired term. AGO 84-16 (9-12-1984)

293.166 Procedure for filling vacancy in party nomination for office of state senator or assemblyman from multi-county legislative district.

1. A vacancy occurring in a party nomination for the office of state senator or assemblyman from a legislative district comprising more than one county may be filled as follows, subject to the provisions of subsections 2 and 3. The county commissioners of each county all or part of which is included within the legislative district, shall meet to appoint a person of the same political party as the former nominee to fill the vacancy, under the chairmanship of the chairman of the board of county commissioners of the county whose population residing within the district is the greatest. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then the boards shall meet jointly and the chairmen on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a group select one candidate, and the nominee must be chosen by drawing lots among the persons so selected.

2. No change may be made on the ballot after the second Tuesday in September of the year in which the general election is held. If a nominee dies after that date, his name must remain on the ballot and, if elected, a vacancy exists.

3. The designation of a nominee pursuant to this section must be filed with the secretary of state before 5 p.m. of the second Tuesday in September, and the statutory filing fee must be paid with the designation.

(Added to NRS by 1967, 1087; A 1971, 437; 1981, 1699; 1989, 2159)

293.167 Nomination of party candidates for United States Senator or Representative in Congress. Party candidates for United States Senator and Representative in Congress shall be nominated in the same manner as state officers are nominated.

(Added to NRS by 1960, 242)

MINOR POLITICAL PARTIES

293.171 Procedure for qualification.

1. To qualify as a minor political party an organization must file with the secretary of state a certificate of existence which includes the:

- (a) Name of the political party;
- (b) Names of its officers;
- (c) Names of the members of its executive committee; and
- (d) Name of the person authorized to file the list of its candidates with the secretary of state.

2. A copy of the constitution or bylaws of the party must be affixed to the certificate.

3. A minor political party shall file with the secretary of state an amended certificate of existence within 5 days after any change in the information contained in the certificate.

4. The constitution or bylaws of a minor political party must provide a procedure for the nomination of its candidates in such a manner that only one candidate may be nominated for each office.

5. A minor political party whose candidates do not appear on the ballot for the general election must file a notice of continued existence with the secretary of state not later than the second Friday in August preceding the general election.

6. A minor political party which fails to file a notice of continued existence as required by subsection 5 ceases to exist as a minor political party in this state.

(Added to NRS by 1987, 1359; A 1989, 2160)

293.1715 Candidates: Appearance of names on ballot.

1. The names of the candidates of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates of a minor party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates pursuant to NRS 293.1725 with the secretary of state and:

(a) At the last preceding general election, the minor political party polled for any of its candidates a number of votes equal to or more than 3 percent of the total number of votes cast for Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as a political party on the affidavits of registration of at least 3 percent of the total number of registered voters in the state; or

(c) Not later than the second Friday in August preceding the general election, files a petition with the secretary of state which is signed by at least 3 percent of the total number of votes cast at the last preceding general election for Representative in Congress.

3. The name of only one candidate of each minor political party for each office may appear on the ballot for a general election.

(Added to NRS by 1987, 1360; 1989, 2160)

293.172 Candidates: Contents of petition; signatures.

1. A petition filed pursuant to paragraph (c) of subsection 2 of NRS 293.1715 may consist of more than one document. Each document of the petition must:

(a) Bear the name of a county and include the affirmation of at least one of its signers that the signers are registered voters in the state according to his best information and belief and that the signatures are genuine and were signed in his presence; and

(b) Be submitted to the county clerk in the county in which they are circulated for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 65 days before the 2nd Friday in August.

2. A document which bears the name of a county may be signed only by registered voters of that county.

(Added to NRS by 1987, 1360)

293.1725 Candidates: Submission of list to secretary of state; declaration of candidacy.

1. A minor political party which desires to place its candidates on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715; or

(b) Files a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715,

must file with the secretary of state a list of its candidates not earlier than January 1 preceding the election nor later than the last Friday in June. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments.

2. The secretary of state shall immediately transmit a certified copy of the list of candidates of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

3. Each candidate on the list must file his declaration of candidacy with the proper filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates of his minor political party is filed with the secretary of state nor later than the first Wednesday in July.

(Added to NRS by 1987, 1360; A 1989, 2161)

293.174 Challenge of qualification.

1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the 3rd Friday in August. Any judicial proceeding resulting from the

challenge must be set for hearing not more than 5 days after the 3rd Friday in August.

2. Any such challenge must be filed with the first judicial district court if the petition was filed with the secretary of state.

(Added to NRS by 1987, 1361)

NOMINATIONS

293.175 Date of primary election; nomination of candidates; applicability of provisions governing nominations.

1. The primary election must be held on the first Tuesday of September in each even-numbered year.

2. Candidates of a major political party and candidates for nonpartisan offices must be nominated at the primary election.

3. Candidates of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

(Added to NRS by 1960, 243; A 1963, 1387; 1983, 1116; 1985, 268; 1987, 1366; 1989, 226)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.1755 Residence requirements for candidates: Additional requirement; penalties; exception.

1. In addition to any other requirement provided by law, no person may be a candidate for any office unless, for at least 30 days before the close of filing of declarations of candidacy, acceptances of candidacy or affidavits of candidacy for the office which he seeks, he has been a legal resident of the state, district, county, township, city or other area prescribed by law to which the office pertains and, if elected, over which he will have jurisdiction or which he will represent.

2. Any person who knowingly and willfully files an acceptance of candidacy, affidavit of candidacy or declaration of candidacy which contains a false statement in this respect is guilty of a gross misdemeanor.

3. Any person convicted pursuant to the provisions of this section is disqualified from entering upon the duties of the office for which he was a candidate.

4. The provisions of this section do not apply to candidates for the office of district attorney.

(Added to NRS by 1975, 617; A 1983, 1103; 1989, 2161)

—ANNOTATIONS—

Attorney General's Opinion.

Residence within township unnecessary for appointment to office of justice of the peace. If vacancy occurs in office of justice of the peace and county commissioners elect, pursuant to NRS 4.150, to fill vacancy by appointment, residency restrictions of NRS 281.050 and 293.1755 do not apply to applicants for appointment and county commissioners need only appoint "suitable person" (see NRS 4.150 and 245.170) which means one who is qualified elector meeting qualifications set forth in Nev. Art. 2, § 1. Residence within township to which office pertains is unnecessary for appointment to that office. AGO 87-13 (7-30-87)

Residency requirements for candidate for office of justice of the peace. For purposes of NRS ch. 293, justice of the peace is township officer (see NRS 293.193), therefore, candidate for election to office of justice of the peace must, pursuant to NRS 293.1755, be resident of particular township to which office pertains at least 30 days before close of filing of declaration of candidacy. If candidate moves from township subsequent to filing declaration of candidacy, vacancy is created. (See NRS 281.050.) AGO 87-13 (7-30-87)

293.176 When candidacy for party nomination prohibited; exception.

1. Except as otherwise provided in subsection 2, no person may be a candidate for a party nomination in any election if he has changed the designation of his political party affiliation on an official affidavit of registration in the State of Nevada or in any other state since the September 1 next preceding the closing filing date for the election, whether or not his previous registration was still effective at the time of the change in party designation.

2. The provisions of subsection 1 do not apply to any person who is a candidate for a party nomination of a political party which was not qualified as such on the September 1 next preceding the closing filing date for the election.

(Added to NRS by 1963, 1373; A 1971, 1551; 1979, 491; 1987, 690; 1989, 2161)

—ANNOTATIONS—

Nevada Cases.

Statute inapplicable to new political party formed after September 1 of preceding year. Provisions of NRS 293.176, prohibiting person who had changed designation of political party affiliation since previous September 1 from being candidate for party nomination, had no application to new political party which came into existence after September 1 of preceding year. *Long v.*

Swackhamer, 91 Nev. 498, 538 P.2d 587 (1975)

Attorney General's Opinions.

Person changing party affiliation since last primary election prohibited from seeking party nomination and from filing as independent candidate. Person who has changed his political party affiliation since last primary election is prohibited from seeking party nomination in next primary election by

....., State of Nevada; that my actual residence therein began on a date 30 days or more before the date of the close of filing of declarations of candidacy for this office; that I am registered as a member of the Party; that I have not changed the designation of my political party affiliation on an official affidavit of registration in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this state; that I will qualify for the office if elected thereto; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
 (Designation of name)

 (Signature of candidate for office)

Subscribed and sworn to before me this day of, 19...

.....
 Notary Public (or other person authorized to administer an oath)

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
 OFFICE OF

STATE OF NEVADA }
 } SS.
 COUNTY OF..... }

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear (or affirm) that I reside at No., Street, in the City (or Town) of, County of, State of Nevada; that my actual residence therein began on a date 30 days or more before the date of the close of filing of declarations of candidacy for this office; that if nominated as a nonpartisan candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and

elections in this state; and that I will qualify for the office if elected thereto; and my name will appear on all ballots as designated in this declaration.

.....
 (Designation of name)

.....
 (Signature of candidate for office)

Subscribed and sworn to before
 me this day of, 19...

.....
 Notary Public (or other person
 authorized to administer an oath)

3. A person may be a candidate under the name by which he is a voter, or under any other name which he has borne and by which he is known in the community where he resides.

4. An affidavit of candidacy must be in substantially the same form as the form set forth in paragraph (b) of subsection 2.

5. The address of a candidate which must be included in the declaration of candidacy or acceptance of a candidacy pursuant to subsection 2 must be the street address of the residence where he actually resides, if one has been assigned. The declaration or acceptance must not be accepted for filing if the candidate's address is described as a box in a post office unless a street address has not been assigned to his residence.

(Added to NRS by 1960, 243; A 1961, 285; 1963, 1372; 1967, 859; 1971, 438, 1551; 1975, 617; 1977, 240; 1979, 262, 635; 1983, 1116; 1985, 1218; 1989, 178, 1728, 2162)

—ANNOTATIONS—

Nevada Cases.

Candidate who filed for nomination and had no opposition could not withdraw. Whether candidate nominated at primary election may have his name omitted from general election ballot is matter of policy for legislature, and where legislature forbids withdrawal of candidates nominated at primary, court cannot allow candidates to withdraw even for deserving reasons. Sec. 7, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.177), which requires that candidate filing for nomination swear that if nominated he will accept such nomination and not withdraw, and where candidate had no opposition, he was in effect nominated pursuant to sec. 14, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.260), and therefore could not withdraw. State ex rel. Thatcher v. Brodigan,

37 Nev. 458, 142 Pac. 520 (1914), cited, State ex rel. Maxson v. Brodigan, 37 Nev. 488, at 489, 143 Pac. 306 (1914), Kelly v. Reed, 76 Nev. 389, at 394, 355 P.2d 969 (1960)

Declaration of party membership is prerequisite to nomination; purpose of law. Where sec. 7, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.177), required that candidate for party nomination file affidavit declaring his party membership, and that this was party with which he was affiliated at last election, such declarations were prerequisite to nomination, and candidate could not seek nomination of two parties because object of primary law was to eliminate one political party from primary election of another. State ex rel. Thatcher v. Brodigan, 37 Nev. 458, 142 Pac.

520 (1914), cited, *Reed v. State ex rel. Stewart*, 76 Nev. 361, at 366, 354 P.2d 858 (1960)

Person filing as candidate for nomination of one party could not thereafter file as candidate for nomination of another party. Where person filed as candidate for nomination of Progressive party for office of attorney general and thereafter filed as candidate for nomination of Republican party for same office, affidavit required to be filed by sec. 7, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.177), in effect provided that person could be candidate for nomination of one party only with which he had been affiliated at last general election, and writ of prohibition issued prohibiting secretary of state from certifying such person as candidate for nomination of Republican party. *State ex rel. Thatcher v. Brodigan*, 37 Nev. 458, 142 Pac. 520 (1914) cited, *Reed v. State ex rel. Stewart*, 76 Nev. 361, at 366, 354 P.2d 858 (1960)

Second of two candidates filing for party nomination could not withdraw after withdrawal of first. Where two candidates filed for party nomination for office of attorney general, and one withdrew, second was not permitted to withdraw, because on withdrawal of first candidate the second became nominee of party and as such was prevented from withdrawing by provisions of sec. 14, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.260), and sec. 7, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.177), and writ of prohibition issued prohibiting secretary of state from allowing name of second candidate to be withdrawn. *State ex rel. Thatcher v. Brodigan*, 37 Nev. 458, 142 Pac. 520 (1914), cited, *State ex rel. Maxson v. Brodigan*, 37 Nev. 488, at 489, 143 Pac. 306 (1914), *Kelly v. Reed*, 76 Nev. 389, at 394, 355 P.2d 969 (1960)

Attorney General's Opinions.

Same person cannot be nominated for same office by more than one party. Two political parties cannot nominate by primary same person for same office, nor can fusion be effected through nomination by petition of electors in view of provisions of secs. 5 and 31, ch. 155, Stats. 1917 (cf. NRS 293.177 and 293.200), regulating nomination of candidates. AGO 66 (7-21-1917)

Vacancy in nomination may be filled only when vacancy due to death or insanity; no voluntary withdrawal by nominated candidates. Provisions of sec. 25, ch. 155, Stats.

1917, primary election law (cf. NRS 293.175 et seq.), regarding filling vacancy in nominations, apply only to vacancy occurring by death or insanity of nominee, since sec. 5, ch. 155, Stats. 1917 (cf. NRS 293.177), prohibits voluntary withdrawal by nominated candidates. AGO 229 (9-16-1918)

Party candidate may withdraw before time for filing nomination papers expires; may not then become candidate of another party. Party candidate may withdraw at any time prior to expiration of time for filing nomination papers, but he may not become candidate of another party at same election. AGO 243 (8-3-1926)

Nomination papers filed when received by proper officer and not when mailed. Nomination papers must be received in office of proper filing officer within time provided by law for filing same, deposit of such papers in United States mail does not constitute filing of same. AGO B-7 (8-16-1940)

Elector with no political affiliations may reregister as affiliate of political party after general election. Elector who has no political affiliations and is registered as nonpartisan may reregister after general election to affiliate with political party and thereby qualify to become candidate of such party at next primary election. AGO 300 (5-7-1946)

Limitation on candidacy of person who changes party affiliation by reregistering after general election. Person who changes political affiliation from one party to another by reregistering after general election may not be candidate of such party at ensuing primary election. AGO 898 (3-30-1950); AGO B942 (8-9-1950)

Candidate for nomination in primary election may withdraw at any time before nomination. Candidate for nomination in primary election may withdraw at any time prior to his nomination even though his name has already been printed on primary ballot. AGO 188 (7-24-1956)

Person filing nonpartisan declaration of candidacy for partisan office is not proper candidate. Person who files nonpartisan declaration of candidacy for office of constable, which is not nonpartisan office, is not proper candidate and his name should not be placed on either primary ballot or general election ballot. AGO 194 (8-6-1956)

Only two candidates filing for nonpartisan office are deemed nominated and cannot withdraw. Where only two candidates file for nonpartisan office, both are deemed nominated as of date set by law for closing of filing, and neither candidate can thereafter withdraw his name from general election ballot. AGO 205 (9-10-1956)

Eligibility after party affiliation changed. Candidate is not eligible to file for office if he has changed his party affiliation since last general election. AGO 374 (4-22-1958)

Appointment to fill vacancy occurring in office of district attorney before general election and after last day to file declaration of candidacy may not extend beyond next biennial election. Under NRS 252.060 and 245.170, relating to vacancies in office of district attorney and filling of vacancies in county or township offices by board of county commissioners, where vacancy is created in office of district attorney prior to biennial general election and subsequent to last day for filing declaration of candidacy under NRS 294.120 (cf. NRS 293.177), appointment to fill such vacancy may not extend beyond next biennial election. AGO 179 (9-20-1960)

Procedure where vacancy created in office of district attorney before general election and after last day to file declaration of candidacy. Where vacancy is created in office of district attorney prior to biennial general election but subsequent to last day of filing declaration of candidacy under NRS 294.120 (cf. NRS 293.177), such office shall be placed upon ballot for next biennial general election and party nominees shall be provided in manner prescribed by NRS 294.300 (cf. NRS 293.165), relating to vacancies in party nomination after primary election. AGO 179 (9-20-1960)

Registration under assumed name invalid. Under NRS 293.517, which requires elector in completing affidavit of registration to give true and satisfactory answers, registration

under assumed name would not be valid, and person so registered could not meet requirements of NRS 293.177 for candidacy for public office. AGO 311 (3-15-1966)

Nickname may be incorporated in declaration of candidacy. In signing declaration of candidacy under NRS 293.177, person may incorporate into his name a nickname which more positively identifies him to voters. AGO 311 (3-15-1966)

Permissible use of names by married woman filing as candidate. Under NRS 293.517, which provides manner of registering name of married female elector and requires change of registration upon change of name, and NRS 293.177, which requires declaration of candidacy to include averment of registration, married woman must file as candidate using her own given name and her husband's surname, but may insert her maiden name for identification. AGO 311 (3-15-1966)

Statute constitutional; candidate in nonpartisan primary election need not be registered voter but must be qualified elector. Provisions of NRS 293.177, requiring political party primary candidate to be registered voter of party for which he seeks nomination, do not conflict with Nev. Art. 15, § 3, relating to eligibility to public office. Candidate in nonpartisan primary election need not be registered voter but must be qualified elector. AGO 197 (1-27-1976)

Procedure where county officer resigns after last day to file declaration of candidacy. Where county officer resigns after last day for filing declaration of candidacy under NRS 293.177, that office must be placed on ballot for next biennial general election because NRS 245.170 limits duration of appointment to fill vacancy, and candidate for that office must be designated pursuant to NRS 293.165, relating to vacancy in party nomination after primary election. AGO 84-4 (2-6-1984)

293.180 Certificates of candidacy: Requirements; filing; acceptance of candidacy.

1. Ten or more registered voters may, not earlier than the first Monday in April nor later than 5 p.m. on the first Friday in May, file a certificate of candidacy designating any registered voter as a candidate for his major political party's nomination for any partisan elective office, or as a candidate

for nomination for any nonpartisan office. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

2. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

(Added to NRS by 1960, 244; A 1963, 1387; 1971, 439; 1983, 1117; 1987, 1366; 1989, 226, 1729)

-ANNOTATIONS-

Attorney General's Opinions.

Verification unnecessary; when one person my file on behalf of all signers. Designation of nomination need not be verified and, if it contains requisite number of signatures, may be offered for filing by one person on behalf of all signers. AGO 316 (6-26-1946)

Voters designating candidate need only be of same political party when certificate of

candidacy filed. Under NRS 293.180, the ten or more registered voters who designate candidate need only be of same political party as candidate at time of filing certificate of candidacy, because statute does not place time requirement or time limitation of any kind upon party membership of registered voters who designate candidate by certificate of candidacy. AGO 627 (11-3-1969)

293.181 Declaration of residency required of candidate for office of state senator or assemblyman.

1. A candidate for the office of state senator or assemblyman shall execute and file with his declaration of candidacy or acceptance of candidacy a declaration of residency which must be in substantially the following form:

I, the undersigned do swear (or affirm) that I have been a citizen resident of this state as required by NRS 218.010 and have resided at the following residence or residences during the 12 months immediately preceding the filing of my declaration or acceptance of candidacy.

.....
Street Address

.....
Street Address

.....
City or Town

.....
City or Town

.....
State
From To
Dates of Residency

.....
State
From To.....
Dates of Residency

.....
Street Address

.....
Street Address

.....
City or Town

.....
City or Town

.....
State
From To

.....
State
From To.....

Dates of Residency
(Attach additional sheet or sheets of residences as necessary)

Dates of Residency

2. Each address of a candidate which must be included in the declaration of residency pursuant to subsection 1 must be the street address of the residence where he actually resided or resides, if one has been assigned. The declaration of residency must not be accepted for filing if any of the candidate's addresses are described as a box in a post office, unless a street address has not been assigned to the residence.

(Added to NRS by 1981, 1037; A 1989, 179)

293.185 Offices for filing declarations, certificates and acceptances of candidacies. The declaration of candidacy, the certificate of candidacy and the acceptance of candidacy must be filed during regular office hours, as follows:

1. For United States Senator, Representative in Congress, statewide offices, state senators and assemblymen to be elected from districts comprising more than one county, and all other offices whose districts comprise more than one county, with the secretary of state.

2. For Representative in Congress and district offices voted for wholly within one county, state senators and assemblymen to be elected from districts comprising but one or part of one county, county and township officers, with the county clerk.

(Added to NRS by 1960, 244; A 1965 Special Session, 4; 1983, 1287; 1987, 1367)

—ANNOTATIONS—

Attorney General's Opinions.

Nomination papers filed when received by proper officer and not when mailed. Nomination papers must be received in office

of proper filing officer within time provided by law for filing same, deposit of such papers in United States mail does not constitute filing of same. AGO B-7 (8-16-1940)

293.187 Certification of names of persons for whom candidacy papers have been filed by secretary of state to county clerks.

1. On or before the third Monday in May, the secretary of state shall transmit to each county clerk a certified list containing the name and mailing address of each person for whom candidacy papers have been filed in the office of the secretary of state, and who is entitled to be voted for in the county at the next succeeding primary election, together with the title of the office for which the person is a candidate and the party or principles he represents.

2. There must be a party designation only for candidates for partisan offices.

(Added to NRS by 1960, 244; A 1983, 1118; 1989, 1729)

—ANNOTATIONS—

Attorney General's Opinions.

Only two candidates filing for same nonpartisan office are nonpartisan nominees at general election. Where only two candidates file for same nonpartisan office, such persons stand as nonpartisan nominees at general election and it is unnecessary for secretary of state to certify their names to county clerks for primary election. AGO 214 (8-3-1918)

Name of candidate will not appear on primary ballot when no party contest for office. If there is no party contest for office, name of candidate will not appear on primary ballot and secretary of state should not certify name to county clerks. AGO 244 (8-9-1925)

293.190 Certification to county clerks by secretary of state of names of certain persons nominated. Immediately following the primary election at which candidates are nominated for any public office, the secretary of state shall certify to each county clerk the name of each person nominated and the title of the office for which he is nominated for all candidates required to file declarations, certificates and acceptances of candidacies in the office of the secretary of state.

(Added to NRS by 1960, 244; A 1961, 285)

—ANNOTATIONS—

Attorney General's Opinions.

Certification of names of candidates for President and Vice President of United States. Names of candidates for President and Vice President of United States must be certified to county clerks by secretary of state. AGO (10-16-1912)

offered for filing pursuant to NCL § 2429 (cf. NRS 293.165), despite provisions of NCL § 2470 (cf. NRS 293.190) requiring certification of nominees "immediately following the primary election." Under such circumstances, certification should be made "as soon as may be." AGO 372 (9-27-1946)

Acceptability of petitions to fill vacancies in nonpartisan nominations despite failure to certify nominees immediately after primary election. Petitions to fill vacancies in nonpartisan nominations must be accepted if

Certification of partial list before final date for filling vacancies. Secretary of state may certify partial list of candidates to county clerks prior to final date for filling vacancies in nominations. AGO 375 (10-4-1946)

293.193 Filing fees.

1. Fees as listed in this section for filing declarations of candidacy or acceptances of candidacy must be paid to the filing officer by cash, cashier's check or certified check.

| | |
|---|-------|
| United States Senator | \$500 |
| Representative in Congress | 300 |
| Governor | 300 |
| Justice of the supreme court | 300 |
| Any state office, other than governor or justice of the supreme court | 200 |
| District judge | 150 |
| Justice of the peace | 100 |
| Any county office | 100 |
| State senator | 100 |

| | |
|---|-----|
| Assemblyman | 100 |
| Any district office other than district judge | 30 |
| Constable or other town or township office | 30 |

For the purposes of this subsection, trustee of a county school district, hospital or hospital district is not a county office.

2. No filing fee may be required from a candidate for an office the holder of which receives no compensation.

3. The county clerk shall pay to the county treasurer all filing fees received by him from candidates. The county treasurer shall deposit one-half of the money to the credit of the general fund of the county and transfer the remainder to the state treasurer for deposit in the state general fund.

(Added to NRS by 1960, 245; A 1967, 845; 1981, 20; 1985, 650; 1987, 691; 1989, 56; 1991, 122, 1603)

—ANNOTATIONS—

Nevada Cases.

Fee for filing as candidate for office is constitutional. Fee of \$100 provided by sec. 9, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.193), for filing as candidate for office of secretary of state is constitutional even though it is more than nominal. Writ of mandamus to require secretary of state to file nomination papers of candidate for office of secretary of state was denied where candidate claimed he could not pay such fee and refused to pay it. State ex rel. Riggle v. Brodigan, 37 Nev. 492, 143 Pac. 238 (1914)

Attorney General's Opinions.

Fees for filing nomination papers required when no contests for nominations. Fees required for filing nomination papers must be paid even though there be no contests for nominations to respective offices to be filled. AGO 125 (7-9-1914)

Filing fee not refundable upon withdrawal. Filing fee may not be refunded upon withdrawal of candidate. AGO 243 (8-3-1926)

Filing officer personally responsible if check for filing fee unpaid; unpaid check not ground to omit candidate's name from ballot. Fact that worthless check was given in payment of filing fee is not ground for omitting candidate's name from ballot, since filing officer has right to insist on payment in cash and is personally responsible if check unpaid. AGO 380 (8-5-1930)

Candidate not entitled to refund of filing fee upon withdrawal. Candidate for office is

not entitled to refund of filing fee upon withdrawal of candidacy. AGO 188 (7-24-1956)

Payment of filing fee by candidates for trustee of school district. In school districts where trustees are compensated for their services, candidates for office of school district trustee must pay filing fee prescribed by NRS 293.193. AGO 666 (5-18-1970)

Statute inapplicable to candidates for trustee of general improvement district. Provision of NRS 293.193, relating to candidate filing fee for district office, does not apply to candidates for position of general improvement district trustee regardless of whether or not trustees receive compensation. AGO 200 (2-24-1976) (cf. AGO 198, 1-28-1976).

Payment of filing fee by candidate for public administrator. Candidate for office of public administrator must pay filing fee as required by NRS 293.193 where he is to receive compensation for holding that office pursuant to NRS 253.050. AGO 84-8 (4-19-1984)

Payment of filing fee by candidate for trustee of general improvement district. Candidate for office of trustee of general improvement district is candidate for district office and is, therefore, required by NRS 293.193 to pay fee for filing declaration of candidacy unless holder of office for which he is running receives no compensation. AGO 86-2 (1-22-1986)

Residency requirements for candidate for office of justice of the peace. For pur-

poses of NRS ch. 293, justice of the peace is township officer (see NRS 293.193), therefore, candidate for election to office of justice of the peace must, pursuant to NRS 293.1755, be resident of particular township to which

office pertains at least 30 days before close of filing of declaration of candidacy. If candidate moves from township subsequent to filing declaration of candidacy, vacancy is created. (See NRS 281.050.) AGO 87-13 (7-30-87)

293.194 Return of filing fee to certain candidates. The filing fee of an independent candidate who files a petition pursuant to NRS 293.200 or 298.109, or of a candidate of a minor political party, must be returned to the candidate by the officer to whom the fee was paid within 10 days after the date on which a final determination is made that the petition of the candidate or minor political party failed to contain the required number of signatures.

(Added to NRS by 1987, 1361)

293.195 Nonpartisan offices.

1. Judicial offices, school offices, the office of county sheriff and members of boards of hospital trustees of public hospitals are hereby designated nonpartisan offices.

2. No words designating the party affiliation of a candidate for nonpartisan offices may be printed upon the ballot.

(Added to NRS by 1960, 245; A 1961, 286; 1969, 1561; 1977, 241; 1989, 410)

293.196 Each office of justice of the supreme court constitutes separate office for nomination and election. For purposes of elections only, the secretary of state shall establish designations which separately identify each office of justice of the supreme court. Before any person is allowed to file a declaration of candidacy for the office of justice of the supreme court, he shall designate the particular office for which he is declaring his candidacy.

(Added to NRS by 1975, 936)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.197 Each department of district court constitutes separate office for nomination and election; ballots used in certain counties.

1. In any judicial district that has more than one district judge, each department is a separate office for the purposes of nominating and electing the district judge of that department.

2. In any judicial district that includes a county whose population is 100,000 or more:

(a) The departments of the family division of the district court must be denoted as such on all ballots and sample ballots, using the words "district court judge, family division, department" Each such department must be

designated with a letter, beginning with "A" and continuing in sequence for each department.

(b) The remaining departments of the district court must be denoted as such on all ballots and sample ballots, using the words "district court judge, department" Each such department must be designated with a numeral, beginning with "1" and continuing in sequence for each department.

(Added to NRS by 1960, 245; A 1991, 2185)

293.198 Each department of justices' court constitutes separate office for nomination and election. In any township which has more than one justice of the peace, each department is a separate office for the purposes of nominating and electing the justice of the peace of that department.

(Added to NRS by 1979, 262)

293.200 Independent candidates: Qualification; petition of candidacy; time limit for challenge; declaration of candidacy.

1. Independent candidates for partisan office must file with the proper filing officer a petition of candidacy signed by a number of registered voters equal to at least 3 percent of the total number of ballots cast in the state or in the county or district electing that officer at the last preceding general election.

2. The petition may consist of more than one document. Each document must bear the name of a county and only registered voters of that county may sign the document. The documents which are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 65 days before filing the petition of candidacy with the proper filing officer. Each signer shall add to his signature the address of the place at which he actually resides and the name of the county where he is registered to vote for the purpose of determining whether he is a registered voter. One of the signers of each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than January 1 preceding the general election and not later than 5 p.m. on the second Friday in August.

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party whose name includes the word "independent."

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in August. Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in August.

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The first judicial district court if the petition of candidacy was filed with the secretary of state.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the proper filing officer and pay the fee required by NRS 293.193 not earlier than January 1 of the year in which the election is held nor later than 5 p.m. of the first Wednesday in July.

(Added to NRS by 1960, 245; A 1961, 286; 1963, 1387; 1971, 440, 1122; 1975, 936; 1979, 403; 1983, 1118; 1987, 1367; 1989, 2164)

—ANNOTATIONS—

Nevada Cases.

Ministerial duty of county clerk to accept certificate of nomination. County clerk as ministerial officer has no more right to reject certificate of nomination because it fails to contain residences of signers, as required by sec. 31, ch. 155, Stats. 1917 (cf. NRS 293.200), than he has to reject certificate because signatures are forged, or do not represent qualified electors, or places of residence are false. State ex rel. Fisler v. Glass, 44 Nev. 235, 192 Pac. 472 (1920)

County clerk must file certificate of nomination without regard to sufficiency of its substance. Where independent candidate for district attorney filed with county clerk certificate of nomination bearing required number of signatures, but not addresses of signers as required by sec. 31, ch. 155, Stats. 1917 (cf. NRS 293.200), county clerk as ministerial officer was required to file certificate, which was duly executed and regular in form, without regard to sufficiency of its substance. Order granting writ of mandamus commanding county clerk to strike such certificate from his files was reversed. State ex rel. Fisler v. Glass, 44 Nev. 235, 192 Pac. 472 (1920)

Substantial compliance with statute where signers of certificate of candidacy failed to provide complete addresses but furnished sufficient information to permit ascertainment that they were registered voters. Where signers of certificate of candidacy

on behalf of independent candidate for governor failed to provide complete addresses but information furnished was sufficient to permit ascertainment that they were registered voters, provisions of NRS 293.200, requiring signer to add place of residence, were substantially complied with and persons were entitled to be counted as signers, because statute did not define term "place of residence" and people engaging in political processes should be allowed reasonable latitude in complying with uncertain statutory directions. Springer v. Mount, 86 Nev. 806, 477 P.2d 159 (1970), cited, Cleland v. Eighth Judicial Dist. Court, 92 Nev. 454, at 456, 552 P.2d 488 (1976), Cirac v. Lander County, 95 Nev. 723, at 730, 602 P.2d 1012 (1979)

Attorney General's Opinions.

Registered member of political party who signs nominating petition of independent candidate may vote in party primary. Elector who has registered as member of political party is not disqualified from signing nominating petition of independent candidate; nor is such elector thereby disqualified from voting in party primary. AGO 135 (8-14-1914)

Elector may sign multiple nominating petitions for independent candidates for different offices. Elector may sign as many nominating petitions for independent candidates as he pleases, providing they are for different offices. AGO 91 (8-18-1916)

Same person cannot be nominated for same office by more than one party. Two political parties cannot nominate by primary same person for same office, nor can fusion be effected through nomination by petition of electors in view of provisions of secs. 5 and 31, ch. 155, Stats. 1917 (cf. NRS 293.177, 293.200), regulating nomination of candidates. AGO 66 (7-21-1917)

Elector may not sign certificates of nomination for multiple independent candidates for same office. Same elector cannot sign certificates of nomination for more than one independent candidate for same office. AGO 180 (4-30-1918)

Names of independent candidates should not be on sample ballot for primary election. Sample ballot for primary election should not contain names of independent candidates since they are not nominated at primary. AGO 205 (7-6-1918)

May not incorporate in same petition more than one nomination for same office. Any number of persons may be nominated for same office by separate and distinct petitions, but incorporating in same petition more than one nomination for same office is prohibited. AGO 215 (8-5-1918)

Petition to nominate candidate for nonpartisan office may be deemed petition to fill vacancy in nomination when no candidate nominated at primary election. Although candidate for nonpartisan office may not be nominated by petition pursuant to sec. 31, ch. 155, Stats. 1917, primary election law (cf. NRS 293.200), such petition, if otherwise proper, may be deemed petition to fill vacancy in nomination pursuant to sec. 25, ch. 155, Stats. 1917, primary election law (cf. NRS 293.165), if no candidate was nominated at primary. AGO 224 (8-29-1918)

Candidates for justice of the peace must be nominated at primary election. Justices of the peace cannot be nominated by independent nomination. Candidates must be nominated at primary election. AGO 231 (9-21-1918)

Signer of certificate of nomination for independent candidate does not lose party standing. Signer of certificate of nomination of independent candidate does not thereby lose party standing and has right to vote in primary. AGO 164 (8-14-1920); AGO 166 (8-21-1920)

Party candidate may not fill vacancy of incumbent who files for reelection as independent candidate for partisan office, who is only candidate, and who dies after primary but before general election. Where incumbent who files for reelection as independent candidate for partisan office, is only candidate for such office and dies after primary but prior to general election, vacancy in nomination may be filled only by independent candidates who must file and qualify in manner provided in 1943 NCL § 2435 (cf. NRS 293.200). Party candidates may not be appointed to fill such vacancy. AGO 335 (5-27-1954)

Person changing party affiliation since last primary election prohibited from seeking party nomination and from filing as independent candidate. Person who has changed his political party affiliation since last primary election is prohibited from seeking party nomination in next primary election by NRS 293.176, and also prohibited from filing as independent candidate by subsection 7 of NRS 293.200. AGO 120 (3-16-1964)

Currently registered voters may sign petitions despite failure to vote in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in furtherance of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 8-04 (2-26-1980)

293.202 Withdrawal of candidacy. Any withdrawal of candidacy for office must be in writing and must be presented by the candidate in person,

within 7 days after the last day for filing, to the officer whose duty it is to receive filings for candidacy for that office.

(Added to NRS by 1979, 262; A 1981, 349; 1991, 2217)

293.203 Notice of primary election: Contents and publication. Immediately upon receipt by the county clerk of the certified list of candidates from the secretary of state, the county clerk shall publish a notice of primary election in a newspaper of general circulation in the county once a week for 2 successive weeks. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest Nevada county. The notice must contain:

1. The date of the election.
2. The location of the polling places.
3. The hours during which the polling places will be open for voting.
4. The names of the candidates.
5. A list of the offices to which the candidates seek nomination.

(Added to NRS by 1960, 246; A 1961, 286; 1967, 860; 1991, 2217)

ELECTION PRECINCTS

293.205 Establishment, abolishment, alteration and consolidation; boundaries.

1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in May of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the state or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right of way or any other physical feature which is clearly visible from the ground.

(Added to NRS by 1960, 246; A 1961, 287; 1971, 440; 1975, 937; 1977, 241; 1981, 1871; 1983, 1119; 1985, 1092; 1987, 153; 1989, 849, 1665)

—ANNOTATIONS—

Administrative Regulations.

Punchcard Method of Voting, NAC 293.200 et seq.

may be established within Indian reservation since territory of reservation constitutes part of state. AGO 316 (9-1-1928)

Attorney General's Opinions.

Election precinct may be established within Indian reservation. Election precinct

Election precincts may be established on land belonging to United States. Election

precincts may be established in town of Bab- ing to United States within Hawthorne naval
 bitt although same is located on lands belong- ammunition depot. AGO 284 (4-5-1946)

293.206 Submission of maps to secretary of state and legislative counsel bureau; determination of statutory compliance; revisions.

1. On or before the last day in May of every even-numbered year, the county clerk shall provide the secretary of state and the director of the legislative counsel bureau with a copy of a map showing the boundaries of all election precincts in the county together with a word description of the boundaries of the precincts.

2. If the secretary of state determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected precinct map together with a corrected word description of the altered boundaries of the precinct to the secretary of state and the director of the legislative counsel bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the secretary of state may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.214, inclusive. If the secretary of state revises the map or description pursuant to this subsection, he shall submit a copy of the revised map or description to the director of the legislative counsel bureau and the appropriate county clerk.

(Added to NRS by 1989, 1664)

293.207 Establishment on basis of number of voters therein; maximum number for precinct using paper ballots or mechanical voting system; consolidation of precincts.

1. Election precincts must be established on the basis of the number of registered voters therein, with a maximum of 600 registered voters per precinct in those precincts in which paper ballots are used, or a maximum of 1,500 registered voters per precinct in those precincts in which a mechanical voting system is used.

2. The county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

(Added to NRS by 1960, 246; A 1971, 440; 1975, 970; 1983, 914; 1985, 1092; 1991, 2218)

--ANNOTATIONS--

Attorney General's Opinions.

Addition of new election precinct to county with three commissioner districts. Where new election precinct is formed under provisions of NRS 293.207 and 293.210 within county having three commissioner districts formed pursuant to NRS 244.050, board

of county commissioners has power to add such precinct to commissioner district which embraces adjoining precinct and if possible to commissioner district which would most nearly contain one-third of voting population after such addition. AGO 125 (4-1-1964)

293.208 Limitations on creation, division, abolition, consolidation and alteration during certain periods; exceptions.

1. Except as otherwise provided in subsections 2 and 3 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in May of any year whose last digit is 6 and the time when the legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

- (a) Ordered by a court of competent jurisdiction;
- (b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965 (42 U.S.C. §§ 1971 and 1973 et seq.) and any amendments thereto;
- (c) Required to comply with subsection 2 of NRS 293.205;
- (d) Required by the incorporation of a new city; or
- (e) Required by the creation of or change in the boundaries of a special district.

As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this state as enumerated in Title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the director of the legislative counsel bureau and the secretary of state a copy of a map showing the new boundaries of the precinct together with a word description of the new boundaries; and

(b) Maintain in his office, an index providing the name of the precinct and describing all changes which were made, including any change in the name of

the precinct and the name of any new precinct created within the boundaries of an existing precinct.

(Added to NRS by 1989, 848; A 1989, 1667)

293.210 Establishment of new election precinct: Petition and conditions. Except as otherwise provided in NRS 293.208, a new precinct may be established upon petition of 10 or more registered voters, permanently residing in the area sought to be constituted a precinct, stating that they reside more than 10 miles from any polling place in the county. If it appears to the satisfaction of the county clerk that not less than 50 registered voters reside in the area, the precinct may be established without regard to the distance which the registered voters reside from another polling place or precinct.

(Added to NRS by 1960, 246; A 1971, 441; 1985, 269; 1989, 849)

—ANNOTATIONS—

Attorney General's Opinions.

Addition of new election precinct to county with three commissioner districts. Where new election precinct is formed under provisions of NRS 293.207 and 293.210 within county having three commissioner districts formed pursuant to NRS 244.050, board

of county commissioners has power to add such precinct to commissioner district which embraces adjoining precinct and if possible to commissioner district which would most nearly contain one-third of voting population after such addition. AGO 125 (4-1-1964)

293.213 Mailing precincts; absent ballot mailing precincts.

1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may establish such precinct as a mailing precinct, and shall forthwith mail notification to the deputy registrar for such precinct.

2. Except as otherwise provided by NRS 293.208, the county clerk in any county where an absent ballot central counting board is appointed may abolish two or more existing mailing precincts and combine those mailing precincts into absent ballot precincts and those precincts must be designated absent ballot mailing precincts.

3. In any county where an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

(Added to NRS by 1960, 246; A 1961, 287; 1969, 718; 1971, 441; 1989, 849)

—ANNOTATIONS—

Attorney General's Opinions.

Establishment of mailing precinct. Mailing precinct may be established with or with-

out petition from electors, and may comprise any number of electors not more than 20. AGO 145 (7-16-1924)

293.214 Establishment of polling place for precinct in residential development exclusively for elderly persons. The county or city clerk shall establish at least one polling place for a precinct in any residential development exclusively for elderly persons if:

1. More than 100 of the residents of the development are registered to vote;
2. There is a common area which is adequate and available; and
3. The owner of the development consents to the establishment of the polling place on his property.

(Added to NRS by 1987, 1870)

ELECTION BOARDS

293.217 Appointment of officers by county clerk; appointment of deputy sheriffs for elections. The county clerk of each county shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the county as provided in NRS 293.220 to 293.245, inclusive, and 293.384, and shall conclude those duties no later than 31 days before the election. The registered voters appointed as election board officers for any precinct or district must not all be of the same political party. No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the county clerk, the sheriff shall:

1. Appoint a deputy sheriff for each polling place in the county and for the central election board or the absent ballot central counting board; or
 2. Deputize as a deputy sheriff for the election an election board officer of each polling place in the county and for the central election board or the absent ballot central counting board. The deputized officer shall receive no additional compensation for his services rendered as a deputy sheriff during the election for which he is deputized.
- Deputy sheriffs so appointed and deputized shall preserve order during hours of voting and attend closing of the polls.

(Added to NRS by 1960, 247; A 1961, 287; 1963, 1381; 1975, 937; 1985, 1594; 1987, 712)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

Nevada Cases.

Requirement that officers of election be of different political parties is directory. Statute, sec. 2, ch. 121, Stats. 1873, (cf. NRS 293.217) which provided that inspectors and clerks of election not be appointed from same political party was directory and noncompli-

ance alone was not sufficient ground for rejecting vote of county or precinct. State ex rel. McMillan v. Sadler, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

Attorney General's Opinions.

Members of counting boards and voting boards may not consist wholly of one political party. NRS 293.217, which requires that members of election boards not consist of

members wholly of one political party, applies to both counting boards and voting boards because both such boards are designated as election boards by NRS 293.233. AGO 533 (9-6-1968)

293.218 Recommendations by chairman of election board of persons for service on election board. The county or city clerk may provide by rule or regulation for the:

1. Recommendation, by the persons selected as chairmen of election boards, of suitable persons to serve as members of election boards; and
2. Recommendation by the chairmen of suitable persons to serve in the case of vacancies.

(Added to NRS by 1973, 320; A 1977, 241; 1987, 335)

293.219 Recommendations by political parties of persons for service on election board.

1. Not less than 60 days before a primary or a general election, the county central committee of each major political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the primary or general election in the precinct or district.

2. Not less than 60 days before a general election, the executive committee of each minor political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the general election in the precinct or district.

3. After that date the county clerk may accept recommendations for reserve election board officers for the election.

(Added to NRS by 1960, 242; A 1989, 226)—(Substituted in revision for NRS 293.170.)

—ANNOTATIONS—

Attorney General's Opinions.

Service on election board by candidate in election prohibited. Member of election board may not serve on election board for election at which he is candidate for office. AGO 100 (10-9-1916)

Service on election board by candidate without opposition. Candidate without opposition at primary or general election may serve on election board for primary. AGO 172 (9-7-1920)

293.220 Delivery of notice of appointment to officer of election board. Upon the selection of persons to act as election board officers in the county or city the county or city clerk shall deliver, by mail or other means, notifications of the appointments to those persons.

(Added to NRS by 1960, 247; A 1987, 335)

293.223 Notice of unwillingness to serve as officer of election board; appointment of replacement. If any person appointed to serve as an election board officer is unwilling to serve as appointed, he shall notify the county

or city clerk within 5 days after receipt of the notification that he is unwilling to serve, whereupon the county or city clerk shall appoint some other registered voter to serve at the election.

(Added to NRS by 1960, 247; A 1987, 335)

293.225 Continuing powers and duties of election boards; reserve officers of election board; procedure for filling vacancies.

1. Members of election boards continue as such from the day before the day of the election, until the time for filing contests of the election has expired.

2. Each member of an election board is subject to call by the board of county commissioners or city council to correct any errors discovered during the canvass of votes by the board of county commissioners or city council.

3. Reserve election board officers must be appointed by the county or city clerk, if practicable, to fill any vacancy which occurs on the day of the election, and the reserve officers must be compensated if they serve at the polls.

4. If a vacancy occurs in any election board on the day of the election and no reserves are available, the election board may appoint, at the polling place, any registered voter who is willing to serve and satisfies the election board that he possesses the qualifications required to perform the services required.

(Added to NRS by 1960, 247; A 1985, 1595; 1987, 335)

—ANNOTATIONS—

Attorney General's Opinions.

Service on election board by candidate in election prohibited. Member of election

board may not serve on election board for election at which he is candidate for office. AGO 100 (10-9-1916)

293.227 Number of members; duties; travel expenses of chairman.

1. Each election board consists of at least three members, one of whom must be designated chairman by the county or city clerk. The boards shall make the records of election required by this chapter.

2. The county or city clerk shall conduct or cause to be conducted, at least 5 days before the date of the election for which the boards are appointed, a school to acquaint the chairmen with the election laws, duties of election boards, regulations of the secretary of state and with the procedure for making the records of election and using the register for election boards. If the person appointed chairman is unable for any reason to attend the school, he shall appoint some other member of his election board to attend the school in his stead.

3. The board of county commissioners of any county or the city council of any city may reimburse the chairmen or their designates who attend the school for their travel expenses at a rate not exceeding 10 cents per mile.

4. Each chairman shall instruct his board before election day.
(Added to NRS by 1960, 248; A 1961, 288; 1967, 845; 1977, 241; 1987, 336)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.230 Precinct or district where there are less than 200 registered voters and paper ballots are used: Duties of election board; central election board for mailing precincts.

1. In precincts or districts where there are less than 200 registered voters and paper ballots are used, the election board shall perform all duties required from the time of preparing for the opening of the polls through delivering the supplies and result of votes cast to the county or city clerk.

2. Except as provided in NRS 293.235, one election board must be appointed by the county or city clerk for all mailing precincts within the county or city, and must be designated the central election board. The county or city clerk shall deliver the mailed ballots to that board in his office and the board shall count the votes on those ballots in the manner required by law.

(Added to NRS by 1960, 248; A 1987, 336, 691)

293.233 Appointment and duties of voting board and counting board in precinct or district where there are 200 or more registered voters and paper ballots are used. In each precinct or district where there are 200 or more registered voters and paper ballots are used, the county or city clerk shall appoint two election boards and designate one the voting board and the other the counting board. The officers of the counting board shall count the votes and make the record of the votes. The voting board shall account for the records at the time the polls are closed and deliver to the counting board the ballot box containing the voted ballots and all other books and supplies in its possession. Upon such delivery, the counting board shall perform its duties as required by law. The time of service for the counting board must be from the closing of the polls through the returning of the supplies and the result of votes cast to the county or city clerk.

(Added to NRS by 1960, 248; A 1987, 336, 692)

—ANNOTATIONS—

Attorney General's Opinions.

Members of counting boards and voting boards may not consist wholly of one political party. NRS 293.217, which requires that members of election boards not consist of

members wholly of one political party, applies to both counting boards and voting boards because both such boards are designated as election boards by NRS 293.233. AGO 533 (9-6-1968)

293.235 Appointment of absent ballot central counting board.

1. When it appears to the satisfaction of the county or city clerk that an absent ballot central counting board will expedite the work of tallying the absent ballot vote of the county or city, he may appoint such a board. In counties which use a computer to maintain records of registered voters, the county clerk shall appoint the board.

2. In counties or cities where an absent ballot central counting board has been appointed, no central election board may be appointed. The absent ballot central counting board shall perform the duties of the central election board.

(Added to NRS by 1960, 248; A 1985, 558; 1987, 337)

—ANNOTATIONS—**Administrative Regulations.**

General Provisions, NAC 293.010 et seq.

293.243 Absent ballot central counting board: Appointment; number of members; board under direction of county or city clerk.

1. An absent ballot central counting board consists of election board officers appointed in such numbers as the county or city clerk determines to be required by the volume of absent ballots requested.

2. The county or city clerk's deputies who perform duties in connection with elections shall be deemed officers of the absent ballot central counting board.

3. When requested by the:

(a) County clerk, the sheriff shall appoint a deputy sheriff; or

(b) City clerk, the chief law enforcement officer of the city shall appoint an officer,

to keep order during the counting board's counting of the absent ballot votes.

4. The counting board is under the direction of the county or city clerk.

(Added to NRS by 1960, 249; A 1961, 288; 1967, 860; 1977, 242; 1981, 1739; 1985, 1595; 1987, 337)

293.245 Placing of absent ballots in ballot box. When the county or city clerk determines it necessary to cause any precincts in the county or city to be designated absent ballot mailing precincts, the precinct's ballots must be placed by the central election board, or the absent ballot central counting board, in the proper absent ballot mailing precinct ballot box.

(Added to NRS by 1960, 249; A 1987, 337)

293.247 Regulations of secretary of state for conduct of elections; interpretations; election officer's digest and instructions.

1. The secretary of state shall adopt regulations, not inconsistent with the election laws of this state, for the conduct of primary, general, special and district elections in all cities and counties. The secretary of state shall pre-

scribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy, affidavit of candidacy and any petition which is filed pursuant to the general election laws of this state.

2. The regulations must prescribe:
 - (a) The duties of election boards;
 - (b) The type and amount of election supplies;
 - (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
 - (d) The method to be used in distributing ballots to precincts and districts;
 - (e) The method of inspection and the disposition of ballot boxes;
 - (f) The form and placement of instructions to voters;
 - (g) The recess periods for election boards;
 - (h) The size, lighting and placement of voting booths;
 - (i) The amount and placement of guardrails and other furniture and equipment at voting places;
 - (j) The disposition of election returns;
 - (k) The procedures to be used for canvasses, ties, recounts and contests;
 - (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to NRS 293.391;
 - (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections; and
 - (n) Such other matters as determined necessary by the secretary of state.

3. The secretary of state may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this state.

4. The secretary of state shall prepare and distribute to each county and city clerk the election officer's digest and instructions for election boards, and copies of any attorney general's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the secretary of state.

(Added to NRS by 1960, 249; A 1971, 1485; 1975, 937; 1979, 263; 1987, 337, 692, 1368; 1991, 2218)

—ANNOTATIONS—

Administrative Regulations.

- General Provisions, NAC 293.010 et seq.
- Punchcard Method of Voting, NAC 293.200 et seq.
- Paper Ballot Method of Voting, NAC 293.300 et seq.
- Mechanical Voting Systems, NAC 293B.010 et seq.

Nevada Cases.

Recount of ballots by county clerk was of no effect where recount was had pursuant

to telephoned instructions from secretary of state. In mandamus proceeding to compel county clerk to issue certificate of election under NRS 293.393, which provides for issuance of such certificate after canvass of results for certain offices, where recount of ballots was had pursuant to telephoned instructions from secretary of state, such oral communication was not "promulgation" of rules and regulations for conduct of election within meaning of NRS 293.247, which imposes such duty on secretary of state, because pro-

mulgation usually connotes official public declaration, and recount was therefore of no effect. *Kelly v. Murphy*, 79 Nev. 1, 377 P.2d 177 (1963)

Attorney General's Opinions.

Authority to prescribe regulation permitting election officials to assist physically disabled voter to mark ballot or operate voting machine. Under NRS 293.247, which

requires secretary of state to promulgate regulations for conduct of elections, he has authority to prescribe regulation permitting election officials to assist physically disabled voter to mark ballot or operate voting machine where disability prevents voter from doing so himself, because denial of assistance would prevent exercise of right of suffrage guaranteed by Nev. Art. 2, § 1. AGO 77 (4-25-1972)

293.250 Secretary of state to prescribe procedure for registration of voters by computer and form of ballots, other documents and papers; printed matter on ballots; division of paper ballots.

1. The secretary of state shall, in a manner consistent with the election laws of this state, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, affidavits of registration, lists, applications, pollbooks, registers, rosters, statements and abstracts required by the election laws of this state.

(b) The procedure to be followed when a computer is used to register voters and to keep records of registration.

2. He shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the state.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. He shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for and explanation of each proposed constitutional amendment or statewide measure, including arguments for and against it, must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the secretary of state, upon consultation with the attorney general. They must be in easily understood language and of reasonable length, and whenever feasible must be completed by April 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. County and city clerks may divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(Added to NRS by 1960, 250; A 1961, 288; 1965, 652; 1967, 846; 1971, 441, 1486; 1977, 242, 1010; 1981, 752; 1985, 558; 1987, 110, 338)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

Attorney General's Opinions.

Initiative petition is question to be printed on ballot. Initiative petition is "ques-

tion" within meaning of NCL § 2471 (cf. NRS 293.253) and is to be printed on ballot pursuant to NCL § 2473 (cf. NRS 293.250). AGO 319 (7-30-1941)

293.253 Publication of constitutional amendments and statewide measures: Duties of secretary of state and county clerk; costs.

1. The secretary of state shall provide each county clerk with copies of any proposed constitution, constitutional amendment or statewide measure which will appear on the general election ballot, together with the copies of the condensations, explanations and fiscal notes prepared pursuant to NRS 218.276, 218.443 and 293.250.

2. Whenever feasible, he shall provide these copies on or before the first Monday in August of the year in which the proposals will appear on the ballot. Copies of any additional proposals must be provided as soon after their filing as feasible.

3. Each county clerk shall cause a copy of the full text of any such constitution, amendment or measure and its condensation, explanation, including arguments for and against it, and fiscal note to be published, in conspicuous display advertising format of not less than 10 column inches, in a newspaper of general circulation in the county three times at intervals of not less than 7 days, the first publication to be on or before the first Monday in October. If no such newspaper is published in the county, then the publication may be made in a newspaper of general circulation published in the nearest Nevada county.

4. When a copy is furnished by the secretary of state too late to be published at 7-day intervals, it must be published three times at the longest intervals feasible in each county.

5. The portion of the cost of publication which is attributable to publishing the questions, explanations and fiscal notes of proposed constitutions, constitutional amendments or statewide measures is a charge against the state and must be paid from the reserve for statutory contingency account upon recommendation by the secretary of state and approval by the state board of examiners.

(Added to NRS by 1960, 250; A 1967, 846; 1975, 938; 1977, 1010; 1981, 752; 1987, 111; 1991, 1760)

—ANNOTATIONS—

Attorney General's Opinions.

Statute requires both publication and posting; county clerk not required personally to post each notice. Statute relating to publication and posting of copies of constitutional amendments and other questions to be voted on at general election requires both publication and posting, but county clerk is not required personally to post each notice. AGO (9-17-1908)

Initiative petition is question to be printed on ballot. Initiative petition is a "question" within meaning of NCL § 2471 (cf. NRS 293.253) and is to be printed on ballot pursuant to NCL § 2473 (cf. NRS 293.250). AGO 319 (7-30-1941)

293.255 Certificate of error to be issued to registered voter whose affidavit of registration has been misplaced or name is not listed in election board register. Each county clerk, as registrar of voters, or his authorized representative shall issue a certificate of error to any registered voter whose affidavit of registration has been misplaced or for some other reason does not appear or who is not listed in the election board register at the polling place on election day. The county clerk or his authorized representative shall seal the certificate in an envelope addressed to the appropriate precinct or district election board.

(Added to NRS by 1960, 250; A 1975, 938; 1985, 559)

BALLOTS

293.256 Names of candidates on ballots not to include title, designation of profession or occupation. In any election regulated by this chapter, the names of candidates as printed on the ballot shall not include any title, designation or other reference which will indicate the profession or occupation of such candidates.

(Added to NRS by 1969, 20)

293.257 Separate primary ballots; placement of candidates' names.

1. There must be a separate primary ballot for each major political party. The names of candidates for partisan offices who have designated a major political party in the declaration of candidacy or acceptance of candidacy must appear on the primary ballot of the major political party designated.

2. The county clerk may choose to place the names of candidates for nonpartisan offices on the ballots for each major political party or on a separate nonpartisan primary ballot, but the arrangement which he selects must permit all registered voters to vote on them.

(Added to NRS by 1960, 250; A 1963, 1388; 1965, 652; 1967, 847; 1971, 442; 1977, 243; 1979, 264; 1989, 227)

—ANNOTATIONS—

Attorney General's Opinions.

Unnecessary to prepare primary election ballots for party having no contest for offices. If there is no contest within political party for state or county offices, it is unnecessary to prepare primary election ballots for such party. AGO 129 (7-19-1914)

Members of party having no contest for offices may vote nonpartisan ballot. If there is no contest at all within a party, no primary election ballots for such party should be printed, but members of such party are entitled to vote nonpartisan ballot. AGO 213 (8-2-1918)

Must prepare primary election ballots only with names of nonpartisan candidates where no contest within a party. If there is no contest at all within a party, primary election ballots for such party containing names of nonpartisan candidates only must be prepared. AGO 153 (8-8-1924)

Conditions where there is no party contest; names of all candidates would appear on general election ballot only. If only one party has candidates for office or offices and there is no independent candidate and number of candidates filed do not exceed in number twice the number to be elected to that office, there is no party contest and hence there is nothing to be determined at primary and names of all candidates would appear on general election ballot only. AGO 156 (8-9-1944)

Procedure where two candidates from same party and independent candidate have filed for same office. Where only two candidates have filed for partisan nomination for office on only one party ticket, and no candidates have filed for partisan nomination on any other party ticket, for same office, to which only one person can be elected, but independent candidate has filed for such office, the two party candidates must run in primary and winner will oppose independent candidate in general election. AGO 334 (7-25-1946); AGO 335 (7-26-1946)

293.260 Omission of names from primary ballot; declaration of nominees for office.

1. Where there is no contest for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.

2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.

3. If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office.

4. If only one major political party has candidates for a particular office, and no minor political party has nominated a candidate for the office:

(a) If there are more candidates than twice the number to be elected to the office, the candidates of that party who receive the highest number of votes at the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office.

(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

5. Where no more than the number of candidates to be elected have filed for nomination for any office, the names of those candidates must be omitted from all ballots for a primary election or primary city election and placed on all ballots for a general election or general city election.

6. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election or primary city election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

(Added to NRS by 1960, 251; A 1963, 1388; 1979, 264; 1987, 339; 1989, 227)

—ANNOTATIONS—

Nevada Cases.

Second of two candidates filing for party nomination could not withdraw after withdrawal of first. Where two candidates filed for party nomination for office of attorney general, and one withdrew, second was not permitted to withdraw, because on withdrawal of first candidate the second became nominee of party and as such was prevented from withdrawing by provisions of sec. 14, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.260), and sec. 7, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.177), and writ of prohibition issued prohibiting secretary of state from allowing name of second candidate to be withdrawn. State ex rel. Thatcher v. Brodigan, 37 Nev. 458, 142 Pac. 520 (1914), cited, State ex rel. Maxson v. Brodigan, 37 Nev. 488, at 489, 143 Pac. 306 (1914), Kelly v. Reed, 76 Nev. 389, at 394, 355 P.2d 969 (1960)

Candidate who filed for nomination and had no opposition could not withdraw. Whether candidate nominated at primary election may have his name omitted from general election ballot is matter of policy for legislature, and where legislature forbids withdrawal of candidates nominated at primary, court cannot allow candidates to withdraw even for deserving reasons. Sec. 7, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.177), which requires that candidate filing for nomination swear that if nominated he will accept such nomination and not withdraw, and where candidate had no opposition, he was in effect nominated pursuant to sec. 14, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.260), and therefore could not withdraw. State ex rel. Thatcher v. Brodigan, 37 Nev. 458, 142 Pac. 520 (1914), cited, State ex rel. Maxson v. Brodigan, 37 Nev. 488, at

489, 143 Pac. 306 (1914), Kelly v. Reed, 76 Nev. 389, at 394, 355 P.2d 969 (1960)

Candidate who becomes nominee of party by operation of law is not candidate for nomination at primary election and need not comply with statute requiring filing of statement of expenses. Where candidate became nominee of his party for public office by operation of law pursuant to sec. 14, ch. 3 of ch. 284, Stats. 1913 (cf. NRS 293.260), because unopposed, he was not candidate for nomination at primary election, and consequently was not required to comply with statutes requiring candidates for nomination or election to file statement of expenses at time of primary election. Writ of prohibition to prohibit secretary of state from certifying name of such candidate was denied. State ex rel. Maxson v. Brodigan, 37 Nev. 488, 143 Pac. 306 (1914)

Only four candidates from each party could be placed on ballot for general election concerning one office with four positions; statute inapplicable except where only one party has candidates. Where county was entitled to four assemblymen, and 13 Democrats, one Republican and no Independents filed for office, peremptory writ of mandamus to require that names of more than four Democratic candidates be placed on ballot for general election was denied, because there were not four separate offices to be filled; rather, there was one office with four positions. 1931 NCL § 2425 (cf. NRS 293.260), allowing up to twice the number of candidates that are to be elected to office to be declared party nominees, did not apply, because that section governs situation where only one party has

candidates. State ex rel. Cline v. Payne, 59 Nev. 127, 86 P.2d 32 (1939)

Ascertaining meaning of words "office" and "offices" in statute. On petition to supreme court for writ of mandamus to compel county clerk to put certain names on general election ballots as candidates for office of assemblyman, where application of election law turned on use of words "office" and "offices" in 1931 NCL § 2425 (cf. NRS 293.260), regard had to be given to intention of statute and subject matter in reference to which terms were used to determine meaning of words, because such terms were vague and of variable import. State ex rel. Cline v. Payne, 59 Nev. 127, 86 P.2d 32 (1939)

Meaning of expression "office or offices." Expression "office or offices" in 1931 NCL § 2425 (cf. NRS 293.260), which applies to situation where only one party has candidate or candidates for such office and there is no independent candidate, taken in connection with related section which provided for "party candidates equal in number to positions to be filled," connoted separate positions in one office, as in office of assemblyman. State ex rel. Cline v. Payne, 59 Nev. 127, 86 P.2d 32 (1939)

Central committee could designate successor to candidate who died before general election where both candidates at primary election were members of same party; purpose of statute. Where both candidates nominated for office at primary election were members of same political party, death of one candidate before general election created vacancy in party nomination to be filled by candidate designated by central committee of that party pursuant to NRS 293.165, because purpose of statute and NRS 293.260, providing that where only one political party has candidates for office two highest in primary are nominees for general election, was to remove possibility that nomination at primary be equivalent to absolute election. State ex rel. Springer v. Koontz, 87 Nev. 111, 482 P.2d 301 (1971)

Attorney General's Opinions

Procedure where two candidates of same party file for party nomination to same office for which independent candidate has filed. When two candidates of same party file for partisan nomination to office to which only one person can be elected and no one files for

nomination by any other party, but independent candidate has filed for such office, two persons seeking party nomination must run in primary, winner only opposing independent candidate in general election. AGO 148 (9-20-1934)

Conditions where there is no party contest; names of all candidates would appear on general election ballot only. If only one party has candidates for office or offices and there is no independent candidate and number of candidates filed do not exceed in number twice the number to be elected to that office, there is no party contest and hence there is nothing to be determined at primary and names of all candidates would appear on general election ballot only. AGO 156 (8-9-1944)

Procedure where two candidates from same party and independent candidate have filed for same office. Where only two candidates have filed for partisan nomination for office on only one party ticket, and no candidates have filed for partisan nomination on any other party ticket, for the same office, to which only one person can be elected, but independent candidate has filed for such office, the two party candidates must run in primary and winner will oppose independent candidate in general election. AGO 334 (7-25-1946); AGO 335 (7-26-1946)

Candidates of one party not entitled to have names placed on general election ballot to fill vacancies on ticket of other party. Candidates of one party are not entitled to have names placed on general election ballot to fill vacancies on ticket of other party. Thus, where four assemblymen are to be elected from a district and seven Democrats and but three Republicans are candidates, 1931 NCL § 2425 (cf. NRS 293.260), requires that names of all three Republicans and names of four Democrats receiving highest number of votes at primary be placed on general election ballot. AGO 673 (9-13-1948)

Nominees to be placed on ballot when two Democrats and 15 Republicans file for election of six assemblymen. Where six assemblymen are to be elected from district, NRS 294.275 (cf. NRS 293.260) requires that names of 12 candidates be placed on general election ballot. Thus, where Democratic Party had but two nominees and 15 Republicans sought office, names of the two Democrats and the 10 Republicans receiving highest number

of votes at primary were required to be placed on general election ballot. AGO 385 (9-6-1930); contra AGO 673 (9-13-1948)

Nominees to be placed on ballot when one Republican and six Democrats file for election of two assemblymen. Where two

assemblymen are to be elected from county, and six Democrats and one Republican file for primary election, only two Democratic nominees should be placed on general election ballot. AGO 188 (7-24-1956)

293.263 Form of partisan ballots for primary election or primary city election. On the primary ballots for a major political party the name of the major political party must appear at the top of the ballot. Following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the partisan office for which those candidates filed.

(Added to NRS by 1960, 251; A 1965, 652; 1967, 847; 1971, 442; 1979, 265; 1989, 227)

—ANNOTATIONS—

Attorney General's Opinions.

Placement of hyphenated name on ballot. When surname of candidate is hyphenated name, entire name should appear on ballot and its placement in alphabetical order is governed by first letter of name. AGO 126 (6-30-1922)

Instruction to voters where single nonpartisan office to be filled. Where single nonpartisan office is to be filled, primary ballot should instruct voters to vote for but one candidate for such office. AGO 138 (8-30-1922)

Instruction to voters as to number to be voted governed by number to be elected. Primary ballot instruction to voters as to num-

ber to be voted for is governed by number to be elected, not number to be nominated, as result of 1923 amendment to sec. 12, ch. 155, Stats. 1917, primary law (cf. NRS 293.263), regardless of whether office be partisan or nonpartisan. AGO 147 (7-25-1924)

Instruction when only one person to be elected at general election. Provisions of NCL § 2415 (cf. NRS 293.263), govern instructions to voters as to number to be voted for on primary ballot for nonpartisan offices; and where but one person is to be elected to office at general election, instruction should be "Vote for one." AGO B-5 (8-5-1940)

293.265 Form of nonpartisan ballots for primary election or primary city election. On nonpartisan primary ballots there must appear at the top of the ballot the designation "Candidates for nonpartisan offices." Following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the nonpartisan office for which those candidates filed.

(Added to NRS by 1960, 251; A 1961, 288; 1963, 1388; 1965, 652; 1967, 847; 1979, 265)

293.267 Form of ballots for general election or general city election.

1. Ballots for a general election or general city election must contain the names of candidates who were nominated at the primary election or primary city election, the names of the candidates of a minor political party and the names of independent candidates.

2. Names of candidates must be grouped alphabetically under the title and length of term of the office for which those candidates filed.

3. Except for city elections and as otherwise provided in subsection 4:

(a) Immediately following the name of each candidate for a partisan office must appear the name of his political party or the word "independent," as the case may be.

(b) Immediately following the name of each candidate for a nonpartisan office must appear the word "nonpartisan."

4. Where a system of voting other than by paper ballot is used, the secretary of state may provide for any placement of the name of the political party or the word "independent" or "nonpartisan" which clearly relates the designation to the name of the candidate to whom it applies.

(Added to NRS by 1960, 251; A 1963, 1389; 1965, 653; 1967, 847; 1969, 137; 1979, 265; 1987, 339; 1989, 2165)

—ANNOTATIONS—

Attorney General's Opinions.

Placement of hyphenated name on ballot.
When surname of candidate is hyphenated name, entire name should appear on ballot and its placement in alphabetical order is governed by first letter of name. AGO 126 (6-30-1922)

Right of nonpartisan elected as Democratic nominee in primaries who registers as Democrat after primaries to have name on general election ballot. Nonpartisan elected

as Democratic nominee in primaries who registers as Democrat after primaries is still entitled to have name on general election ballot until court declares otherwise. Neither county commissioners nor county clerk have power to withhold his name from ballot. AGO 213 (9-21-1956)

293.268 Order of listing offices, candidates and questions on ballots. The offices for which there are candidates, the names of the candidates therefor, and the questions to be voted upon must be printed on ballots in the following order:

1. President and Vice President of the United States.
2. United States Senator and Representative in Congress, in that sequence.
3. Governor, lieutenant governor, secretary of state, treasurer, controller and attorney general, in that sequence.
4. State senators and assemblymen.
5. County and township partisan offices.
6. Statewide nonpartisan offices.
7. District nonpartisan offices.
8. City offices:
 - (a) Mayor;
 - (b) Councilmen according to ward in numerical order, if no wards, in alphabetical order; and
 - (c) Municipal judges.
9. Township nonpartisan offices.
10. Questions presented to the voters of the state.

11. Questions presented only to the voters of a special district or political subdivision of the state.

(Added to NRS by 1961, 296; A 1975, 939; 1979, 131; 1987, 339)

293.269 Ballots for statewide offices or President and Vice President must permit voter to register opposition to all candidates.

1. Every ballot upon which appears the names of candidates for any statewide office or for President and Vice President of the United States shall contain for each office an additional line equivalent to the lines on which the candidates' names appear and placed at the end of the group of lines containing the names of the candidates for that office. Each additional line shall contain a square in which the voter may express his choice of that line in the same manner as he would express his choice of a candidate, and the line shall read "None of these candidates."

2. Only votes cast for the named candidates shall be counted in determining nomination or election to any statewide office or presidential nominations or the selection of presidential electors, but for each office the number of ballots on which the additional line was chosen shall be listed following the names of the candidates and the number of their votes in every posting, abstract and proclamation of the results of the election.

3. Every sample ballot or other instruction to voters prescribed or approved by the secretary of state shall clearly explain that the voter may mark his choice of the line "None of these candidates" only if he has not voted for any candidate for the office.

(Added to NRS by 1975, 475)

VOTING AT POLLS

293.270 Voting by printed ballot or other approved or authorized system; write-in voting prohibited.

1. Voting at any election regulated by this chapter must be on printed ballots or by any other system approved by the secretary of state or specifically authorized by law.

2. Voting must be only upon candidates whose names appear upon the ballot prepared by the election officers, and no person may write in the name of an additional candidate for any office.

(Added to NRS by 1960, 252; A 1973, 459; 1977, 243; 1987, 340)

293.272 Voting in person required for voter who registered to vote by mail; exceptions.

1. Except as otherwise provided in subsection 2, a person who registered to vote pursuant to NRS 293.5235, shall, for the first election in which he votes at which that registration is valid, vote in person unless he has previously voted in the precinct in which he is registered to vote.

2. The provisions of subsection 1 do not apply to a person who is entitled to vote:

- (a) In the manner prescribed in NRS 293.343 to 293.355, inclusive; or
 - (b) An absent ballot pursuant to federal law or any other state law.
- (Added to NRS by 1991, 1681)

293.273 Time for opening and closing polls; duties of officers of election board.

1. Except as provided in subsection 2 and NRS 293.305, at all elections held under the provisions of this Title, the polls must open at 7 a.m. and close at 7 p.m.

2. Whenever at any election all the votes of the precinct or district, as shown on the checklist and roster, have been cast, the election board officers shall close the polls, and the counting of votes must begin and continue without unnecessary delay until the count is completed.

3. Upon opening the polls one of the election board officers shall cause a proclamation to be made that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during the time the polls are open, except to examine a pollbook pursuant to NRS 293.301 or by authority of the election board as necessary to keep order and carry out the provisions of this Title.

(Added to NRS by 1960, 252; A 1971, 442, 1127; 1975, 34, 939; 1977, 243; 1981, 1740; 1991, 1352)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.275 Possession of election board register by election board required for performance of board's duties. No election board may perform its duty in serving registered voters at any precinct or district polling place in any election provided for in this Title, unless it has before it the election board register for its precinct or district.

(Added to NRS by 1960, 252)

293.277 Name of voter must appear on election board register; presentation of certificate of error; voter's duties; forms of identification of voter.

1. No person may vote at any election unless his name, on the day of election, appears on the election board register furnished by the county clerk to the precinct or district election board, or unless he presents a certificate of error issued by the county clerk.

2. If a person's name appears in the election board register or on a certificate of error, he is entitled to vote, and he shall sign his name in the precinct or district roster when he applies to vote. His signature must be compared by an election board officer with the signature or a facsimile thereof on his original affidavit of registration, the certificate of error or one of the forms of identification listed in subsection 3.

3. The forms of identification which may be used individually to identify a voter at the polling place are:

- (a) The card issued to the voter at the time of his registration;
- (b) A driver's license;
- (c) An identification card issued by the department of motor vehicles and public safety;
- (d) A military identification card; and
- (e) Any other form of identification which contains the voter's signature and physical description or picture.

(Added to NRS by 1960, 252; A 1985, 559; 1991, 2219)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.280 Marking and return of certificate of error after vote. When a certificate of error stating the precinct or district in which a person is entitled to vote, and containing the signature of such person, is presented to the election board in such precinct or district and the person votes, the certificate shall be marked "Voted" by the election board and returned with the precinct or district election board register to the county clerk.

(Added to NRS by 1960, 252)

293.283 Identification of registered voter who is unable to sign name. Any registered voter who is unable to sign his name must be identified by answering questions covering the personal data which is reported on the original affidavit of registration or shown on the computer listing of the affidavit of registration. The officer in charge of the roster shall stamp, write or print "Identified as" to the left of the voter's name.

(Added to NRS by 1960, 252; A 1985, 560)

293.285 Delivery of ballot to voter.

1. A registered voter applying to vote shall state his name to the election board officer in charge of the election board register and the officer shall immediately announce the name and take the registered voter's signature. After a registered voter is properly identified at a polling place where paper ballots are used, one partisan ballot and, if required, one nonpartisan ballot, correctly folded must be given to the voter and the number of the ballot or

ballots must be written by an election board officer upon the pollbook, opposite the name of the registered voter receiving the ballot or ballots.

2. In pollbooks in which voters' names have been entered, election officers may indicate the application to vote without writing the name.

(Added to NRS by 1960, 253; A 1971, 442, 1486; 1987, 692)

—ANNOTATIONS—

Attorney General's Opinions.

Members of party having no contest for offices may vote nonpartisan ballot. If there is no contest at all within a party, no primary election ballots for such party should be printed, but members of such party are entitled to vote nonpartisan ballot. AGO 213 (8-2-1918)

Elector may not vote ballot of party unless records of registration reflect affiliation with party. Elector is not entitled to vote ballot of particular political party at primary unless registration records reflect his affiliation with that party. AGO 132 (7-25-1922)

293.287 Announcement of name and political affiliation of registered voter; challenges; nonpartisan ballot at primary election.

1. A registered voter applying to vote at any primary election shall give his name and political affiliation, if any, to the election board officer in charge of the election board register, and the officer shall immediately announce the name and political affiliation.

2. Any person's right to vote may be challenged by any registered voter upon:

- (a) Any of the grounds allowed for a challenge in NRS 293.303;
- (b) The ground that the person applying does not belong to the political party designated upon the register; or
- (c) The ground that the register does not show that he designated the political party to which he claims to belong.

3. Any such challenge must be disposed of in the manner provided by NRS 293.303.

4. A registered voter who has designated on his affidavit of registration an affiliation with a minor political party may vote a nonpartisan ballot at the primary election.

(Added to NRS by 1960, 253; A 1971, 443; 1977, 243; 1987, 1369; 1989, 228; 1991, 1681)

293.293 Mode of voting by paper ballot. Where paper ballots are used for voting:

1. Except as provided in subsection 2, the voter shall mark his ballot in no other manner than by stamping a cross (X) in the square following the name of each candidate for whom he intends to vote for each office, or upon one of the lines provided pursuant to NRS 293.269, except that in a general election, at which the names of candidates for President and Vice President of the United States are on the ballot, followed by the designation of their party, one vote for the party designated constitutes a vote for that party's candidates for President and Vice President.

2. If a proposed constitutional amendment or other question is submitted to the registered voters, the cross must be placed in the square following the answer which the voter chooses to give.

3. Before leaving the booth, the voter shall fold his ballot in such a manner that the number of the ballot appears on the outside, without exposing how he voted, and shall keep it so folded until he has delivered it to the officer from whom he received it, who shall announce the number of the ballot in an audible voice.

4. The election board officer who is in charge of the pollbook shall repeat the number, and mark in the column opposite the number the word "Voted," or a character indicating the word "Voted."

5. The election board officer who receives the voted ballot shall separate from the ballot the strip bearing the number and shall deposit the ballot in the ballot box in the presence of the voter.

6. No ballot may be deposited in the ballot box until the slip containing the number of the ballot has been removed from it by the election board officer. The strip bearing the number must be retained by the election board officer.

(Added to NRS by 1960, 254; A 1967, 848; 1971, 1487; 1975, 475; 1979, 265; 1987, 693)

—ANNOTATIONS—

Nevada Cases.

Failure to remove number slip should not cause rejection of ballot. Where sec. 24, ch. 40, Stats. 1891 (cf. NRS 293.293), prohibiting deposit of ballots upon which watermark did not appear or from which number slip was not removed, and sec. 26 of such chapter (cf. NRS 293.367) prohibited counting ballots not bearing watermark but did not mention ballots from which number slip was not removed, if failure to mention number slip in sec. 26 was not accidental, which was hardly probable, it clearly indicated intention that failure to remove number slip should not cause rejection of ballot. *Lynip v. Buckner*, 22 Nev. 426, 41 Pac. 762 (1895)

Only way voter can indicate his choice is by cross or X as required by statute. Under statutes similar to sec. 20, ch. 40, Stats. 1891 (cf. NRS 293.293), relating to preparation of ballots, and sec. 26 of such act (cf. NRS 293.367), relating to rejection of ballots, decisions show that only way voter can indicate his choice is by cross or X, used in manner required by statute. *Dennis v. Caughlin*, 22 Nev. 447, 41 Pac. 768 (1895)

Improper in primary election to count ballots marked with pencil rather than rubber stamp. Ballots in primary election marked

with pencil rather than with rubber stamp as provided by sec. 1, ch. 100, Stats. 1901 (cf. NRS 293.293), were improperly counted by trial court in action to contest nomination, and were rejected by appellate court which reversed judgment of trial court. *Warren v. Wilson*, 46 Nev. 272, 210 Pac. 204, 997 (1923)

Intent of statute; ballots marked with pencil are invalid. In arriving at intention of legislature in enacting statutes, courts must ascertain defects or evils of former law and remedy provided by new statute. Sec. 1, ch. 100, Stats. 1901 (cf. NRS 293.293), which requires that ballots be marked with rubber stamp, was intended to achieve greater uniformity than was possible with ballots marked by pencil to secure secrecy of ballots, and ballots marked with pencil were invalid and not to be counted. *Warren v. Wilson*, 46 Nev. 272, 210 Pac. 204, 997 (1923)

No room for interpretation or construction of statute; ballots containing marks made by pencil or in improper place invalid. Where sec. 1, ch. 100, Stats. 1901 (cf. NRS 293.293), provided for uniform system for marking ballots by stamping, there was no room for interpretation or construction of statute, and ballots containing marks made by

pencil or in improper place were invalid. *Warren v. Wilson*, 46 Nev. 272, 210 Pac. 204, 997 (1923)

Attorney General's Opinions.

Placing two crosses instead of one does not invalidate ballot. Placing of two crosses inside square opposite names of Presidential

and Vice Presidential candidates instead of one cross does not invalidate ballot in view of provisions of NCL § 2486 (cf. NRS 293.367). AGO 299 (10-26-1940)

Names of candidates may not be written in. Election laws do not permit writing in of names of candidates. AGO 119 (3-17-1944)

293.296 Assistance to voter who is physically disabled or unable to read or write English.

1. Any registered voter who by reason of a physical disability or an inability to read or write English is unable to mark a ballot or use any voting device without assistance is entitled to assistance from a consenting person of his own choice, except:

- (a) The voter's employer or his agent; or
- (b) An officer or agent of the voter's labor organization.

2. A person providing assistance to a disabled voter in casting his vote shall not disclose any information with respect to the casting of that ballot.

3. The right to assistance in casting a ballot may not be denied or impaired when the need for assistance is apparent or is known to the election board or any member thereof, but the election board may require a registered voter to sign a statement that he requires assistance in casting his vote by reason of a physical disability or an inability to read or write English when the need for assistance is not apparent or no member of the election board has knowledge thereof. The statement must be executed under penalty of perjury.

(Added to NRS by 1973, 293; A 1977, 244; 1985, 1093; 1987, 693)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.297 Spoiled ballots.

1. Any voter who spoils his ballot may return the spoiled ballot to the election board and receive another in its place.

2. The election board officers shall indicate in the pollbook that the ballot is spoiled and shall enter the number of the ballot issued in its place.

3. Each spoiled ballot returned must be canceled by writing the word "Canceled" across the back of the ballot. A spoiled paper ballot must be canceled without unfolding it.

4. A record must be made of those canceled ballots at the closing of the polls and before counting. The ballots must be placed in a separate envelope and returned to the appropriate county or city clerk with the election supplies.

(Added to NRS by 1960, 254; A 1963, 1373; 1967, 848; 1987, 340, 694)

293.300 Return of ballot not voted; cancellation. A voter who does not vote the ballot delivered to him shall, before leaving the polling place, return

such ballot to the election board and it shall be canceled in the same manner as a spoiled ballot.

(Added to NRS by 1960, 255)

293.301 Inspection of pollbook during election by representative of political party.

1. The county clerk of each county shall allow not more than one representative from each political party for each precinct at a polling place to examine the pollbook four times during an election to determine the registered voters in that precinct who have not voted in the election. The examination of the pollbook must not interfere with the conduct of the election.

2. Each person who is authorized by a political party to examine the pollbooks shall provide proof of identity and a written statement from the county central committee which authorizes him to represent that political party at the polling place.

(Added to NRS by 1991, 1352)

293.303 Challenges.

1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed, or has voted before on the same day, or on any other ground provided for in this Title; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not belong to the political party designated upon the register, "I swear (or affirm) that I belong to the political party designated upon the register";

(b) If the challenge is on the ground that the register does not show that he designated the political party to which he claims to belong, "I swear (or affirm) that I designated on the affidavit of registration the political party to which I claim to belong";

(c) If the challenge is on the ground that he does not reside at the residence whose address is listed in the precinct register, "I swear (or affirm) that I reside at the residence whose address is listed in the precinct register" or "I swear (or affirm) that I reside in this precinct";

(d) If the challenge is on the ground that he previously voted a ballot for the election, "I swear (or affirm) that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(e) If the challenge is on the ground that he is not the person he claims to be, "I swear (or affirm) that I am the person whose name is in this precinct register."

The oath or affirmation must be set forth on a form prepared by the secretary of state and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged" opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue him a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue him a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years old who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

8. The election board officers shall record the result of the challenge on the challenge list, and the election board officer in charge of the checklist shall indicate next to the name of the challenged person the result of the challenge.

(Added to NRS by 1960, 255; A 1977, 244; 1983, 1287; 1985, 560; 1987, 340; 1991, 1682)

—ANNOTATIONS—

Federal and Other Cases.

Right of members of election board to ask any relevant question necessary to decide challenge. Identification of voter's place of residence was relevant to right to vote and, under NRS 293.303, members of election board had right to ask any relevant question of challenged voter considered necessary to arrive at decision on challenge. *De La Cruz v. Dufresne*, 533 F. Supp. 145 (D. Nev. 1982)

Attorney General's Opinions.

Signer of certificate of nomination for independent candidate does not lose party standing. Signer of certificate of nomination of independent candidate does not thereby lose

party standing and has right to vote in primary. AGO 164 (8-14-1920); AGO 166 (8-21-1920)

No procedure established to challenge absent voter's ballot. No procedure is established by law by which absent voter's ballot can be challenged on day of election. AGO B965 (11-6-1950)

Only procedure authorized to examine absent voter's privilege to vote. Only procedure authorized to examine absent voter's privilege to vote is that of comparing signature on ballot envelope with signature on affidavit of registration. AGO 412 (10-3-1958)

Examination after challenge determines right to vote; effect of challenge on absent voter. Under provisions of Nevada election law relating to challenge of person's right to vote (see NRS 293.303 and 293.547), challenge in and of itself does not disqualify per-

son. It is examination of polls after challenge that determines qualifications of voter. Therefore, challenge of absent voter is of no effect unless absent voter returns to polls for examination. AGO 412 (10-3-1958)

293.304 Special polling places to be provided for persons successfully challenged on grounds of residency. If a person is successfully challenged on the ground set forth in paragraph (c) of subsection 2 of NRS 293.303, the election board shall issue a statement to the person on a form provided by the secretary of state which contains:

- (a) The name of the voter;
- (b) The address which appears on the record of voter registration;
- (c) The address at which the voter actually resides;
- (d) The signatures of the members of the election board who issued the statement; and
- (e) Other information which the secretary of state deems necessary to carry out the provisions of this section.

2. The county clerk of each county shall maintain a special polling place in his office and in each polling location during each primary or general election. The ballots for the special polling place must contain provisions for voting for any of the following offices and questions if an election is being held for the offices and questions, and no others:

- (a) President and Vice President of the United States;
- (b) United States Senator;
- (c) All state officers for whom all voters in the state may vote;
- (d) All county officers for whom all voters in the county may vote; and
- (e) Questions which have been submitted to all of the voters of the county or state.

3. If a person comes to the special polling place and presents a properly prepared statement issued pursuant to subsection 1, the county clerk shall permit him to vote at the special polling place, using the special ballot prepared pursuant to subsection 2.

4. The secretary of state shall provide by regulation for:

- (a) Forms for statements; and
- (b) The counting and security of ballots voted at a special polling place.

(Added to NRS by 1981, 1860; A 1987, 694, 1369; 1989, 2165; 1991, 1683, 2219)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.305 Closing of polls; admission of voters and other persons.

1. If at the hour of closing the polls there are any registered voters waiting to vote, the doors of the polling place must be closed after all such voters have been admitted to the polling place. Voting must continue until those voters have voted.

2. The deputy sheriff shall allow other persons to enter the polling place after the doors have been closed for the purpose of observing or any other legitimate purpose if there is room within the polling place and such admittance will not interfere unduly with the voting.

(Added to NRS by 1960, 256; A 1987, 341)

293.307 Duties of voting board before adjournment. After the last person entitled to vote has voted, the voting board, before adjourning, shall put the records and the account of ballots in order for the counting board.

(Added to NRS by 1960, 256)

293.309 Absent ballots: Preparation; time for distribution; legal actions not to prevent issuance.

1. The county clerk of each county and city clerk of each city shall prepare an absent ballot for the use of registered voters who have requested absent ballots.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Resides within the state, not later than 20 days before the election in which it is to be used; or

(b) Resides outside the state:

(1) For a primary election or general election, not later than 40 days before that election, if possible; or

(2) For a primary city election or general city election, not later than 20 days before that election.

3. Any legal action which would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

(Added to NRS by 1971, 433; A 1975, 374; 1987, 341; 1991, 2220)

ABSENT BALLOT VOTING

293.310 Request and receipt of absent ballot permits voting only by absent ballot; notice to election board.

1. A registered voter who requests and receives an absent voter's ballot may vote only by absent ballot at the election for which the absent ballot was issued.

2. When any registered voter has requested an absent ballot and the ballot has been mailed or issued, the appropriate county or city clerk shall notify the

precinct or district election board that the registered voter has requested an absent ballot.

(Added to NRS by 1960, 256; A 1967, 849; 1977, 245; 1987, 342)

—ANNOTATIONS—

Nevada Cases.

No effect on election when U.S. Senator died before general election and after absent voter ballots mailed. Where U.S. Senator died shortly before general election, fact that absent voter ballots had been mailed pursuant to NCL §§ 2553-2567 (cf. NRS 293.310-293.360) did not preclude placing names of candidates to fill unexpired term of senator on ballots for those voting personally, invalidate such election, or require holding

that election was underway and that person appointed by governor should hold office until following general election, because voting by absent ballot is privilege, not right, and to hold such election void would also void elections where legislature has provided for late nominations under certain conditions. *Brown v. Georgetta*, 70 Nev. 500, 275 P.2d 376 (1954), cited, *Beebe v. Koontz*, 72 Nev. 247, at 253, 302 P.2d 486 (1956)

293.313 Persons entitled to absent ballot.

1. Any registered voter who provides sufficient written notice to the appropriate county or city clerk, may vote an absent ballot as provided in this chapter.

2. Any registered voter who:

(a) Is at least 65 years old; or

(b) Has a physical disability or condition which substantially impairs his ability to go to the polling place, may request an absent ballot for all elections held during the year he requests an absent ballot. The registered voter shall include in his request a description of his physical disability or condition.

3. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot which is signed by the registered voter and received by the county clerk; or

(b) Form prescribed by the secretary of state which is completed and signed by the registered voter and received by the county clerk.

(Added to NRS by 1960, 256; A 1971, 443; 1973, 894; 1975, 527; 1987, 342, 1370; 1991, 2220)

293.315 Limitation on time to apply for absent ballot; inspection of applications; issuance of absent ballot.

1. A registered voter referred to in NRS 293.313 may, at any time before 5 p.m. on the Tuesday preceding any election, make an application to that clerk for an absent voter's ballot. The application is not available for public inspection except by:

(a) The voter named in the application;

(b) A candidate whose name appears on the ballot for that election; or

(c) The candidate's official designee who possesses a letter signed under penalty of perjury which states that the person is the representative of the candidate.

When the voter, candidate or candidate's official designee, as the case may be, has identified himself to the satisfaction of the clerk, he is entitled to inspect the application.

2. When the voter has identified himself to the satisfaction of the clerk, he is entitled to receive the appropriate ballot or ballots, but only for his own use.

(Added to NRS by 1960, 256; A 1961, 289; 1967, 849; 1987, 342; 1989, 2166)

—ANNOTATIONS—

Attorney General's Opinions.

Absent voter's ballot for military personnel. Application for absent voter's ballot for military personnel may be made by another person. AGO 133 (4-18-1944)

Only procedure authorized to examine absent voter's privilege to vote. Only procedure authorized to examine absent voter's privilege to vote is that of comparing signature on ballot envelope with signature on affidavit of registration. AGO 412 (10-3-1958)

Clerk not required to mail absent voter's ballot until in receipt of evidence refuting affidavit of abandonment of residence. Where registered voter applies for absent ballot under provisions of NRS 300.020 (cf. NRS 293.315) and affidavit alleging abandonment of residence is filed under provisions of NRS 292.510 (cf. NRS 293.535), county clerk is not required to mail absent voter's ballot until in receipt of evidence refuting affidavit. AGO 422 (10-28-1958)

293.3155 Use of special absent ballot by person who resides outside of state; request for primary election ballot considered request for general election ballot. Notwithstanding any other provisions of this Title:

1. Any registered voter of this state who resides outside this state may use the form provided by the Federal Government as a special absent ballot for a primary or general election if the voter:

- (a) Requests an absent ballot and the request is received by the county clerk not later than 30 days before the primary or general election; and
- (b) Does not receive the absent ballot.

2. The special absent ballot must be used only for the offices of President and Vice President of the United States, United States Senator and Representative in Congress. The ballot must allow the registered voter to vote by writing in his choice of a political party for each office, the name of a candidate for each office, or the name of the person whom the voter prefers for each office.

3. The special absent ballot must not be counted if:

- (a) It is submitted from any location within this state;
- (b) The county clerk receives the request for an absent ballot less than 30 days before the primary or general election; or
- (c) The county clerk receives the absent ballot on or before the date of the primary or general election.

4. A county clerk who receives a request from a voter for an absent ballot for a primary election pursuant to this section shall also consider such a request as a request for an absent ballot for the general election unless otherwise specified in the request.

5. A voter who requests an absent ballot for a primary election pursuant to this section must be allowed to vote in person in the general election if he signs a statement, under penalty of perjury, that he did not:

- (a) Intend that his request for an absent ballot for the primary election be considered a request for an absent ballot for the general election; and
 - (b) Receive an absent ballot for the general election.
- (Added to NRS by 1987, 2048; A 1989, 1729, 2166)

293.3157 Registered voter residing outside continental United States may request absent ballot by facsimile machine; regulations.

1. Any registered voter of this state who resides outside the continental United States may use a facsimile machine to request an absent ballot.

2. The county clerk shall use a facsimile machine to send an absent ballot to the registered voter.

3. The registered voter shall mail his absent ballot to the county clerk.

4. The secretary of state shall adopt regulations to carry out the provisions of this section.

5. As used in this section, "facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.

(Added to NRS by 1991, 2217)

293.316 Application for absent ballot because of illness or disability: Delivery of ballot to authorized representative; voting procedure.

1. Any registered voter unable to go to the polls because of illness or disability resulting in his confinement in a hospital, sanatorium, dwelling or nursing home may request in a written statement, signed by him, that the appropriate county or city clerk send him an absent ballot. The clerk shall deliver the ballot, at the office of the clerk, to any authorized representative of the voter possessing a written statement signed by the voter stating that he is a patient in a hospital, sanatorium or nursing home, and that he will be confined therein on election day. If any registered voter is suddenly hospitalized or becomes seriously ill or is called away from home after the time has elapsed for requesting an absent ballot as provided in NRS 293.315, and is unable to vote at the polling place, he may apply to the appropriate clerk for an absent ballot at any time before 5 p.m. on the day of the election. The clerk shall issue an absent ballot upon satisfactory proof of the emergency.

2. After marking his ballot the voter shall place it in the identification envelope. He shall affix his signature on the back of the envelope and return it to the office of the clerk.

3. A request for a ballot pursuant to this section must be made, and the ballot delivered to the voter and returned to the clerk, not later than the time the polls close on election day.

4. The procedure authorized by this section is subject to all other provisions of this chapter relating to absent ballot voting insofar as those provisions are not inconsistent with the provisions of this section.

(Added to NRS by 1967, 852; A 1969, 455; 1971, 444; 1985, 1093; 1987, 342; 1991, 2221)

293.317 Invalid absent ballots. Absent ballots received by the county or city clerk after the polls are closed on the day of election are invalid.

(Added to NRS by 1960, 256; A 1987, 343)

293.320 County or city clerk to determine if applicant for absent ballot is registered voter; affidavit of person in Armed Forces.

1. The county or city clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper county or city.

2. Armed Forces personnel applying for absent ballots shall complete the form of affidavit required for registration before receiving an absent ballot.

(Added to NRS by 1960, 256; A 1965, 669; 1987, 343)

—ANNOTATIONS—

Attorney General's Opinions.

Statute imposes duty upon county clerk. It is clear from NRS 300.030 (cf. NRS 293.320) that duty is placed upon county clerk to determine whether or not applicant is entitled to vote at election. AGO B965 (11-6-1950)

Procedure where county clerk has challenge to person's right to vote on file when person applies for absent ballot. Where county clerk has challenge to person's qualifications as voter on file and such person there-

after makes application for absent ballot, county clerk may determine such person's intention to abandon residence under NRS 292.120 (cf. NRS 293.495) and thereupon communicate with such person advising of necessity to furnish proof of electoral qualifications before being entitled to absent ballot. However, if there is insufficient time for such communication and offer of proof, such ballot shall be released to such applicant. AGO 412 (10-3-1958)

293.323 Delivery of absent ballot and voting supplies by mail.

1. If the request for an absent ballot is made by mail or telegram, the county or city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail if the absent voter is in a foreign country but not on a military base, postage prepaid:

(a) Except as provided in paragraph (b), an absent ballot, a return envelope, a stamp for marking the ballot, a stamp pad and instructions.

(b) In those counties or cities using a mechanical voting system whereby a vote is cast by punching a card, a card attached to a sheet of foam plastic or similar backing material, a return envelope, a punching instrument, a sample ballot and instructions.

2. The return envelope must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

3. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1.

4. Before depositing the ballot in the mails, the county or city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

(Added to NRS by 1960, 256; A 1961, 289; 1975, 1531; 1985, 1094; 1987, 343)

293.325 Duties of county or city clerk upon receipt of absent ballot from voter.

1. Except as provided in subsections 2 and 3, when an absent ballot is returned by a registered voter to the county or city clerk through the mails, and record thereof is made in the absent ballot record book, the appropriate county or city clerk shall deliver, or cause to be delivered, that ballot to the precinct or district election board.

2. If the county or city clerk has appointed an absent ballot central counting board, the clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope against the original signature of the voter on the county clerk's register. If the clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. On election day the clerk shall deliver the ballot box to the absent ballot counting board to be counted.

3. If the county or city uses a mechanical voting system, the county or city clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope against the original signature of the county clerk's register. If the county or city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. On election day the county or city clerk shall deliver the ballot box to the central counting place.

(Added to NRS by 1960, 257; A 1961, 289; 1967, 849; 1975, 1531; 1985, 1094; 1987, 343)

293.327 Voting absent ballot in clerk's office.

1. If a request for an absent ballot is made by a registered voter in person, the county or city clerk shall issue an absent ballot to the registered voter, and the ballot must be voted on the premises of the clerk's office and returned to the clerk. The clerk shall follow the same procedure as in the case of absent ballots received by mail.

2. At least 25 days before an election until 5:00 p.m. the day before the election, each county clerk and city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of his office for use by

registered voters who are issued absent ballots in accordance with this section.

(Added to NRS by 1960, 257; A 1975, 1532; 1977, 245; 1983, 1288; 1987, 344, 695; 1989, 2166)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.330 Marking and transmission of absent ballot by voter.

1. When an absent voter receives his ballot, he must stamp and fold it, if it is a paper ballot, or punch it, if the ballot is voted by punching a card, in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. If the absent voter who has received a ballot by mail applies to vote the ballot in person at the county or city clerk's office, he must stamp or punch the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.

(Added to NRS by 1960, 257; A 1985, 1095; 1987, 344, 695)

293.333 Procedure for depositing absent ballots in ballot box.

1. On the day of election, the precinct or district election boards receiving the absent voters' ballots from the county or city clerk shall, in the presence of a majority of the election board officers, deposit the ballots in the ballot box in the following manner:

(a) The name of the voter, as shown on the return envelope, must be called and checked as if the voter were voting in person; and

(b) The signature on the back of the return envelope must be compared with that on the original affidavit of registration.

2. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot, and, if the numbers are the same, the ballot deposited in the regular ballot box.

3. The election board officers shall mark in the pollbook opposite the name of the voter the word "Voted."

(Added to NRS by 1960, 258; A 1987, 344, 695)

—ANNOTATIONS—

Attorney General's Opinions.

When ballot of deceased absent voter may not be counted. Ballot of absent voter who dies prior to election day may not be counted if fact of death known to election officers. AGO 94 (11-23-1932)

No procedure established to challenge absent voter's ballot. No procedure is established by law by which an absent voter's ballot can be challenged on day of election. AGO B965 (11-6-1950)

Only procedure authorized to examine absent voter's privilege to vote. Only procedure authorized to examine absent voter's

privilege to vote is that of comparing signature on ballot envelope with signature on affidavit of registration. AGO 412 (10-3-1958)

293.335 Empty envelopes and rejected ballots to be returned to county or city clerk. When all absent ballots delivered to precinct or district election boards have been either voted or rejected, the empty envelopes and the envelopes containing rejected ballots must be returned to the county or city clerk. On all envelopes containing rejected ballots the cause of rejection must be noted and the envelope signed by a majority of the election board officers.
(Added to NRS by 1960, 258; A 1987, 345, 713, 740)

293.337 Registered voter not receiving absent ballot after application may vote in person on receipt of certificate of error. The provisions of this chapter do not prohibit any registered voter who has applied for, but not received, an absent ballot from communicating that fact to the county or city clerk, receiving a certificate of error and voting in person on election day.
(Added to NRS by 1960, 258; A 1987, 345)

293.340 Absent ballot central counting board: Ballot boxes; deposit of voted ballots.

1. In counties in which an absent ballot central counting board is appointed the county clerk shall provide a ballot box in his office for each different ballot listing in the county.

2. On each such box there shall appear a statement indicating the precincts and district for which such box has been designated.

3. Each absent ballot voted shall be deposited in a ballot box according to the precinct or district of the absent voter voting such ballot.

(Added to NRS by 1960, 258)

VOTING IN MAILING PRECINCTS

293.343 Voting in election precinct having not more than 200 registered voters; mailing precincts.

1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county or city clerk that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county or city clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any

election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

(Added to NRS by 1960, 258; A 1987, 345)

293.345 County or city clerk to mail official mailing ballots to registered voters.

1. The county clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct, before 5 p.m. on the third Thursday in August and before 5 p.m. on the fourth Tuesday in October of any year in which a general election is to be held, an official mailing ballot to be voted by him at the election.

2. The city clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct, before 5 p.m. on the third Thursday in April and before 5 p.m. on the fourth Tuesday in May of any year in which a general city election is to be held, an official mailing ballot to be voted by him at the election.

(Added to NRS by 1960, 258; A 1961, 290; 1983, 1119; 1987, 345; 1989, 1730; 1991, 2221)

293.350 Enrollment of eligible voter's name; mailing of ballot and voting supplies by county or city clerk.

1. The county or city clerk shall:

(a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;

(b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;

(c) Mark the number of the ballot on the return envelope; and

(d) Mail the ballot to the registered voter.

2. Except as provided in subsection 3, the ballot must be accompanied by:

(a) A stamp and stamp pad;

(b) A return envelope;

(c) A sample ballot; and

(d) Instructions regarding the manner of stamping and returning the ballot.

3. In those counties or cities using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:

(a) A sheet of foam plastic or similar backing material attached to the card;

(b) A punching instrument;

(c) A return envelope;

(d) A sample ballot; and

(e) Instructions regarding the manner of punching and returning the card.

(Added to NRS by 1960, 259; A 1961, 290; 1963, 1373; 1975, 1532; 1985, 1095; 1987, 345)

293.353 Marking and return of mailing ballot by voter. Upon receipt of a mailing ballot from the county or city clerk, the registered voter must:

1. Except as provided in subsection 2:
 - (a) Immediately after opening the envelope, mark and fold the ballot;
 - (b) Place the ballot in the return envelope;
 - (c) Affix his signature on the back of the envelope; and
 - (d) Mail or deliver the envelope to the county or city clerk.
 2. In those counties or cities using a mechanical voting system whereby a vote is cast by punching a card:
 - (a) Immediately after opening the envelope, punch the card;
 - (b) Place the unfolded card in the return envelope;
 - (c) Affix his signature on the back of the envelope; and
 - (d) Mail or deliver the envelope to the county or city clerk.
- (Added to NRS by 1960, 259; A 1963, 1374; 1975, 1533; 1985, 1095; 1987, 346)

293.355 Duties of county or city clerk on receipt of envelope returning mailing ballot. Upon receipt of the return envelope from the registered voter, the county or city clerk shall follow the same procedure as in the case of absent ballots.

(Added to NRS by 1960, 259; A 1963, 1374; 1987, 346)

RETURNS AND CANVASS

293.363 Preparation by counting board to count ballots. When the polls are closed, the counting board shall prepare to count the ballots voted that day. The counting procedure must be public and continue without adjournment until completed. The counting board shall prepare in the following manner:

1. The pollbooks must be compared and errors corrected until the books agree.
2. The ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to ascertain whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If, on comparison of the count with the pollbook, a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the ballot box after the count is completed.
3. If the ballots in the box are found to exceed in number the number of names on the pollbooks, the ballots must be replaced in the box, and a counting board officer, with his back turned to the box, shall draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots

when so marked must be immediately sealed in an envelope and returned to the county or city clerk with the other ballots rejected for any cause.

4. When it has been ascertained that the pollbook and the number of ballots agree with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

(Added to NRS by 1960, 259; A 1961, 290; 1985, 1596; 1987, 346)

293.365 Accounting of all ballots required before count begun. No counting board in any precinct or district in which paper ballots are used may commence to count the votes until all ballots used or unused are accounted for.

(Added to NRS by 1960, 260; A 1977, 245)

293.367 Rejection of ballot; regulations for counting ballots.

1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. Regulations for counting ballots must include provisions that:

(a) A vote on a paper ballot may not be counted unless indicated by a cross in the appropriate square.

(b) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(c) If more choices than permitted by the instructions are marked for any office or question, the vote for that office or question may not be counted.

(d) If it is impossible to determine a voter's choice for any office or question, his vote or votes for that office or question may not be counted.

(e) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(f) Only devices provided for in this chapter may be used in marking ballots.

(g) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(h) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it.

(i) In counties or cities where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not constitute grounds for rejection of the ballot unless the election board deter-

mines that the condition of the ballot justifies its exclusion pursuant to subsection 1.

(Added to NRS by 1960, 260; A 1961, 291; 1967, 849; 1975, 939; 1979, 266; 1985, 1096; 1987, 347)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.
Punchcard Method of Voting, NAC 293.200 et seq.

Paper Ballot Method of Voting, NAC 293.300 et seq.

Nevada Cases.

Failure to remove number slip should not cause rejection of ballot. Where sec. 24, ch. 40, Stats. 1891 (cf. NRS 293.293), prohibiting deposit of ballots upon which watermark did not appear or from which number slip was not removed, and sec. 26 of such chapter (cf. NRS 293.367) prohibited counting ballots not bearing watermark but did not mention ballots from which number slip was not removed, if failure to mention number slip in sec. 26 was not accidental, which was hardly probable, it clearly indicated intention that failure to remove number slip should not cause rejection of ballot. *Lynip v. Buckner*, 22 Nev. 426, 41 Pac. 762 (1895)

Only way voter can indicate his choice is by cross or X as required by statute. Under statutes similar to sec. 20, ch. 40, Stats. 1891 (cf. NRS 293.293), relating to preparation of ballots, and sec. 26 of such act (cf. NRS 293.367), relating to rejection of ballots, decisions show that the only way voter can indicate his choice is by cross or X, used in manner required by statute. *Dennis v. Caughlin*, 22 Nev. 447, 41 Pac. 768 (1895)

Where objections overruled. In election contest, objections were overruled to ballots containing accidental pencil markings, ink blots resulting from accident of election officers, fingermarks, crosses which were impressions of others made with soft lead caused by folding, words written by election officers after ballots had been cast, large and heavy crosses in proper places, accidental dots and fine and irregular pencil marks, crosses on backs of ballots resulting from pencil pressure on dirty surfaces, stars made by retracing or resulting from rough writing surfaces and crosses made with slight hooks at end of line forming them. (See NRS 293.367.) State ex

rel. *McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899), cited, *Strosnider v. Turner*, 30 Nev. 155, at 161, 93 Pac. 502 (1908), *James v. Stern*, 44 Nev. 430, at 435, 195 Pac. 1104 (1921), *Warren v. Wilson*, 46 Nev. 272, at 276, 210 Pac. 204, 997, 212 Pac. 497 (1923), distinguished, *Strosnider v. Turner*, 29 Nev. 347, at 351, 90 Pac. 581 (1907)

Where improperly marked ballots were rejected. In election contest ballots were rejected which contained crosses followed by "i," crosses after both names of candidate and space for naming candidate, words scratched off, two crosses after names of candidates, crosses enclosed with O, perpendicular marks, letter "S" crossed by line, crosses on left side of names of candidates, vertical lines not forming cross, N crossed by line, X through "O" of "Official," ink marks, check marks, and cross between name of candidate and instruction. (See NRS 293.367.) State ex rel. *McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899), cited, *Strosnider v. Turner*, 30 Nev. 155, at 161, 93 Pac. 502 (1908), *James v. Stern*, 44 Nev. 430, at 435, 195 Pac. 1104 (1921), *Warren v. Wilson*, 46 Nev. 272, at 276, 210 Pac. 204, 997, 212 Pac. 497 (1923), distinguished, *Strosnider v. Turner*, 29 Nev. 347, at 351, 90 Pac. 581 (1907)

Consideration of differences in persons marking ballots. Where ballots had to be marked by pencil to indicate choice of candidates, court, in determining validity of ballots in election contest, considered that such marks were made by persons of different ages, health and experience in use of pencils, and although marks were required to be in form of cross, accepted marks resembling letters "Y," "T" and inverted "T," "V" and inverted "V," figure 4, double crosses from attempted retracing, and other curved or irregular lines resulting from nervousness, infirmity or writing surface. (See NRS 293.367.) State ex rel. *McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899), cited, *Strosnider v. Turner*, 30 Nev. 155, at 161, 93

Pac. 502 (1908), *James v. Stern*, 44 Nev. 430, at 435, 195 Pac. 1104 (1921), *Warren v. Wilson*, 46 Nev. 272, at 276, 210 Pac. 204, 997, 212 Pac. 497 (1923), distinguished, *Strosnider v. Turner*, 29 Nev. 347, at 351, 90 Pac. 581 (1907)

Where strip bearing number of ballot is not detached. Where ballot was deposited without strip bearing its number being detached, it was allowed and counted. (See NRS 293.367.) *State ex rel. McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

Ballots marked for more candidates than were to be elected. Ballots marked for more candidates to office than were to be elected were not void but were not counted for either party in contested election for governor where crosses were placed after name of more than one candidate for such office. (See NRS 293.367.) *State ex rel. McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

Where ballot contained crossed-out name of withdrawn candidate. Essential element of Australian ballot law was prevention of corruption and fraud through uniformity of ballots, including paper and printing. Where enough ballots in proper form were on hand, use of certain ballots on which name of candidate who had withdrawn was printed, crossed with red line, was improper and such ballots were not allowed or counted. (See NRS 293.367.) *State ex rel. McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

Where improperly marked valid not void. Ballots marked with crosses directly on line between candidates for governor so that it could not be determined for whom vote was intended were not void but were not counted for either candidate. (See NRS 293.367.) *State ex rel. McMillan v. Sadler*, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

Where improperly marked valid not objectionable. Where ballot contained mark opposite name of candidate which, although plainly recognizable as cross, was blurred by too much ink upon stamp, or by some other

accidental cause, ballot was not objectionable in election contest upon ground that distinguishing mark appeared upon it. (See NRS 293.367.) *Strosnider v. Turner*, 30 Nev. 155, 93 Pac. 502 (1908), cited, *In re Moore*, 65 Nev. 393, at 404, 197 P.2d 858 (1948)

Where ballot improperly marked. In election contest, trial court should have excluded ballot which was marked with double cross opposite name of one candidate, and indescribable mark opposite name of another candidate. (See NRS 293.367.) *Strosnider v. Turner*, 30 Nev. 155, 93 Pac. 502 (1908)

Where ballot improperly marked. Ballot which was not stamped as required by law, but was marked with lead pencil throughout, was properly rejected in election contest. (See NRS 293.367.) *Strosnider v. Turner*, 30 Nev. 155, 93 Pac. 502 (1908), cited, *Warren v. Wilson*, 46 Nev. 272, at 277, 210 Pac. 204, 997, 212 Pac. 497 (1923)

Where ballot improperly marked. Ballot which contained cross deliberately stamped outside square provided for such purpose opposite name of candidate, and in blank space immediately below name of political party which candidate represented, was invalid and inadmissible in election contest. (See NRS 293.367.) *Strosnider v. Turner*, 30 Nev. 155, 93 Pac. 502 (1908), cited, *Warren v. Wilson*, 46 Nev. 272, at 277, 210 Pac. 204, 997, 212 Pac. 497 (1923)

Where improperly marked ballot not void. In election contest, ballots were considered good on which more candidates were voted for some offices than there were officers to be elected, but ballots which contained cross after names of both candidates who were parties to contest were not counted for either pursuant to statute which provided that votes for office not be counted if it was impossible to determine choice of vote. (See NRS 293.367.) *State ex rel. Springmeyer v. Baker*, 35 Nev. 300, 129 Pac. 452 (1912)

Attorney General's Opinions.

Names of candidates may not be written in. Election laws do not permit writing in of names of candidates. AGO 119 (3-17-1944)

293.368 Counting of votes cast for deceased candidate.

1. Whenever a candidate whose name appears upon the ballot at a:

(a) General election dies after 5 p.m. of the 3rd Tuesday in September; or
 (b) General city election dies after 5 p.m. of the 3rd Tuesday in May, and before the time of the closing of the polls on the day of the election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

2. If the deceased candidate receives the majority of the votes cast for the office, he shall be considered elected and the office to which he was elected shall be considered vacant at the beginning of the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

(Added to NRS by 1963, 1382; A 1971, 445; 1987, 347)

293.370 Procedure for completion of tally lists.

1. When all the votes have been tallied, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes he received. The number must be expressed in words and figures. The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

(a) A primary election held in an even-numbered year, other than a presidential preference primary; or

(b) A general election.

(Added to NRS by 1960, 260; A 1979, 1304)

293.373 Duties of officers of counting board after tally lists completed.

1. After the tally lists have been completed, the counting board officers shall:

(a) File the voted ballots on a string, enclose and seal them in an envelope marked "Election returns, voted ballots."

(b) File the rejected ballots on a string, enclose and seal them in an envelope marked "Election returns, rejected ballots."

(c) Place one of the tally lists for regular ballots and one of the pollbooks in an envelope marked "Election returns" and seal the envelope.

2. The voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the county or city clerk.

3. The other pollbooks, tally lists and election board register must be returned to the county or city clerk.

(Added to NRS by 1960, 261; A 1961, 292; 1987, 348; 1989, 1788)

293.383 Posting of copies of result of votes cast.

1. Except as provided in subsection 2, each counting board, before it adjourns, shall post a copy of the voting results in a conspicuous place on the outside of the place where the votes were counted.

2. When votes are cast on ballots which are mechanically or electronically tabulated in accordance with the provisions of chapter 293B of NRS, the county or city clerk shall, as soon as possible, post copies of the tabulated voting results in a conspicuous place on the outside of the counting facility, courthouse or city hall, in the case of a city election.

3. Each copy of the voting results posted in accordance with subsections 1 and 2 must set forth the accumulative total of all the votes cast within the county, city or other political subdivision conducting the election and must be signed by the members of the counting board or the computer program and processing accuracy board.

(Added to NRS by 1960, 261; A 1969, 167; 1975, 1533; 1985, 1096; 1987, 348)

293.384 Withdrawal of absent ballots from ballot boxes; verification of absent ballots by counting board or absent ballot central counting board.

1. Beginning at 8 a.m. on the day before the day of an election, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw all the ballots deposited in the absent voters' ballot boxes before that day and ascertain that each box has the required number of ballots according to the county or city clerk's absent voters' record.

2. Any absent ballots received by the county or city clerk after 8 a.m. on the day that the ballots are withdrawn must be held by him until the ballots received before that day have been withdrawn pursuant to subsection 1. The clerk shall then deposit those absent ballots in the appropriate ballot boxes.

3. The counting board or absent ballot central counting board shall count the number of ballots in the same manner as election boards.

(Added to NRS by 1985, 1594; A 1987, 348)

293.385 Counting of votes by counting board or absent ballot central counting board; unlawful dissemination of information.

1. After 8 a.m. on election day, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw all the ballots received the previous day from absent voters' ballot boxes and ascertain that each box has the required number of ballots according to the county or city clerk's absent voters' ballot record.

2. If any absent ballots are received by the county or city clerk on election day, pursuant to NRS 293.316, the county or city clerk shall hold the ballots until ballots received before election day have been withdrawn pursuant to

subsection 1. Thereafter, the county or city clerk shall deposit the absent ballots in the appropriate ballot boxes.

3. After 8 a.m. on election day, the appropriate board shall count in public the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the county or city clerk, who shall have the results added to the regular votes of the precinct. If a mechanical voting system is used in which a voter casts his ballot by punching a card which is counted by a computer, the absent ballots may be counted with the regular votes of the precinct. The results of the absent ballot vote must not be identified separately from the regular votes of the precinct on any abstract or printout produced by a computer of the results of the election.

5. Any person who disseminates to the public in any way information pertaining to the count of absent ballots before the polls close is guilty of a misdemeanor.

(Added to NRS by 1960, 263; A 1969, 820; 1971, 445; 1973, 244; 1985, 1596; 1987, 349; 1989, 1665; 1991, 2221)

293.387 Canvass of returns; abstract of votes.

1. As soon as the returns from all the precincts and districts in any county or city have been received by the board of county commissioners or city council, the board or council shall meet and canvass the returns. The canvass must be completed on or before the fifth working day following the election.

2. In making its canvass, the board or council shall:

(a) Note separately any clerical errors discovered; and

(b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

3. The county or city clerk shall, as soon as the result is declared, enter upon the records of the board or council an abstract of the result, which must contain the number of votes cast for each candidate. The board or council, after making the abstract, shall cause the county clerk or city clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:

(a) A copy of the certified abstract; and

(b) A mechanized report of the abstract in compliance with regulations adopted by the secretary of state, and transmit them to the secretary of state within 5 working days after the day after the election.

4. The secretary of state shall, immediately after any primary election, compile the returns for all candidates voted for in more than one county. He shall make out and file in his office an abstract thereof, and shall certify to the county clerk of each county the name of each person nominated, and the name of the office for which he is nominated.

5. The city clerk shall, immediately after any primary city election, compile the returns for all candidates voted for in the city. He shall make out and

file in his office an abstract thereof, and shall certify the name of each person nominated, and the name of the office for which he is nominated.

(Added to NRS by 1960, 261; A 1961, 292; 1963, 1374; 1967, 861; 1969, 786; 1971, 445, 1487; 1977, 245; 1987, 349, 1370; 1989, 1665; 1991, 1106)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 ets eq.

Reviser's Note.

Ch. 718, Stats. 1989, the source of paragraph (b) of subsection 3 of this section, became effective on January 1, 1990, and contains the following provision not included in NRS:

"On or before January 1, 1990, the secretary of state shall adopt regulations setting forth a standard method of mechanized reporting of the abstract of the result of an election required by subsection 3 of NRS 293.387 and the abstract of votes required by subsection 1 of NRS 293.395. The regulations must require the method of reporting be by computer technology or some other equally or more advanced method of technology which will facilitate the compilation of election results and the comparison of election results from one election to another."

Nevada Cases.

Election of school trustee not complete and candidate not qualified to serve until proper canvass and certification of result.

From sec. 7, ch. 81, Stats. 1873 (cf. NRS 386.260), relating to public schools, and sec. 1, ch. 42, Stats. 1889 (cf. NRS 293.387), relating to elections, it was clear that legislature intended that no election of school trustee should be complete, or candidate qualified to serve, until there had been proper canvass and certification of result. *State ex rel. Guinan v. Meder*, 22 Nev. 264, 38 Pac. 668 (1894)

Attorney General's Opinions.

County commissioners cannot go beyond certificates of inspectors and clerks in making canvass. In making canvass of election returns, county commissioners can only examine certificates of inspectors and clerks and add up totals from each precinct. They do not have power to go beyond certificates and check tally marks or recount ballots. AGO 239 (11-15-1918)

When canvass may include opening ballots. Canvass of votes by county commissioners must be confined to tally sheets. Envelopes containing ballots may not be opened except upon court order in proper proceedings. AGO 139 (9-7-1922)

293.391 Disposition and inspection of ballots, pollbooks and lists after canvass by county commissioners.

1. The voted ballots, rejected ballots, spoiled ballots, unused ballots, tally lists, pollbooks, challenge lists and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk, and preserved for at least 22 months. All sealed materials must be destroyed immediately after the preservation period.

2. The pollbooks containing the signatures of those persons who voted in the election and the tally lists deposited with the board of county commissioners are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the county clerk.

3. A contestant of an election may inspect all of the material regarding that election which is preserved pursuant to subsection 1, except the ballots.

4. The ballots deposited with the county clerk are not subject to the inspection of anyone, except in cases of contested election, and then only by the judge, body or board before whom the election is being contested, or by

the parties to the contest, jointly, pursuant to an order of such judge, body or board.

(Added to NRS by 1961, 297; A 1963, 1375; 1975, 940; 1981, 1740; 1989, 1788)

—ANNOTATIONS—

Nevada Cases.

Former statute not repealed by later law. Later general law does not repeal earlier special law relating to particular subject. Later enactment of RL § 5409 (cf. NRS 52.125), relating to admission in evidence of public documents on certificate of legal keeper, was not intended to repeal provisions of RL § 1795 (cf. NRS 293.391), providing for official and secret custody of ballots. State ex rel. Springmeyer v. Baker, 35 Nev. 1, 126 Pac. 345 (1912)

Admissibility of ballots in election contest. Whether ballots be considered public documents or not, RL § 1795 (cf. NRS 293.391) provides for their secret custody. They are not admissible in evidence in election contest under certificate of county clerk when out of his official custody for time after such certification, or at least unless evidence is supplied that they were in same condition when presented to court, and some authorities hold such ballots are not even admissible then except when irregularity was slight. State ex rel. Springmeyer v. Baker, 35 Nev. 1, 126 Pac. 345 (1912)

Certificate by clerk could authenticate ballots only to time it was made. RL § 1795 (cf. NRS 293.391) directed that ballots be retained by clerk who was not authorized to surrender them except upon subpoena or order of tribunal before whom election was being contested, and if he surrendered them with his certificate, such certificate could authenticate ballots only to time that it was made, for it was impossible for clerk to guarantee in advance by his certificate that ballots would be in same condition at future time after being in custody of other persons that they were when he surrendered them to others. State ex rel. Springmeyer v. Baker, 35 Nev. 1, 126 Pac. 345 (1912)

Ballot box not admitted in evidence until clerk certified that it contained same ballots as when it left his possession. In election

contest, if ballot box could be admitted in evidence on certificate of county clerk that it contained ballots of such county, such certificate would relate only to time the ballot box left his possession. To admit such ballot box after it had left possession of clerk and was transported to court would leave gap of time and space when ballots would be in custody of another, expressly in conflict with RL § 1795 (cf. NRS 293.391) and it could not be admitted without recertification by clerk that it contained same ballots which he had formerly certified. State ex rel. Springmeyer v. Baker, 35 Nev. 1, 126 Pac. 345 (1912)

Certain conditions may permit ballots and returns to be certified and forwarded to court or board without requiring presence of clerk. It was manifest from provisions of RL § 1795 (cf. NRS 293.391) regarding safekeeping of ballots following election that their removal was authorized by some court or body empowered to examine them in election contest. Clerk would not be authorized to certify or send them to such court or board without subpoena or authorization, but under certain circumstances, for example on stipulation of parties, court could permit election ballots and returns to be certified and forwarded under safe conditions without requiring presence of clerk. State ex rel. Springmeyer v. Baker, 35 Nev. 1, 126 Pac. 345 (1912)

Ballot not public record or document; not admissible in evidence until inspected by judge, body or board before whom election being contested. Ballot is not public record or document within sense and meaning of RL § 5409 (cf. NRS 49.050), and in election contest ballots were not admissible in evidence which were sent to court without custody of officer enjoined by provisions of RL § 1795 (cf. NRS 293.391) to retain them until they were inspected by judge, body or board before whom such election was being contested. State ex rel. Springmeyer v. Baker, 35 Nev. 1, 126 Pac. 345 (1912)

293.393 Preparation of abstracts of votes cast at general election, general city election or other statewide election; certificates of election.

1. On or before the fifth working day after any general election, any general city election or any other election at which votes are cast for any United States Senator, Representative in Congress, member of the legislature or any state officer who is elected statewide, the board of county commissioners or city council shall open the returns of votes cast and make abstracts of the votes.

2. Abstracts of votes must be prepared in the manner prescribed by the secretary of state by regulation.

3. The county or city clerk shall make out a certificate of election to each of the persons having the highest number of votes for the district, county, city and township offices.

4. Each such certificate must be delivered to the person elected upon application at the office of the county or city clerk.

(Added to NRS by 1960, 262; A 1961, 292; 1963, 1375; 1965 Special Session, 4; 1971, 1415; 1987, 350; 1989, 1666)

—ANNOTATIONS—

Nevada Cases.

Votes for candidate dying before election not discarded; election denied to surviving candidate. In mandamus proceeding to compel issuance of certificate of election, where petitioner and another were candidates for office of county assessor, other candidate died 2 weeks before election, most voters knew of this, and decedent received majority of votes cast, Nev. Art. 5, § 4, and former statute (cf. NRS 293.393), which provide that person having highest number of votes cast is elected, required that votes for decedent not be discarded but be given effect by denying election to surviving candidate. *Ingersoll v. Lamb*, 75 Nev. 1, 333 P.2d 982 (1959)

Recount of ballots by county clerk was of no effect where recount was had pursuant to telephoned instructions from secretary of state. In mandamus proceeding to compel

county clerk to issue certificate of election under NRS 293.393, which provides for issuance of such certificate after canvass of results for certain offices, where recount of ballots was had pursuant to telephoned instructions from secretary of state, such oral communication was not "promulgation" of rules and regulations for conduct of election within meaning of NRS 293.247, which imposes such duty on secretary of state, because promulgation usually connotes official public declaration, and recount was therefore of no effect. *Kelly v. Murphy*, 79 Nev. 1, 377 P.2d 177 (1963)

Attorney General's Opinions.

Conformity of name on ballot and certificate of election. Name in certificate of election should conform exactly to name as it appeared on ballot. AGO 6 (1-16-1923)

293.395 Transmission of copy of certified abstract of votes and mechanized report to secretary of state; canvass of vote by justices of supreme court; governor to grant certificates of election and issue proclamations.

1. The board of county commissioners or city council, after making the abstract of votes as provided in NRS 293.393, shall cause the county clerk or city clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:

(a) A copy of the certified abstract; and

(b) A mechanized report of that abstract in compliance with regulations adopted by the secretary of state, and forthwith transmit them to the secretary of state.

2. On the fourth Wednesday of November after each general election, the justices of the supreme court, or a majority thereof, shall meet with the secretary of state, and shall open and canvass the vote for the number of presidential electors to which this state may be entitled, United States Senator, Representative in Congress, members of the legislature, state officers who are elected statewide or by district, district judges, or district officers whose districts include area in more than one county and for and against any question submitted.

3. The governor shall issue certificates of election to and commission the persons having the highest number of votes and shall also issue proclamations declaring the election of those persons.

(Added to NRS by 1960, 262; A 1965 Special Session, 4; 1969, 65; 1971, 1415; 1987, 1371; 1989, 1666; 1991, 1106)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

Reviser's Note.

Ch. 718, Stats. 1989, the source of paragraph (b) of subsection 1 of this section, became effective on January 1, 1990, and contains the following provision not included in NRS:

“On or before January 1, 1990, the secretary of state shall adopt regulations setting forth a standard method of mechanized reporting of the abstract of the result of an election required by subsection 3 of NRS 293.387 and the abstract of votes required by subsection 1 of NRS 293.395. The regulations must require the method of reporting be by computer technology or some other equally or more advanced method of technology which will facilitate the compilation of election results

and the comparison of election results from one election to another.”

Attorney General's Opinions.

When initiative measure becomes effective. It is from date of official declaration that initiative measure receiving majority of votes cast becomes law and takes effect. AGO 243 (11-23-1918)

Minutes of board concerning recount after tie vote superseded abstract of votes. Minutes of board of county commissioners relating to recount after tie vote supersede abstract of votes for purpose of canvass by supreme court. AGO 156 (12-18-1922)

Conformity of name on ballot and certificate of election. Name in certificate of election should conform exactly to name as it appeared on ballot. AGO 6 (1-16-1923)

293.397 Election certificate or commission must not be withheld because of defect or informality in returns. Except as provided in NRS 293.425, no certificate may be withheld because of any defect or informality in the returns of any election, if it can be ascertained with reasonable certainty from such returns what office is intended and who is entitled to such certificate, nor may any commission be withheld by the governor or the county clerk because of any such defect or informality.

(Added to NRS by 1960, 262; A 1961, 293; 1971, 450)

TIES, RECOUNTS AND CONTESTS

293.400 Determination of winner if tie vote; recounts.

1. If, after the completion of the canvass of the returns of any election, two or more persons receive an equal number of votes, which is sufficient for the election of one or more but fewer than all of them to the office, the person or persons elected must be determined as follows:

(a) In a general election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the legislature shall, by joint vote of both houses, elect one of those persons to fill the office.

(b) In a primary election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the secretary of state shall summon the candidates who have received the tie votes to appear before him at a time and place designated by him and he shall determine the tie by lot. If the tie vote is for the office of secretary of state, the governor shall perform these duties.

(c) For any office of a county, township, incorporated city, city organized under a special charter where the charter is silent as to determination of a tie vote, or district which is wholly located within one county, the county clerk shall summon the candidates who have received the tie votes to appear before him at a time and place designated by him and determine the tie by lot. If the tie vote is for the office of county clerk, the board of county commissioners shall perform these duties.

2. The summons mentioned in this section must be mailed to the address of the candidate as it appears upon his declaration of candidacy at least 5 days before the day fixed for the determination of the tie vote and must contain the time and place where the determination will take place.

3. The right to a recount extends to all candidates in case of a tie.

(Added to NRS by 1960, 263; A 1965, 614; 1981, 1740; 1987, 1371)

—ANNOTATIONS—

Attorney General's Opinions.

Statute applicable when election of director of multi-county irrigation district resulted in tie vote. Under NRS 293.400, leg-

islature, by joint vote of both houses, is required to determine winner where election of director of multi-county irrigation district resulted in tie vote. AGO 333 (4-28-1966)

293.403 Recount of vote: Demand; advance deposit of costs.

1. A candidate defeated at any election may demand and receive a recount of the vote for the office for which he is a candidate if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes:

(a) He files in writing his demand with the officer with whom he filed his declaration of candidacy, affidavit of candidacy or acceptance of candidacy; and

(b) He deposits in advance the estimated costs of the recount with that officer.

2. Any voter at an election may demand and receive a recount of the vote for a ballot question if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes:

(a) He files in writing his demand with:

(1) The secretary of state, if the demand is for a recount of a ballot question affecting more than one county; or

(2) The county or city clerk who will conduct the recount, if the demand is for a recount of a ballot question affecting only one county or city; and

(b) He deposits in advance the estimated costs of the recount with the person to whom he made his demand.

3. The estimated costs of the recount must be determined by the person with whom the advance is deposited based on regulations adopted by the secretary of state defining the term "costs."

4. As used in this section, "canvass" means:

(a) In any primary election, the canvass by the board of county commissioners of the returns for a candidate or ballot question voted for in one county or the canvass by the board of county commissioners last completing its canvass of the returns for a candidate or ballot question voted for in more than one county.

(b) In any primary city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

(c) In any general election:

(1) The canvass by the supreme court of the returns for a candidate for a statewide office or a statewide ballot question; or

(2) The canvass of the board of county commissioners of the returns for any other candidate or ballot question, as provided in paragraph (a).

(d) In any general city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

(Added to NRS by 1960, 263; A 1965, 1255; 1975, 940; 1977, 237; 1981, 1700; 1983, 1288; 1987, 350; 1989, 1591, 2167; 1991, 1107)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.404 Employment and duties of recount board; persons present; count of ballots; recounts affecting more than one county.

1. Where a recount is demanded pursuant to the provisions of NRS 293.403, the:

(a) County clerk of each county affected by the recount shall employ a recount board to conduct the recount in the county, and shall act as chairman of the recount board unless the recount is for the office of county clerk, in which case the chairman of the board of county commissioners shall act as chairman of the recount board. At least one member of the board of county commissioners must be present at the recount.

(b) City clerk shall employ a recount board to conduct the recount in the city, and shall act as chairman of the recount board unless the recount is for the office of city clerk, in which case the mayor of the city shall act as chairman of the recount board. At least one member of the city council must be present at the recount.

Each candidate for the office affected by the recount and the voter who demanded the recount, if any, may be present in person or by an authorized representative, but may not be a member of the recount board.

2. Except in counties or cities using a mechanical voting system, the recount must include a count and inspection of all ballots, including rejected ballots, and must determine whether those ballots are marked as required by law.

3. If a recount is demanded in a county or city using a mechanical voting system, the person who demanded the recount shall select the ballots for the office or ballot question affected from 5 percent of the precincts, but in no case fewer than three precincts, after consultation with each candidate for the office or his authorized representative. The recount board shall examine the selected ballots, including any duplicate or rejected ballots, shall determine whether the ballots have been voted in accordance with this Title and shall count the valid ballots by hand. A recount by computer must be made of all the selected ballots. If the count of the selected ballots or the recount shows a discrepancy of 1 percent or more for either candidate, or in favor of or against a ballot question, from the original canvass of the returns, the county or city clerk shall order a count by hand of all the ballots for that office. If there is not a discrepancy of 1 percent or more, the county or city clerk shall not order such a count, but shall order a recount by computer of all the ballots for the office.

4. The county or city clerk shall unseal and give to the recount board all ballots to be counted.

5. In the case of a demand for a recount affecting more than one county, the demand must be made to the secretary of state, who shall notify the county clerks to proceed with the recount.

(Added to NRS by 1963, 1382; A 1975, 941; 1979, 267; 1985, 1097; 1987, 351; 1989, 1592)

—ANNOTATIONS—

Attorney General's Opinions.

Function of recount board; candidates may only observe recount. Function of recount board under NRS 293.404 is to deter-

mine whether ballots are marked as required by law and to count them in same manner as did election board. Candidates or their repre-

sentatives may observe recount but may not challenge ballots or interfere in any way with counting, because recount is not election contest. AGO 175 (11-25-1974)

293.405 Costs of recount; commencement and completion of recount; limitation on additional recount.

1. If the person who demanded the recount does not prevail, and it is found that the sum deposited was less than the cost of the recount, the person shall, upon demand, pay the deficiency to the county clerk, city clerk or secretary of state, as the case may be. If the sum deposited is in excess of the cost, the excess must be refunded to him.

2. If the person who demanded the recount prevails, the sum deposited with the secretary of state, county clerk or city clerk must be refunded to the person and the cost of the recount must be paid as follows:

(a) If the recount concerns an office or ballot question for which voting is not statewide, the cost must be borne by the county or city which conducted the recount.

(b) If the recount concerns an office or ballot question for which voting is statewide, the clerk of each county shall submit a statement of its costs in the recount to the secretary of state for review and approval. The secretary of state shall submit the statements to the state board of examiners, which shall repay the allowable costs from the reserve for statutory contingency account to the respective counties.

3. Each recount must be commenced within 5 days after demand, and must be completed within 5 days after it is begun. Sundays and holidays must not be excluded in determining each 5-day period.

4. After the recount of a precinct is completed, that precinct must not be subject to another recount for the same office or ballot question at the same election.

(Added to NRS by 1960, 263; A 1965, 1255; 1977, 237; 1981, 1700; 1987, 351; 1989, 1592; 1991, 1761)

293.407 Filing of written statement of contest with clerk of district court; verification.

1. A candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate, except for the office of United States Senator or Representative in Congress.

2. Except where the contest involves the general election for the office of governor, lieutenant governor, assemblyman, state senator or justice of the supreme court, a candidate or voter who wishes to contest an election, including election to the office of presidential elector, must, within the time prescribed in NRS 293.413, file with the clerk of the district court a written statement of contest, setting forth:

(a) The name of the contestant and that he is a registered voter of the political subdivision in which the election to be contested or part of it was held;

(b) The name of the defendant;

(c) The office to which the defendant was declared elected;

(d) The particular grounds of contest and the section of Nevada Revised Statutes pursuant to which the statement is filed; and

(e) The date of the declaration of the result of the election and the body or board which canvassed the returns thereof.

3. The contestant shall verify the statement of contest in the manner provided for the verification of pleadings in civil actions.

4. All material regarding a contest filed by a contestant with the clerk of the district court must be filed in triplicate.

(Added to NRS by 1960, 263; A 1965, 1230; 1981, 1741)

—ANNOTATIONS—

Nevada Cases.

No jurisdiction where elector who commenced election contest failed to allege specific matters required by statute. Under secs. 68 and 70, ch. 197, Stats. 1917 (cf. NRS 293.407 and 293.410), elector who commenced election contest was required to file statement with clerk of court alleging certain specific matters, one of which was that he was elector of political area involved, and failure so to allege was fatal to jurisdiction of court. *Crownover v. Millar*, 45 Nev. 81, 197 Pac. 817 (1921)

Election contest not available to successful candidate. Under NRS 293.407 et seq., authorization to file election contest is given to defeated candidate to contest right to office of person who has been declared elected, but contest is not available to successful candidate who believes that there may be cloud upon his title by reason of irregularity in one or more of

election proceedings. *Beko v. Kelly*, 78 Nev. 489, 376 P.2d 429 (1962)

Contest of election of U.S. Senator. Contest of election to office of U.S. Senator can be decided only by U.S. Senate, by virtue of U.S. Art. 1, § 5. (See also NRS 293.407.) *Laxalt v. Cannon*, 80 Nev. 588, 397 P.2d 466 (1964), cited, *State ex rel. Santini v. Swackhamer*, 90 Nev. 153, at 156, 521 P.2d 568 (1974)

Attorney General's Opinions.

No collateral attack on election of candidate who filed late; proper remedies. Where person files for office of director of Las Vegas Valley Water District (sec. 5.5, ch. 401, Stats. 1957) 2 days late and is subsequently elected, such election is not subject to collateral attack. Remedy is by election contest or by quo warranto. AGO 433 (12-9-1958)

293.410 Dismissal of statement of contest; grounds for contest.

1. A statement of contest shall not be dismissed by any court for want of form if the grounds of contest are alleged with sufficient certainty to inform the defendant of the charges he is required to meet.

2. An election may be contested upon any of the following grounds:

(a) That the election board or any member thereof was guilty of malfeasance.

(b) That a person who has been declared elected to an office was not at the time of election eligible to that office.

(c) That illegal votes were cast and counted for the defendant, which, if taken from him, will reduce the number of his legal votes below the number necessary to elect him.

(d) That the election board, in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.

(e) That the defendant has given, or offered to give, to any person a bribe for the purpose of procuring his election.

(f) That there was a possible malfunction of any voting or counting device.
(Added to NRS by 1960, 264; A 1961, 293; 1971, 446; 1977, 246)

—ANNOTATIONS—

Nevada Cases.

Statute remedies only immaterial defects in statement of contest. Sec. 72, ch. 197, Stats. 1917 (cf. NRS 293.410), which provided that statement of election contest should not be rejected by court for want of form if it stated cause of contest with sufficient certainty, remedied immaterial defects, but could not cure failure of contestant to allege in statement that he was elector, because such allegation was essential to impart jurisdiction to court. *Crownover v. Millar*, 45 Nev. 81, 197 Pac. 817 (1921)

No jurisdiction where elector who commenced election contest failed to allege specific matters required by statute. Under secs. 68 and 70, ch. 197, Stats. 1917 (cf. NRS 293.407 and 293.410), elector who commenced election contest was required to file statement with clerk of court alleging certain specific matters, one of which was that he was elector of political area involved, and failure so to allege was fatal to jurisdiction of court. *Crownover v. Millar*, 45 Nev. 81, 197 Pac. 817 (1921)

293.413 Time for filing statement of contest; precedence of election contest; referral to special master.

1. The statement of contest provided for in NRS 293.407 shall be filed with the clerk of the district court no later than 5 days after a recount is completed, and no later than 14 days after the election if no recount is demanded. The parties to a contest shall be denominated contestant and defendant.

2. The court shall set the matter for hearing not less than 5 days nor more than 10 days after the filing of the statement of contest. Election contests shall take precedence over all regular business of the court in order that results of elections shall be determined as soon as practicable.

3. The court may refer the contest to a special master in the manner provided by the Nevada Rules of Civil Procedure, and such special master shall have all powers necessary for a proper determination of the contest.

(Added to NRS by 1960, 264; A 1967, 850)

293.415 Depositions in election contests; trial and submission of matter. Any party to a contest may take the deposition of any witness. The matter shall be tried and submitted so far as may be possible upon depositions and written or oral argument as the court may order.

(Added to NRS by 1960, 264)

293.417 Judgment of court in election contest.

1. If, in any contest, the court finds from the evidence that a person other than the defendant received the greatest number of legal votes, the court, as a part of the judgment, shall declare that person elected or nominated.

2. The person declared nominated or elected by the court is entitled to a certificate of nomination or election. If a certificate has not been issued to him, the county clerk, city clerk or secretary of state shall execute and deliver to that person a certificate of election or a certificate of nomination.

3. If a certificate of election or nomination to the same office has been issued to any person other than the one declared elected by the court, that certificate must be annulled by the judgment of the court.

4. Whenever an election is annulled or set aside by the court, and the court does not declare some candidate elected, the certificate of election or the commission, if any has been issued, is void and the office is vacant.

(Added to NRS by 1960, 264; A 1987, 352)

—ANNOTATIONS—**Attorney General's Opinions.**

Defendant who loses election contest must give up office despite appeal of court's decision. Where election of county commissioner is contested and district court finds

against apparent winner who has already taken office, that person must immediately give up his office even though he appeals district court's decision. AGO (3-6-1903)

293.420 Court costs.

1. If a contest proceeding is dismissed for insufficiency of the statement of contest or for want of prosecution, or if the district court confirms the election, judgment shall be rendered for costs in favor of the defendant and against the contestant.

2. If an election is annulled or set aside for errors or malfeasance of any election official in the conduct of the election or in canvassing the returns, the costs shall be a charge against the state or political subdivision in which the election was held.

3. When an election is annulled or set aside on any other ground, judgment for costs shall be given in favor of the contestant and against the defendant.

(Added to NRS by 1960, 265; A 1967, 850)

293.423 Recount of ballots at hearing of contest. At the hearing of any contest, the ballots may be opened and a recount made, in the presence of the parties or their representatives, of the votes cast for the various candidates for the contested office.

(Added to NRS by 1960, 265)

293.425 Contest of general election for office of assemblyman or state senator: Filing of documents and other evidence with secretary of state; certificate of election to be withheld.

1. If the contest is of the general election for the office of assemblyman or state senator, a statement of contest, prepared as provided in NRS 293.407, and all depositions, ballots and other documents relating to the contest must be filed with the secretary of state within the time provided for the filing of statements of contests with the clerk of the district court.

2. When a statement of contest is filed with the secretary of state he shall immediately notify the governor, who shall withhold issuing a certificate of election. If the governor has issued a certificate of election prior to receipt of notice from the secretary of state the certificate is void.

(Added to NRS by 1960, 265; A 1967, 850; 1971, 450; 1977, 246; 1981, 1742)

—ANNOTATIONS—

Nevada Cases.

Courts have no jurisdiction over contest of election of state senator; only legislature may award costs of defending contest. Where defeated candidate for state senator contested election in senate as provided in B §§ 2555-2560 (cf. NRS 293.425 and 293.427), and senate postponed consideration of contest indefinitely, successful candidate was not entitled to recover in civil action costs of defending contest because courts have no jurisdiction of such contests, and only legislature could provide relief. *Garrard v. Gallagher*, 11 Nev. 382 (1876)

Courts have no jurisdiction over contest of election of legislator; statute provides only means of contest. Contest of election of member of legislature can be made only as provided in B §§ 2555-2560 (cf. NRS 293.425 and 293.427). Courts have no jurisdiction over such contests. *Garrard v. Gallagher*, 11 Nev. 382 (1876), cited, *Texas Int'l Airlines, Inc. v. Bryan*, 522 F. Supp. 1182, at 1184 (D. Nev. 1981)

293.427 Contest of general election for office of assemblyman or state senator: Decision by legislative house; withdrawal of contest; certificate of election.

1. The secretary of state shall deliver the statement of contest and all other documents to the presiding officer of the house of the legislature to which the candidates were declared to be elected on the day of the organization of the legislature.

2. If, before the contest has been decided, a contestant gives written notice to the secretary of state that he wishes to withdraw his statement of contest, the secretary of state shall dismiss the contest.

3. The contest, if not dismissed, must be heard and decided as prescribed by the standing or special rules of the house in which the contest is to be tried.

4. A certificate of election must be executed by the governor and delivered to the person declared elected by the house.

(Added to NRS by 1960, 265; A 1971, 450; 1981, 1742)

-ANNOTATIONS-

Nevada Cases.

Courts have no jurisdiction over contest of election of state senator; only legislature may award costs of defending contest. Where defeated candidate for state senator contested election in senate as provided in B §§ 2555-2560 (cf. NRS 293.425 and 293.427), and senate postponed consideration of contest indefinitely, successful candidate was not entitled to recover in civil action costs of defending contest because courts have no jurisdiction of such contests, and only legislature could provide relief. *Garrard v. Gallagher*, 11 Nev. 382 (1876)

Courts have no jurisdiction over contest of election of legislator; statute provides only means of contest. Contest of election of member of legislature can be made only as provided in B §§ 2555-2560 (cf. NRS 293.425 and 293.427). Courts have no jurisdiction over such contests. *Garrard v. Gallagher*, 11 Nev. 382 (1876), cited, *Texas Int'l Airlines, Inc. v. Bryan*, 522 F. Supp. 1182, at 1184 (D. Nev. 1981)

293.430 Contest of general election for office of governor, lieutenant governor or justice of supreme court: Filing of documents and other evidence with secretary of state; duties of secretary of state and legislature; withdrawal of contest.

1. If the contest is of the general election for the office of governor, lieutenant governor or justice of the supreme court, the statement of contest and all depositions, ballots and other documents relating to the contest must be filed with the secretary of state within the time provided for filing statements of contests with the clerk of the district court.

2. The secretary of state shall deliver the statement of contest and all other papers and documents to the speaker of the assembly on the day of the organization of the legislature.

3. A joint session of both houses must be convened as soon thereafter as the business of both houses permits, but not later than 10 days after receipt of statement of contest.

4. If, before the contest has been decided, a contestant gives written notice to the secretary of state that he wishes to withdraw his statement of contest, the secretary of state shall dismiss the contest.

(Added to NRS by 1960, 265; A 1961, 293; 1967, 850; 1977, 247; 1981, 1742)

293.433 Decision of contest for office of governor, lieutenant governor or justice of supreme court by senate and assembly in joint session.

1. The senate and assembly meeting in joint session shall proceed to decide the contest.

2. The speaker of the assembly shall preside at such joint session, and the session shall be conducted under the joint standing rules or joint special rules adopted for the occasion.

3. The contest shall be decided by a majority vote of the elected membership of both houses not later than 30 days after the contest hearing is begun.

(Added to NRS by 1960, 266)

293.435 Certificate of election delivered after decision.

1. After both houses sitting in joint session have decided an election contest, the secretary of state shall execute and deliver a certificate of election to the person declared elected.

2. If a certificate of election to the same office has been issued to any person other than the one declared to have been elected, such certificate is void.

(Added to NRS by 1960, 266)

ELECTION EXPENSES**293.437 Designation of polling places.**

1. The county or city clerk may designate any building, public or otherwise, or any portion of a building, as the site for any polling place or any number of polling places for any of the precincts or districts in the county or city.

2. If, in the opinion of the county or city clerk, the convenience and comfort of the voters and election officers will be best served by putting two or more polling places in any such building, or if, in the opinion of the county or city clerk, the expense to the county or city for polling places can be diminished by putting two or more polling places in any such building, he may so provide.

3. In precincts where there are no public buildings or other appropriate locations owned by the state, county, township, city, town or precinct, privately owned locations may be rented at a rate not to exceed \$35 for each election if only one precinct is involved and at a rate not to exceed \$50 for each election if more than one precinct is involved.

(Added to NRS by 1960, 266; A 1961, 293; 1975, 941; 1981, 908; 1987, 352)

293.440 Lists of registered voters in precinct, district or county: Distribution of copies; contents; limitation on printing costs; recording on magnetic tape.

1. Any person who desires a copy of any list of the registered voters in any precinct, district or county and who provides an assurance that the list will be used only for purposes relating to elections, may obtain a copy by applying at the office of the county clerk and paying therefor a sum of money equal to one cent per name on the list, except that one copy of each original and supplemental list for each precinct, district or county must be provided to the state and county central committee of any major political party, upon request, without charge.

2. The copy of the list provided pursuant to this section must indicate each voter's address, date of birth, telephone number and the serial number of his affidavit of registration. If the county maintains this information in a com-

puter data base, the date of each addition and revision made on or after July 1, 1989, to an entry must be included in the data base and on any resulting list of the information. The date must be expressed numerically in the order of year, month and date.

3. A county may not pay more than 10 cents per folio or more than \$6 per thousand copies for printed lists for a precinct or district.

4. A county which has a system of computers capable of recording information on magnetic tape shall, upon request of the state or county central committee of any major political party, record for that central committee on magnetic tape supplied by it:

(a) The list of registered voters and the information required in subsection 2; and

(b) Not more than four times per year, as requested by the committee:

(1) A complete list of the registered voters with a notation for each such entry of the date on which the entry or the latest change in the information was made; or

(2) A list that includes additions and revisions made to the list of registered voters after a date specified by the central committee.

(Added to NRS by 1960, 266; A 1967, 844; 1973, 895; 1975, 942; 1985, 1806; 1989, 228; 1991, 1353)

293.443 Election expenses; limitation on cost of printing ballots.

1. The expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter and all expenses necessarily incurred in the preparation for, or the conduct of, any such election is a charge upon the municipality, county, district or state, as the case may be.

2. The cost of printing ballots must not exceed the sum of \$100 per thousand or fraction thereof for the first two thousand ballots printed and \$50 for each additional thousand printed.

3. The county or city clerk may submit such printing for competitive bidding.

(Added to NRS by 1960, 266; A 1971, 446; 1987, 353)

—ANNOTATIONS—

Attorney General's Opinions.

must be furnished by secretary of state. AGO

Ballot paper furnished by secretary of state. Ballot paper for municipal elections

11 (2-25-1913)

293.445 Expenses for assistants to county or city clerk. The board of county commissioners of each county or city council of each city shall provide the appropriate county or city clerk with sufficient assistants to enable him to perform properly the duties imposed upon him by this chapter. Such expense is a charge upon the appropriate county or city.

(Added to NRS by 1960, 267; A 1987, 353)

293.446 Compensation of officer of election board for delivery of election returns to county or city clerk.

1. The election board officer who delivers the package containing the election returns must be paid the amount expended by him in paying the postage on the package, and 15 cents per mile for going to and 15 cents per mile for returning from the post office or the office of the county or city clerk, in the same manner and out of the same fund as other election expenses are paid.

2. No mileage may be paid unless the total distance necessarily traveled in going and returning is greater than 2 miles.

(Added to NRS by 1963, 1382; A 1987, 353)

293.447 Employment of messenger to convey election returns to secretary of state; compensation. If it is necessary to employ a messenger to convey any election returns to the secretary of state, the person performing such service shall receive as compensation mileage at the rate of 15 cents per mile, one way only.

(Added to NRS by 1960, 267)

293.457 Compensation of deputy registrars. Any person appointed a precinct or district deputy registrar, except justices of the peace, and deputies employed in the office of voters' registration, shall receive as compensation for all services the sum of not more than 10 cents for each voter registered, to be paid by claim against the county after such claim has been approved by the county clerk.

(Added to NRS by 1960, 267)

293.460 Compensation of officers of election board, deputy sheriffs and other employees. The compensation of voting board officers, counting board officers, specially appointed deputy sheriffs, election board officers and other employees must be fixed by county or city ordinance, resolution or order.

(Added to NRS by 1960, 267; A 1961, 294; 1963, 1375; 1969, 1540; 1971, 446; 1973, 895; 1987, 353)

MISCELLANEOUS PROVISIONS

293.463 Employees may absent themselves from employment to vote; Procedure; penalty.

1. Any registered voter may absent himself from his place of employment at a time to be designated by the employer for a sufficient time to vote, if it is impracticable for him to vote before or after his hours of employment. A sufficient time to vote shall be determined as follows:

(a) If the distance between the place of such voter's employment and the polling place where such person votes is 2 miles or less, 1 hour.

(b) If the distance is more than 2 miles but not more than 10 miles, 2 hours.

(c) If the distance is more than 10 miles, 3 hours.

2. Such voter may not, because of such absence, be discharged, disciplined or penalized, nor shall any deduction be made from his usual salary or wages by reason of such absence.

3. Application for leave of absence to vote shall be made to the employer or person authorized to grant such leave prior to the day of the election.

4. Any employer or person authorized to grant the leave of absence provided for in subsection 1, who denies any registered voter any right granted under this section, or who otherwise violates the provisions of this section, is guilty of a misdemeanor.

(Added to NRS by 1960, 267)

—ANNOTATIONS—

Attorney General's Opinions.

Statute must be liberally construed. NRS 293.463, which authorizes registered voter to leave his place of employment under certain circumstances in order to vote, must be liberally construed to achieve its purpose of ensuring that employees have opportunity to vote. AGO 86-19 (10-21-1986)

When registered voter may leave his place of employment to vote. Under NRS 293.463, registered voter is entitled to leave his place of employment to vote if he cannot complete his voting in time before workday begins or after workday ends. AGO 86-19 (10-21-1986)

293.465 Loss or destruction of ballots in precinct or district; new election. If an election is prevented in any precinct or district by reason of the loss or destruction of the ballots intended for that precinct, or any other cause, the election officers for that precinct or district shall make an affidavit setting forth that fact and transmit it to the appropriate board of county commissioners or city council. Upon receipt of the affidavit and upon the application of any candidate for any office to be voted for by the registered voters of that precinct or district, the board of county commissioners or city council shall order a new election in that precinct or district.

(Added to NRS by 1960, 268; A 1987, 353)

—ANNOTATIONS—

Nevada Cases.

New election permitted if candidate validly resigns nomination and secretary of state has no official paper to print proper ballots. If candidate for public office could validly resign his nomination and secretary of state had no official paper for printing of proper ballots, new election could be called and voters of precinct could vote at later time as provided by sec. 16, ch. 40, Stats. 1891 (cf. NRS 293.465). State ex rel. McMillan v. Sad-

ler, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

Revote required in precinct where voting apparatus contained wrong list of candidates. Writ of mandamus was granted to compel board of county commissioners to conduct revote in voting precinct where voting apparatus contained wrong list of candidates, because ballots are construed to include any device

designating candidates and, under NRS 293.465, absence of ballots prevented election guaranteed by NRS 293.127. *LaPorta v. Broadbent*, 91 Nev. 27, 530 P.2d 1404 (1975)

293.480 Limitation on inspection of ballots after return to county or city clerk. Until the time for contest of election has expired, the ballots returned to the county or city clerk may not be inspected by any person, except in cases of recount or election contest, and then only by the judge, special master, board or legislative body before whom the election is being contested or who is conducting the recount.

(Added to NRS by 1960, 270; A 1961, 294; 1971, 447; 1977, 247; 1987, 354)

293.481 Time when political subdivision or local agency must submit copy of question to county or city clerk for submission at election.

1. Except as provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide a copy of the question to each county clerk within the designated territory on or before the third Monday in July preceding the election.

(b) At a primary election, shall provide a copy of the question to each county clerk within the designated territory on or before the first Friday in May preceding the election.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide a copy of the question to each county clerk at least 60 days before the election.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide a copy of the question to the city clerk at least 35 days before the election.

2. The requirements of subsection 1 do not apply to any question expressly privileged or required under article 19 of the constitution of the State of Nevada or under chapter 295 of NRS or any other statute to be submitted if proposed after the dates specified.

(Added to NRS by 1969, 895; A 1971, 91; 1983, 1119; 1987, 354, 695; 1989, 1730)

293.482 Governing body of county or city may submit advisory question at general election or general city election.

1. The governing body of any county or city may, at any general election or general city election, ask the advice of the registered voters within its jurisdiction on any question which it has under consideration by adopting a resolution which:

(a) Sets forth the advisory question to be submitted to the voters; and
 (b) States that the result of the voting on the question does not place any legal requirement on the governing body or any officer of the political subdivision.

2. A governing body may, at any general election, ask the advice of the registered voters of part of its territory if:

(a) The advisory question to be submitted affects only that part of its territory; and

(b) The resolution adopted pursuant to subsection 1 sets forth the boundaries of the area in which the advice of the registered voters will be asked.

(Added to NRS by 1979, 701; A 1987, 354)

REGISTRATION OF VOTERS; REGISTRARS

293.485 Qualification of voter: Citizenship, age and residence.

1. Every citizen of the United States, 18 years of age or over, who has continuously resided in this state and in the county 30 days and in the precinct 10 days next preceding the day of the next succeeding:

- (a) Primary election;
- (b) Primary city election;
- (c) General election; or
- (d) General city election,

and who has registered in the manner provided in this chapter, is entitled to vote at that election.

2. This section does not exclude the registration of eligible persons whose 18th birthday or the date of whose completion of the required residence occurs on or before the next succeeding:

- (a) Primary election;
- (b) Primary city election;
- (c) General election;
- (d) General city election; or
- (e) Any other election.

(Added to NRS by 1960, 271; A 1961, 295; 1967, 851; 1971, 1267; 1973, 27; 1987, 355)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

Reviser's Note.

In 1973 the legislature amended this section to bring it into conformity with the decision of the U.S. Supreme Court in *Dunn V. Blumstein*, 405 U.S. 330 (1972), by removing the requirement for six months' residency in the state. The legislature also submitted a proposed constitutional amendment to remove

similar language from Nev. Art. 2, § 1, but the amendment was defeated at the polls in 1976.

Federal and Other Cases.

Place of business or post office address not per se equivalent to residence. Person's place of business or post office address is not per se the equivalent of his residence for purposes of Nev. Art. 2, § 1, and NRS 293.485, relating to qualifications of voters. *De La Cruz*

v. Dufresne, 533 F. Supp. 145 (D. Nev. 1982)

Attorney General's Opinions.

Person must be in state required period before primary to vote in primary. Person who will not have been in state 6 months at time of primary election, but who will have been in state 6 months at time of general election, cannot vote at primary election. AGO 199 (6-21-1918); AGO 340M (7-14-1942)

Liberal construction of statutes. Registration statutes should be liberally construed. AGO 155 (8-16-1924)

Elector need not reregister unless registration canceled. Elector, once registered for any general, special or primary election, need not reregister in order to vote at any subsequent election unless his registration has been canceled. AGO 237 (6-8-1926)

Residence not lost by temporary absence to attend duties of public office. Residence for purpose of registration and voting is not lost by reason of temporary absence while attending to duties of public office. AGO (9-23-1912)

No transfer of registration to another county; must cancel original registration and reregister; period of residence must be met upon reregistration. No transfer of registration from one county to another is allowed except upon cancellation of original registration and reregistration in other county, provisions of prior law relating to transfers after close of registration having been repealed. Upon application for reregistration, requirement of residence period in county must be met. AGO 217 (8-13-1918)

Residence within Indian reservation qualifies Indians as electors. Residence within boundaries of Indian reservation constitutes residence in State of Nevada for purpose of qualifying Indians as electors, since United States citizenship conferred by federal statute. AGO 247 (9-28-1926) (See also AGO 166 (5-2-1974))

Resident of federal ammunition base may register and vote. Residence within boundaries of federal ammunition base at Hawthorne does not disqualify person from registering and voting. AGO 90 (8-9-1932)

Pauper may establish legal residence in state. Fact that citizen is pauper does not pre-

vent him from establishing legal residence in Nevada. AGO 119 (10-28-1933)

When person who established residence in state may leave state and maintain residence. Under law of residence of this state, person, after having once established residence by being actually present in place where residence is claimed for period required by law, with intention during all of that time to make that place his home or residence for at least indefinite period of time, may go away to some other state and still claim residence in state where such residence was formerly so established by claiming it to be his residence and by going back to that place to vote and not exercising right of franchise or other rights incident to residence in state or nation to which he moved for as long period of time as he may desire. AGO B-24 (12-17-1940)

Resident of naval ammunition depot may register and vote. Residence within boundaries of Hawthorne naval ammunition depot does not disqualify civilian to register and vote, despite cession of limited jurisdiction to United States. AGO 281 (3-29-1946)

Vacancy created when assemblyman ceases to be resident of county from which elected. Under Nev. Art. 4, § 5, NRS 283.040 and 292.070 (cf. NRS 293.485), relating to residence requirements for assemblymen, vacancy is created where assemblyman ceases to be resident of county from which he was elected. AGO 70 (7-16-1959)

Assemblyman may retain office when no indication of intent to abandon residence in county where elected. Under Nev. Art. 4, § 5, NRS 283.040 and 292.070 (cf. NRS 293.485), relating to residence requirements for assemblymen, assemblyman who lives, works and rents house in county other than one from which he was elected, but has not disposed of his home in county he represents or otherwise indicated intent to abandon his residence there, may retain his legislative office. AGO 70 (7-16-1959)

Person 18 through 20 years of age may establish residence separate and apart from parents or guardians. Students and other citizens aged 18 through 20 are sui juris for all purposes related to voting and can establish legal residence for voting purposes separate and apart from their parents or guardians. Such persons may register and vote where

they attend school if they are residents of such county and meet statutory and constitutional requirements of age and residency as previously applied to individual voters 21 years of age and over under Nev. Art. 2, § 1, NRS 10.020 and NRS 293.485 et seq. AGO 48 (10-20-1971)

Must register persons 17 years of age who will be 18 before next succeeding election at which they wish to vote. County clerks and voter registrars are required, pursuant to NRS 293.485, to accept registration of 17-year-olds who will have reached their 18th birthday on or before the next succeeding primary, general or other election at which they wish to vote if such persons meet other constitutional or statutory requirements to qualify as electors. AGO 55 (12-21-1971)

Members of Armed Forces from outside state may establish residency in state. Members of Armed Forces who entered service from outside Nevada may establish residency for voting purposes in Nevada on same basis as other residents of state and are entitled to register to vote if otherwise qualified under Nev. Art. 2, § 1, NRS 10.155 and 293.485 et seq. AGO 78 (4-27-1972)

Requirement of residency for 6 months unconstitutional; may register to vote up to statutory time for close of registration. Provisions of Nev. Art. 2, § 1, and NRS 293.485, which require 6-month residence in state to qualify as elector, violate equal protection clause of U.S. 14th Amendment, and persons otherwise qualified are entitled to register to vote up to time prescribed by NRS 293.560 for close of registration. AGO 85 (6-19-1972)

293.487 When residence not gained or lost. No person may gain or lose residence by reason of his presence or absence while employed in the military, naval or civil service of the United States or of the State of Nevada, or while engaged in the navigation of the waters of the United States or of the high seas, or while a student at any seminary or other institution of learning, or while an inmate of any public institution.

(Added to NRS by 1960, 272)

—ANNOTATIONS—

Attorney General's Opinions.

Residence not changed by entry into service, almshouse or asylum. Under provisions of Nev. Art. 2, § 2, no change of residence entitling person to vote in any place other than place in which he was last entitled to vote at time of entering service of United States, or becoming inmate of any almshouse or asylum where he is kept at public expense, can or does take place. AGO (8-19-1898)

Residence not lost by temporary absence to attend duties of public office. Residence for purpose of registration and voting is not lost by reason of temporary absence while attending to duties of public office. AGO (9-23-1912)

Right of student to register where attending school. Although student does not lose his residence while absent attending university, he has right to assert claim to different residence and if he registers at place where attending

school it will be recognized as valid. AGO 168 (8-25-1920)

Federal officer or employee residing on Indian reservation may qualify as elector. Provisions of Nev. Art. 2 § 2, do not prohibit persons named from qualifying as electors, if person manifests intention of claiming residence and fully complies with requirements of law; but mere presence within state is insufficient to constitute residence for purpose of registration and voting. Accordingly, federal officer or employee residing on Indian reservation may qualify as elector. AGO 316 (9-1-1928)

Presence and intent necessary for residence; presence of members of Civilian Conservation Corps does not by itself establish residence. Term "residence" as used in statutes defining who shall have right to vote, comprehends not only physical presence but definite intention to make state and county his

home. Since presence of members of Civilian Conservation Corps in state depends wholly upon authorities in command and they are not free to change their place of abode, fact of presence in state does not evidence intention on their part to make their legal residence within state and is not in itself sufficient to constitute residence to authorize registration and voting. AGO 220 (7-22-1936) (See also AGO 194 (12-4-1935))

Member of Armed Forces may establish residence in Nevada with proper proof of

intent. Notwithstanding constitutional provision, Nev. Art. 2 § 2, and NRS 293.487 to effect that residence for voting purposes is not gained by reason of presence while employed in service of United States, member of Armed Forces stationed in Nevada who entered such service while resident of another state may, with required intention to make Nevada his domicile and clear proof thereof, establish his residence in Nevada for voting purposes. AGO 276 (3-7-1962)

293.490 Residence not lost upon removal from county or precinct. Any registered voter removing from one county to another in the state, or from one precinct to another within the same county, after the close of registration for any election shall be deemed to retain his residence in the county or precinct removed from for the purposes of that election.

(Added to NRS by 1960, 272; A 1967, 851; 1977, 471)

—ANNOTATIONS—

Attorney General's Opinions.

No transfer of registration to another county; must cancel original registration and reregister; period of residence must be met upon reregistration. No transfer of registration from one county to another is allowed except upon cancellation of original

registration and reregistration in other county, provisions of prior law relating to transfers after close of registration having been repealed. Upon application for reregistration, requirement of residence period in county must be met. AGO 217 (8-13-1918)

293.493 Loss of residence upon removal to another state, territory or foreign country. If a person removes to another state, territory or foreign country, with the intention of establishing his domicile there, he thereby loses his residence in this state.

(Added to NRS by 1960, 272)

293.495 Presumption of intention to abandon residence. If a person having a fixed and permanent home in this state breaks up such home and removes to another state, territory or foreign country, the intent to abandon his residence in this state shall be presumed, and the burden shall be upon him to prove the contrary. The same rule shall apply when a person removes from one county to another within the state, or from one precinct to another within the county.

(Added to NRS by 1960, 272)

—ANNOTATIONS—

Attorney General's Opinions.

Procedure where county clerk has challenge to person's right to vote on file when person applies for absent ballot. Where

county clerk has challenge to person's qualifications as voter on file and such person thereafter makes application for absent ballot, county clerk may determine such person's

intention to abandon residence under NRS 292.120 (cf. NRS 293.495) and thereupon communicate with such person advising of necessity to furnish proof of electoral qualifications before being entitled to absent ballot. However, if there is insufficient time for such communication and offer of proof, such ballot shall be released to such applicant. AGO 412 (10-3-1958)

Presumption not sufficiently rebutted under circumstances to permit free tuition

at state university. Under NRS 292.120 (cf. NRS 293.495), relating to presumption of intention to abandon residence, where resident was in U.S. military service from 1935 to 1956, entered the U.S. civil service immediately thereafter and has not registered to vote in Nevada since 1953, he has not sufficiently proven his intention to remain Nevada resident in order to permit his child to secure benefit of free tuition at state university as provided by NRS 396.540. AGO 84 (8-10-1959)

293.497 Residence of head of family. If a person has a family residing in one place and he does business in another, the former is his residence, unless his family is located there only temporarily, but if his family resides without the state and he is permanently residing within the state, with no intention of removing therefrom, he shall be deemed a resident for election purposes.

(Added to NRS by 1960, 272; A 1979, 338)

—ANNOTATIONS—

Attorney General's Opinions.

Statute defines "nonresident" for removal of qualifications on nonresident user of motor vehicle. Legislature having first stricken out time limitation with respect to nonresident motor vehicle registration and then having in effect removed remaining qualifications placed upon nonresident with respect to use of his motor vehicle, term "nonresident" is to be construed in its most generally accepted meaning, i.e. one whose residence within the state does not indicate such permanency as meant by NCL § 2365 (cf. NRS 293.497). AGO 265 (8-17-1938)

Eligibility for office when person works in state and visits family outside state on weekends. Person living and working in Nevada during week and visiting family on weekends in Idaho is resident of Nevada and county in which he works and is thus eligible

to run for office of justice of the peace. AGO 210 (9-13-1956)

Residence of person employed in state while maintaining family outside state. Whether man who is employed in Nevada but maintains family in home in another state is resident of Nevada for voting purposes depends, under NRS 293.497, upon his intention permanently to remain in Nevada. AGO 276 (3-7-1962)

Residence of man who works in one county and maintains family in another county. Where man works in one county but maintains family in home in another county, county of family home is, under NRS 293.497 and in absence of evidence of different intent, residence of man for voting purposes. AGO 276 (3-7-1962)

293.500 Loss of residence upon removal from state with intention to remain elsewhere for indefinite time. Except as otherwise provided in NRS 293.487, if a person removes to another state, territory or foreign country, with the intention of residing there for an indefinite time, he thereby loses his residence in this state for election purposes, notwithstanding that he may intend to return at some uncertain future date. An occasional return to the

place of his former residence in this state, regardless of the reason, is not sufficient to preserve his residence.

(Added to NRS by 1960, 272; A 1973, 870; 1989, 2168)

—ANNOTATIONS—

Attorney General's Opinions.

Legislative intent to keep upon rolls only registrants who affirmatively show interest in exercising privileges of elector. Under NRS 292.140, 292.440, 292.450 and 292.510 (cf. NRS 293.500, 293.535, 293.537, 293.545 and 293.547), relating to registration

of voters and challenging and canceling such registration, intent of legislature is to keep upon the rolls only those registrants whose affirmative conduct shows interest in exercising privileges of elector. AGO 422 (10-28-1958)

293.501 Use of form provided by Federal Government by elector who resides outside Nevada. Notwithstanding any other provisions of this Title:

1. Any elector of this state who resides outside this state may use the form provided by the Federal Government to register to vote in this state.

2. The county clerk shall not register a voter who submits the form provided by the Federal Government from any location within this state.

(Added to NRS by 1987, 2048; A 1989, 2168)

293.503 County clerk is ex officio county registrar; custody of documents relating to registration; public records.

1. The county clerk of each county where a registrar of voters has not been appointed pursuant to NRS 244.164 shall:

(a) Be ex officio county registrar and registrar for all precincts within the county.

(b) Have the custody of all books, documents and papers pertaining to registration provided for in this chapter.

2. All books, documents and papers pertaining to registration are official records of the office of the county clerk.

(Added to NRS by 1960, 272; A 1971, 447)

—ANNOTATIONS—

Nevada Cases.

Voters may be registered only by authorized person. Provisions of statutes relating to voter registration must be strictly followed. Registration of voters by one without authority was irregular and illegal regardless of fact that

officers associated with such registration acted in good faith. (See also NRS 293.503 and 293.505.) State ex rel. McMillan v. Sadler, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

293.505 Deputy registrars: Appointment; powers and duties; prohibited acts; penalty.

1. All justices of the peace, except those located in county seats, are ex officio deputy registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a deputy registrar who, except as provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise

provided in subsection 1, a candidate for any office may not be appointed or serve as a deputy registrar. A deputy registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct.

3. A deputy registrar may demand of any person who applies for registration all information required by the affidavit of registration, and may administer all oaths required by this chapter.

4. When a deputy registrar has in his possession five or more completed affidavits of registration, he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. Immediately after the close of registration, each deputy registrar shall forward to the county clerk all completed affidavits in his possession. Within 5 days after the close of registration for a general election or general city election, a deputy registrar shall return all unused affidavits in his possession to the county clerk. If all of the unused affidavits are not returned to the county clerk, the deputy registrar shall account for the unreturned affidavits.

6. Each deputy registrar shall submit to the county clerk a list of the serial numbers of the completed affidavits of registration and the names of the electors on those affidavits. The serial numbers must be listed in numerical order.

7. Each deputy registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this state.

8. A deputy registrar shall not:

(a) Delegate any of his duties to another person; or

(b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a deputy registrar unless he has been so appointed.

10. A county clerk or deputy registrar shall not:

(a) Solicit a vote for or against a particular question or candidate;

(b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or

(c) Distribute any material concerning a candidate or question which will be on the ballot for the ensuing election, while he is registering an elector.

11. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

(Added to NRS by 1960, 272; A 1975, 942; 1981, 1701; 1985, 561; 1987, 355, 696, 1372, 1617; 1991, 2222)

—ANNOTATIONS—

Nevada Cases.

Voters may be registered only by authorized person. Provisions of statutes relating to voter registration must be strictly followed. Registration of voters by one without authority was irregular and illegal regardless of fact that

officers associated with such registration acted in good faith. (See also NRS 293.503 and 293.505.) State ex rel. McMillan v. Sadler, 25 Nev. 131, 58 Pac. 284, 59 Pac. 546, 63 Pac. 128 (1899)

293.5055 Registration of voter outside boundaries of county. A county clerk or deputy registrar may register, outside the boundaries of the county, any voter who is a resident of that county.

(Added to NRS by 1987, 1617)

293.506 Registration of voters by computer. A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to register voters and to keep records of registration. The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to his registration.

(Added to NRS by 1985, 558)

293.507 Secretary of state to prescribe forms for affidavit of registration and registration of voters by computer.

1. The secretary of state shall prescribe:

(a) A standard form for affidavits of registration; and

(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer.

2. County clerks shall provide original and duplicate forms for affidavits of registration to deputy registrars in the form and number prescribed by the secretary of state.

(Added to NRS by 1960, 273; A 1975, 942; 1985, 561)

293.510 Election board register; registrar of voters' register.

1. In counties where computers are not used to register voters, the county clerk shall:

(a) Segregate original affidavits of registration according to the precinct in which the registered voters reside and arrange the affidavits in each precinct or district in alphabetical order. The affidavits for each precinct or district must be kept in a separate binder which is marked with the number of the precinct or district. This binder constitutes the election board register.

(b) Arrange the duplicate affidavits of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

2. In any county where a computer is used to register voters, the county clerk shall:

(a) Arrange the original affidavits of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

(b) Segregate the affidavits of registration in a computer file according to the precinct or district in which the registered voters reside, and for each precinct or district have printed a computer listing which contains the affidavits of registration in alphabetical order. These listings of affidavits of registration must be placed in separate binders which are marked with the number

of the precinct or district. These binders constitute the election board registers.

(Added to NRS by 1960, 273; A 1985, 562)

—ANNOTATIONS—

Reviser's Note.

Term "registrar of voters' register" was substituted for "county clerk's register" to

conform to name change effected by Chapter 282, Statutes of Nevada, 1973.

293.513 Elector may register for other elections despite closing of registration for impending election. If at any time the registrar of voters' register is closed for one election, but open for some other election, any elector shall be permitted to register for such other election, but the county clerk shall retain his affidavit of registration in a separate file until the registrar of voters' register is again open for filing of affidavits at which time all affidavits in such temporary file shall be placed in their proper position in the registrar of voters' register.

(Added to NRS by 1960, 273; A 1973, 350)

293.517 Registration of elector; change of name requires reregistration; effect of failure to reregister.

1. Any elector residing within the county may register:

(a) By appearing before the county clerk or deputy registrar, completing the affidavit of registration and giving true and satisfactory answers to all questions relevant to his identity and right to vote;

(b) By completing and mailing or personally delivering to the county clerk, an application to register to vote pursuant to NRS 293.5235; or

(c) Pursuant to the provisions of NRS 293.524.

The county clerk may require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him.

2. The affidavit of registration must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name, and not under the given or first name or initials of his spouse.

4. Any elector who is registered and changes his name, must complete a new affidavit of registration by appearing before the county clerk or deputy registrar or submitting a written statement to the county clerk requesting that the county clerk mail an affidavit of registration to him. If the elector fails to register under his new name, he may be challenged pursuant to NRS 293.303 and required to furnish proof of identity and subsequent change of name.

(Added to NRS by 1960, 274; A 1983, 1289; 1985, 562; 1989, 2168; 1991, 1684)

—ANNOTATIONS—

Attorney General's Opinions.

Registration valid wherever taken within county. Registration taken by county clerk or deputy registrar is valid regardless of where taken within county. AGO 193 (6-10-1918)

Exact age of woman not required. Woman is not required to give her exact age in order to register, provided registrar is satisfied applicant is over 21 years of age. AGO 202 (7-2-1918)

Person must actually appear to register; no provisions for registration of absentees. Person can only register by actually appearing in person before county clerk or before qualified deputy registrar within county where he resides. Legislature has not provided any method whereby absentees may be registered. (But see NRS 293.553 and 293.555.) AGO 143 (9-16-1922)

Chinese person with American father may vote. Chinese, born in China, whose father was American citizen, is citizen of

United States; and, if otherwise qualified, is entitled to register to vote. AGO 155 (8-16-1924)

Permissible use of names by married woman filing as candidate. Under NRS 293.517, which provides manner of registering name of married female elector and requires change of registration upon change of name, and NRS 293.177, which requires declaration of candidacy to include averment of registration, married woman must file as candidate using her own given name and her husband's surname, but may insert her maiden name for identification. AGO 311 (3-15-1966)

Registration under assumed name invalid. Under NRS 293.517, which requires elector in completing affidavit of registration to give true and satisfactory answers, registration under assumed name would not be valid, and person so registered could not meet requirements of NRS 293.177 for candidacy for public office. AGO 311 (3-15-1966)

293.520 Registration or reregistration of elector who is unable to sign name. The registration or reregistration of electors who are unable to sign their names must be made upon personal application of those electors at the office of the county clerk where they may be identified or in the presence of a deputy registrar. The electors may use a mark or cross in place of a signature. (Added to NRS by 1960, 274; A 1991, 2223)

293.523 Registration of naturalized citizen. A naturalized citizen need not produce his certificate of naturalization in order to qualify to be registered. (Added to NRS by 1960, 274; A 1973, 896; 1975, 943)

—ANNOTATIONS—

Attorney General's Opinions.

Alien does not become citizen until naturalization complete. Declaration of intention to become citizen does not make alien citizen. He remains alien until his naturalization becomes complete. AGO 128 (7-16-1914)

Woman acquiring citizenship by marriage retains it after marriage terminated. Woman of foreign birth who acquires American citizenship by marriage to naturalized citizen retains same after termination of marital relation and is entitled to register to vote. AGO 82 (7-14-1916)

293.5235 Registration of voters by mail.

1. A person may apply to register to vote, by mail, to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an

application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application and sign an affidavit containing the following statement: "I do solemnly swear (or affirm) under penalty of perjury that I am a citizen of the United States and that on the date of the next ensuing election I will have attained the age of 18 years and will have continuously resided in the State of Nevada, in my county at least 30 days and in my precinct at least 10 days before the next ensuing election. I further swear (or affirm) under penalty of perjury that the present address I listed herein is my sole legal place of residence and that I claim no other place as my legal residence. I further swear (or affirm) that I am not now laboring under any felony conviction or other loss of civil rights which would make it unlawful for me to vote."

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail a notice to the applicant informing him that he is registered to vote. The applicant shall be deemed registered as of the date the county clerk received the application.

6. If he determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail a notice to the applicant informing him that he is registered to vote. The applicant shall be deemed registered as of the date the county clerk received the application. If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The application must:

(a) Include the applicant's social security number, driver's license number or identification card number issued pursuant to NRS 483.810 to 483.890, inclusive.

(b) Include the street address of the residence where the applicant actually resides. The application must not be accepted if the applicant's address is described as a box in a post office.

(c) Allow an applicant to furnish his telephone number if he chooses to do so.

(d) Include a notice stating that an applicant is not registered to vote until all of the information required by the application has been provided to the county clerk within the period prescribed in subsection 6.

(e) Include any other information prescribed by the secretary of state.

8. The county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

9. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall cancel the registration of the person whose address appeared on the postcard.

10. The secretary of state shall adopt regulations to carry out the provisions of this section.

(Added to NRS by 1991, 1680)

293.524 Registration at time of application for registration of motor vehicle or issuance, renewal or correction of driver’s license or identification card.

1. The department of motor vehicles and public safety shall inquire of each qualified elector who applies in person to register a motor vehicle, for the issuance, renewal or correction of any type of driver’s license or for an identification card whether he desires to complete an application to register to vote by use of a single form containing the necessary information required by this chapter and subsection 2.

2. If the elector desires to complete an application for registration, he shall complete and sign an affidavit containing the following statement: “I, do solemnly swear (or affirm) under penalty of perjury that I am a citizen of the United States and that on the date of the next ensuing election I will have attained the age of 18 years and will have continuously resided in the State of Nevada, county of, at least 30 days and in my precinct at least 10 days before the next ensuing election. I further swear (or affirm) under penalty of perjury that the present address I listed herein is my sole legal place of residence and that I claim no other place as my legal residence. I further swear (or affirm) that I am not now laboring under any felony conviction or other loss of civil rights which would make it unlawful for me to vote.”

3. For the purposes of this section, each employee specifically authorized to do so by the director of the department may oversee the completion of the affidavit and application. The authorized employee shall check the application for completeness and verify the information required by the affidavit of registration. The authorized employee shall stamp the application for registration to validate it and shall provide the applicant with a receipt verifying the submission of the application. The department shall, except as otherwise provided in this subsection, forward each such application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. During the 2 weeks immediately preceding the close of registration for an election the applications must be forwarded daily.

4. Upon receipt of such an application, the county clerk or registrar of voters shall determine whether the application is complete. If he determines that the application is complete, the applicant shall be deemed registered as of the date of the submission of the application. If he determines that the application is not complete, he shall notify the applicant by mail at the mailing address stated on the application of the additional information required. The applicant shall be deemed registered as of the date of the initial submission of the application if the additional information is provided within 30 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 30 days after the notice for the additional information is mailed, the incomplete application is void.

5. The secretary of state shall, with the approval of the director of the department of motor vehicles and public safety, adopt regulations which:

(a) Establish any procedure necessary to provide an elector who applies to register to vote pursuant to this section the opportunity to do so;

(b) Provide for the form of the application of registration to be used by the department of motor vehicles and public safety; and

(c) Provide for the transfer of the completed applications of registration from the department of motor vehicles and public safety to the appropriate county clerk or registrar of voters for inclusion in the election board registers and registrar of voters' register.

(Added to NRS by 1987, 2143; A 1989, 1874; 1991, 1684, 2223)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.525 Transfer of registration when residence changed from one precinct or district to another within same county. Except as otherwise provided in NRS 293.304, 293.490 and 293.531, any elector who is presently registered and has changed his residence after the last preceding general election from one precinct or district to another within the same county is not eligible to vote unless he submits to the county clerk before the close of registration a written and signed request or a form prescribed by the secretary of state that the county clerk transfer his registration to the new address. No affidavit is required.

(Added to NRS by 1960, 274; A 1961, 295; 1967, 851; 1979, 177; 1989, 2168; 1991, 1686, 2224)

—ANNOTATIONS—

Attorney General's Opinions.

Procedure when elector registered in more than one precinct. When registration cards show elector has registered in more than

one precinct, county clerk should cancel registration from precinct in which elector does not reside and let true registration stand. AGO 220 (8-20-1918)

Elector who changes precincts may reregister only before registration closed. Elector who changes residence from one precinct to another in same county may reregister at any time before registration is closed, but not after. AGO 190 (10-27-1920)

293.527 Notice of cancellation of registration when elector moves to another county. When an elector moves to another county and registers to vote therein, the county clerk of such county shall send a cancellation notice to the clerk of the county in which the elector previously resided. The county clerk receiving such notice shall cancel such elector's affidavit of registration and place it in a canceled file.

(Added to NRS by 1960, 274)

293.530 Correction of registration list; cancellation of affidavit of registration.

1. County clerks may use any reliable and reasonable means available to correct the official registration lists and determine whether a registered voter's current residence is other than that indicated on his affidavit of registration.

2. A county clerk may, with the consent of the board of county commissioners, make investigations of registration in the county by census, by house-to-house canvass or by any other method.

3. A county clerk shall cancel the affidavit of registration of a voter pursuant to this section if he first mails a written notice to the voter of his intention to cancel the affidavit of registration for the reason stated in the notice, and the voter does not, within 15 days after he receives the notice, present evidence satisfactory to the county clerk refuting the reason for the cancellation. For the purpose of this subsection, the voter is deemed to have received the notice 3 days after the notice is mailed.

(Added to NRS by 1960, 274; A 1979, 1394; 1987, 1590; 1989, 2169)

—ANNOTATIONS—

Attorney General's Opinions.

County clerk may use questionnaires mailed to prospective jurors to correct list if approved procedures are used to ensure reliability. County clerk may, pursuant to NRS 293.530, use all reasonable and reliable sources of information, including questionnaires mailed to prospective jurors, to correct official lists of registered voters if approved investigative procedures are used to ensure reliability when warranted. AGO 85-3 (3-14-1985)

County clerk not required to notify voter that incorrect registration canceled. County clerk is not required to give notice to voter whose registration is canceled pursuant to subsection 9 of NRS 293.540, which requires clerk to cancel affidavit of registration when he has discovered incorrect registration using any reliable and reasonable means available (see NRS 293.530). AGO 85-3 (3-14-1985)

293.5305 Data concerning change of address of registered voter: Agreement with United States Postal Service or other authorized person for use of data by county clerk. [Expires by limitation on September 30, 1993.] In addition to the methods described in NRS 293.530, the county clerk in each county whose population is 100,000 or more, shall enter into an agreement with the United States Postal Service or any person authorized by it to obtain the data compiled by the United States Postal Service concerning changes of addresses of its postal patrons for use by the county clerk to correct voter registration lists.

(Added to NRS by 1991, 2216)

293.531 Data concerning change of address of registered voter: Identification of registered voter who has moved; notices to registered voter. [Expires by limitation on September 30, 1993.]

1. Unless the data described in NRS 293.5305 is not available, the county clerk shall review each notice of a change of address filed with the United States Postal Service by a resident of the county and identify each resident who is a registered voter and has moved to a new address within the county. The county clerk shall mail a notice to each such registered voter. The notice must be in substantially the following form:

Important Information Concerning Voter Registration

You have recently filed a notice of a change of address with the United States Postal Service. This office will reregister you at your new address unless, within 15 days after the date of this notice, you notify this office that your change of address is not a change of your permanent residence.

2. The county clerk shall provide each such registered voter with a return notice for which the postage is guaranteed, to notify the clerk that the address is not a change of permanent residence.

3. The county clerk shall mail a notice in the manner prescribed in NRS 293.530 to each registered voter of the county who has filed a notice of a change of address with the United States Postal Service which indicates that he has moved from the county.

(Added to NRS by 1991, 2216)

293.5315 Data concerning change of address of registered voter: Adoption of regulations by secretary of state. [Expires by limitation on September 30, 1993.] The secretary of state shall adopt regulations to carry out the provisions of NRS 293.5305 and 293.531.

(Added to NRS by 1991, 2217)

293.533 Action to compel registration. Any elector may bring and any number of electors may join in an action or proceeding in a district court to compel the county clerk to enter the name of such elector or electors in the registrar of voters' register and the election board register.

(Added to NRS by 1960, 275; A 1973, 350)

293.535 Cancellation of registration: Affidavit of person stating elector is an alien or has abandoned residence in county.

1. Except as provided in subsection 2, the county clerk shall cancel a registration if any elector or other reliable person files an affidavit with him 30 days or more prior to an election stating that the registrant is an alien and the affiant has personal knowledge of such fact, or that:

(a) The registrant has removed from the county where he is registered to another county, state, territory or foreign country, with the intention of remaining there for an indefinite time and with the intention of abandoning his residence in the county where registered;

(b) The registrant has established his residence in some other state, territory or foreign country, or in some other county of this state, naming such place; and

(c) The affiant has personal knowledge of those facts.

2. Upon the filing of the affidavit with him, the county clerk shall notify the registrant by registered or certified mail, return receipt requested, of the filing of the affidavit, and shall enclose a copy of the affidavit. Unless the registrant, within 15 days after the return receipt has been filed in the office of the county clerk, presents a counter-affidavit, documentary evidence or an oral statement under oath refuting, to the satisfaction of the county clerk, the statements in the affidavits, the county clerk shall cancel the registration in the manner provided in subsection 1.

3. Nothing in this section shall be construed to prevent the challenge provided for in NRS 293.303.

(Added to NRS by 1960, 275; A 1969, 95)

—ANNOTATIONS—

Attorney General's Opinions.

Legislative intent to keep upon rolls only registrants who affirmatively show interest in exercising privileges of elector. Under NRS 292.140, 292.440, 292.450 and 292.510 (cf. NRS 293.500, 293.535, 293.537, 293.545 and 293.547), relating to registration of voters and challenging and canceling such registration, intent of legislature is to keep upon the rolls only those registrants whose affirmative conduct shows interest in exercising privileges of elector. AGO 422 (10-28-1958)

Period for cancellation runs from day registered voter receives or refuses mailed notice of affidavit of abandonment. Under NRS 292.510 (cf. NRS 293.535), which provides for cancellation of affidavit of registration of registered voter 15 days after such voter has been notified by registered mail of affidavit on file alleging that such registered voter has abandoned residence within county, 15-day period runs from day such registered voter has received or refused such letter. AGO 422 (10-28-1958)

Registered voter defaults by refusing notice of affidavit of abandonment or by failing to reply. When county clerk, under provisions of NRS 292.510 (cf. NRS 293.535), notifies registered voter of affidavit on file alleging that such registered voter has abandoned residence in county, such registered voter defaults by accepting notice and failing to reply or by refusing to accept notice. AGO 422 (10-28-1958)

Notice of affidavit of abandonment shifts burden of proof of residence on voter. When county clerk, under provisions of NRS 292.510 (cf. NRS 293.535), notifies registered voter of affidavit on file alleging that such registered voter has abandoned residence in county, such notice operates to shift burden of

proof to such registered voter. Registered voter may carry burden of proof by supplying affidavits respecting place of abode and domiciliary intent and relevant evidentiary facts bearing upon such ultimate facts. AGO 422 (10-28-1958)

Clerk not required to mail absent voter's ballot until in receipt of evidence refuting affidavit of abandonment of residence. Where registered voter applies for absent ballot under provisions of NRS 300.020 (cf. NRS 293.315) and affidavit alleging abandonment of residence is filed under provisions of NRS 292.510 (cf. NRS 293.535), county clerk is not required to mail absent voter's ballot until in receipt of evidence refuting affidavit. AGO 422 (10-28-1958)

293.537 Canceled affidavits of registration: Preservation; microfilming; destruction; reinstatement if canceled erroneously.

1. The county clerk of each county shall maintain a canceled file for canceled affidavits of registration. Such file shall be kept in alphabetical order and shall contain all affidavits of registration which are canceled. The county clerk shall mark such affidavits "Canceled," and indicate thereon the reason for cancellation. If the county clerk finds that any affidavit of registration was canceled erroneously, the county clerk shall reinstate such affidavit, reregister the elector, or, on election day, issue a certificate of error to the elector whose registration was erroneously canceled.

2. The county clerk may:

(a) Microfilm canceled affidavits of registration and destroy the originals at any time.

(b) Destroy any canceled affidavit of registration after the expiration of 3 years from the date of cancellation.

(Added to NRS by 1960, 275; A 1967, 862)

—ANNOTATIONS—

Attorney General's Opinions.

Legislative intent to keep upon rolls only registrants who affirmatively show interest in exercising privileges of elector. Under NRS 292.140, 292.440, 292.450 and 292.510 (cf. NRS 293.500, 293.535, 293.537, 293.545 and 293.547), relating to registration

of voters and challenging and canceling such registration, intent of legislature is to keep upon the rolls only those registrants whose affirmative conduct shows interest in exercising privileges of elector. AGO 422 (10-28-1958)

293.540 Grounds for cancellation of registration. The county clerk shall cancel an affidavit of registration:

1. If he has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in his office.

2. If the insanity of the person registered is legally established.

3. Upon the production of a certified copy of the judgment of conviction of a felony of the person registered.
4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.
5. Upon the request of any registered voter to affiliate with any political party or to change his affiliation, if that change is made before the end of the last day for filing declarations of candidacy for a primary election.
6. Upon the request of any registered voter who has changed his name, if that voter satisfies the registrar that the change has been legally effected.
7. At the request of the person registered.
8. If any registered voter fails to vote in any presidential election.
9. Except as otherwise provided in NRS 293.531, if he has discovered an incorrect registration pursuant to NRS 293.5235 or 293.530.
(Added to NRS by 1960, 275; A 1961, 295; 1967, 862; 1991, 1686, 2224)

—ANNOTATIONS—

Nevada Cases.

Mandamus does not lie to compel removal of names of military personnel from registration rolls on ground that personnel not bona fide residents. Mandamus lies only where clear legal right to relief sought is shown, is appropriate against public officer only for refusal to perform definite present duty imposed by law, and will not lie to undo what ought not to have been done or to compel act otherwise unlawful, and petition for writ of mandamus to compel county clerk to remove names of military personnel from registration rolls on ground that they were not bona fide residents was dismissed because NCL § 2380 (cf. NRS 293.540), prescribing reasons for cancellation of registration, does not include this ground. *State ex rel. Conklin v. Buckingham*, 58 Nev. 450, 83 P.2d 462 (1938), cited, *Gill v. State ex rel. Booher*, 75 Nev. 448, at 451, 345 P.2d 421 (1959)

Attorney General's Opinions.

Electors with no political affiliations may reregister as affiliate of political party after general election. Elector who has no political affiliations and is registered as nonpartisan may reregister after general election to affiliate with political party and thereby qualify to become candidate of such party at next primary election. AGO 300 (5-7-1946)

Right of nonpartisan elected as Democratic nominee in primaries who registers as Democrat after primaries to have name on general election ballot. Nonpartisan elected as Democratic nominee in primaries who registers as Democrat after primaries is still entitled to have name on general election ballot until court declares otherwise. Neither county commissioners nor county clerk have power to withhold his name from ballot. AGO 213 (9-21-1956)

County clerk not required to notify voter that incorrect registration canceled. County clerk is not required to give notice to voter whose registration is canceled pursuant to subsection 9 of NRS 293.540, which requires clerk to cancel affidavit of registration when he has discovered incorrect registration using any reliable and reasonable means available (see NRS 293.530). AGO 85-3 (3-14-1985)

Eligibility to vote of one who changes his name. Registered voter, who has changed name before close of registration but failed to register his change of name until after close of registration, may vote in ensuing election notwithstanding NRS 293.540 which provides that elector who changes his name is not eligible to vote unless he registers. AGO 87-15 (9-9-1987)

293.543 Reregistration after cancellation of registration for certain grounds.

1. If an affidavit of registration is canceled under subsection 5 or 6 of NRS 293.540, the elector may reregister immediately.

2. If an affidavit of registration is canceled under subsection 7 of NRS 293.540, after the close of registration, the elector may not reregister until after the primary election.

(Added to NRS by 1960, 276)

293.545 Procedure for cancellation of registration after vote in presidential election.

1. Immediately after the county commissioners of a county canvass the vote in a presidential election, the county clerk shall compare the registrar of voters' register for each precinct or district in the county with the list of registered voters who voted at the election in each precinct or district as shown by the pollbook or roster returned to the county clerk by the election board of the precinct or district and the central counting board for absent ballots, if one has been appointed.

2. A county clerk shall remove from the registrar of voters' register and from the election board register by February 1 of the year following the presidential election the affidavit of registration of any elector who failed to vote at the election if he first mails a written notice which the United States Postal Service is required to forward to that elector of his intention to cancel the affidavit of registration for failure to vote in the presidential election, and the elector does not mail, within 30 days after he receives the notice, the return postcard provided by the county clerk with the notice, stating under penalty of perjury that he does not wish to have his affidavit of registration canceled and:

(a) Currently resides at the residence indicated on his affidavit of registration; or

(b) Has moved to a new residence within the county.

For the purpose of this subsection, the elector is deemed to have received the notice 3 days after the notice is mailed.

3. The postcard provided by the county clerk pursuant to subsection 2 must:

(a) Allow an elector, who has moved to a new residence within the county, to indicate his new address on the postcard; and

(b) Provide information concerning the procedure for registering to vote.

4. An absent voter whose ballot is voted and mailed or delivered to the county clerk within 10 days after the date of the presidential election must not be considered as having failed to vote pursuant to subsection 2.

5. After the county clerk completes the cancellation of registration, he shall provide the secretary of state with the number of registered voters in the county according to political party and district.

(Added to NRS by 1960, 276; A 1971, 447; 1973, 350, 870; 1975, 220; 1979, 1394; 1981, 117; 1987, 697, 1590; 1989, 2169; 1991, 2225)

—ANNOTATIONS—

Attorney General's Opinions.

Legislative intent to keep upon rolls only registrants who affirmatively show interest in exercising privileges of elector. Under NRS 292.140, 292.440, 292.450 and 292.510 (cf. NRS 293.500, 293.535, 293.537, 293.545 and 293.547), relating to registration

of voters and challenging and canceling such registration, intent of legislature is to keep upon the rolls only those registrants whose affirmative conduct shows interest in exercising privileges of elector. AGO 422 (10-28-1958)

293.547 Written challenges.

1. After the 30th day but not later than the 15th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He is registered to vote in the same precinct or district as the person whose right to vote is challenged; or

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall file the challenge in the registrar of voters' register and:

(a) In counties where records of registration are not kept by computer, he shall attach a copy of the challenge to the challenged registration in the election board register.

(b) In counties where records of registration are kept by computer, he shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the election board register.

6. The county clerk shall, within 5 days after a challenge is filed, mail a notice to the person whose right to vote has been challenged pursuant to this section informing him of the challenge. A copy of the challenge must accompany the notice.

(Added to NRS by 1960, 276; A 1973, 350; 1975, 943; 1985, 563; 1991, 2225)

—ANNOTATIONS—

Nevada Cases.

Statute provides appropriate remedy for removal of names of voters alleged not to be bona fide residents because present on military duty; mandamus will not issue. Writ of mandamus would not issue to compel county clerk to remove from registration roll names of voters alleged not to be bona fide residents because present on military duty, because appropriate remedy was provided by NCL § 2382 (cf. NRS 293.547), under which challenge duly verified by qualified elector may be filed with county clerk or oral challenge lodged on election day, and in either case determined by inspectors of election. Statutes which provide for purge of registration lists customarily provide for hearing of voters questioned, and no such hearing is afforded in mandamus proceedings. State ex rel. Conklin v. Buckingham, 58 Nev. 450, 83 P.2d 462 (1938), cited, Gill v. State ex rel. Booher, 75 Nev. 448, at 451, 345 P.2d 421 (1959)

Attorney General's Opinions.

Inspector of election may challenge voter under statute. Inspector of election may challenge right of person to vote under provisions of NCL § 2382 (cf. NRS 293.547). AGO B957 (10-10-1950)

Statute affords ample opportunity to challenge voter before election day. Ample

opportunity is afforded to those who desire to challenge any registered voters prior to election day by following provisions of NRS 292.440 (cf. NRS 293.547). AGO B965 (11-6-1950)

Examination after challenge determines right to vote; effect of challenge on absent voter. Under provisions of Nevada election law relating to challenge of person's right to vote (see NRS 292.440, 292.580 and 296.255, cf. NRS 293.303 and 293.547, challenge in and of itself does not disqualify, person. It is examination at polls after challenge that determines qualifications of voter. Therefore, challenge of absent voter is of no effect unless absent voter returns to polls for examination. AGO 412 (10-3-1958)

Legislative intent to keep upon rolls only registrants who affirmatively show interest in exercising privileges of elector. Under NRS 292.140, 292.440, 292.450 and 292.510 (cf. NRS 293.500, 293.535, 293.537, 293.545 and 293.547), relating to registration of voters and challenging and canceling such registration, intent of legislature is to keep upon the rolls only those registrants whose affirmative conduct shows interest in exercising privileges of elector. AGO 422 (10-28-1958)

293.550 Registration of electors enlisted or inducted into Armed Forces of United States: Appearance before county clerk or deputy registrar. Any elector of this state who has not registered to vote in this state, or who has registered but whose registration has been canceled, and who contemplates enlisting in, or has been inducted into, the Armed Forces of the United States may, at any time, appear before the county clerk of the county of his residence or the deputy registrar thereof and register as a voter in the manner provided by law.

(Added to NRS by 1960, 276)

293.553 Registration of electors in service of United States or attending school: Application by mail, telephone or telegram. Any elector of this state who is in the service of the United States or attending an institution of learning, and by reason thereof is beyond the boundaries of this state, and who has not registered before or whose registration has been canceled, may, at any time, request from the county clerk of the county of the elector's residence by mail, telephone or telegram an affidavit of registration. The county clerk, if satisfied that the elector is eligible for registration, shall

forward the affidavit immediately. The county clerk shall, upon receipt of the completed affidavit, file it in the manner provided by law.

(Added to NRS by 1960, 277; A 1961, 298; 1989, 2170)

293.555 Registration of spouse or dependent of elector who is in service of United States. If the spouse or a dependent of an elector referred to in NRS 293.553 is an elector of this state but has not been registered, or his registration has been canceled, and such spouse or dependent of the elector is required, by reason of the elector's being in the service of the United States, to reside beyond the boundaries of this state, such spouse or dependent may register in the manner provided by NRS 293.553.

(Added to NRS by 1960, 277; A 1961, 298)

293.557 Publication of list of registered voters.

1. The county clerk shall cause to be published in counties having a population under 100,000 and may cause to be published in counties having a population of 100,000 or more, once in each of the newspapers circulated in different parts of the county a list of all registered voters, segregated by precincts or districts, within the circulation area of each newspaper, or cause to be published once in a newspaper circulated in the county a segregated listing for the entire county:

(a) At least 75 days before any primary election.

(b) After each primary election and not less than 2 weeks before the close of registration for the ensuing general election.

2. The county may not pay more than 10 cents per name for six-point or seven-point type or 15 cents per name for eight-point type or larger to each newspaper publishing the list.

3. The list of registered voters must not be printed in type smaller than six-point.

(Added to NRS by 1960, 277; A 1967, 851; 1971, 448; 1973, 351, 896; 1975, 943; 1979, 534)

293.560 Close of registration: Time; publication of notice.

1. In any county which uses a computer to register voters and keep records of the registration of the county's voters, registration must close at 9 p.m. of the third Saturday preceding any primary, general, recall or special election. In every other county, registration must close at 9 p.m. of the fifth Saturday preceding any primary or general election and at 9 p.m. of the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary or general election, or primary or general city election, registration must close at 9 p.m. of the fifth Saturday preceding the day of the elections.

2. The offices of the county clerk and ex officio registrars must be open from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m., including Saturdays, during

the last days before the close of registration, according to the following schedule:

(a) In a county whose population is less than 100,000, those offices must be open during the last 3 days before registration closes.

(b) In all other counties, those offices must be open during the last 5 days before registration closes.

3. Except for a special election held pursuant to chapter 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him to be published in a newspaper having a general circulation in the county indicating the day that registration will be closed. If no such newspaper is published in the county, then the publication may be made in a newspaper of general circulation published in the nearest county in this state.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

(Added to NRS by 1960, 277; A 1963, 1376; 1964, 3; 1967, 862; 1971, 448; 1973, 351, 896; 1975, 943; 1977, 914; 1979, 268, 534; 1981, 959; 1985, 1098, 1902; 1987, 22)

—ANNOTATIONS—

Attorney General's Opinions.

Statute governs inconsistent provisions concerning time to hold special election to establish public hospital; election not invalidated by failure to give notice of close of registration for full period. Provisions of NCL § 2225 (cf. NRS 450.040) relating to time within which special election for establishment of public hospital must be held and

NCL § 2376 (cf. NRS 293.560) relating to notice of close of registration cannot both be complied with. Under such circumstances, statute providing for election governs, and failure to give notice of close of registration for full period prescribed in NCL § 2376 (cf. NRS 293.560) will not invalidate special election. AGO 201 (1-24-1936)

293.563 Election board register of precinct or district: Preparation; delivery.

1. During the interval between the closing of registration and 5 days before the election, the county clerk shall:

(a) In counties where records of registration are not kept by computer, prepare for each precinct or district a binder or binders containing in alphabetical order the original affidavits of registration of the electors in the precinct or district. The binder or binders constitute the election board register.

(b) In counties where records of registration are kept by computer, have printed and placed in a binder or binders for each precinct or district a computer listing in alphabetical order of the affidavits of registration of the electors in the precinct or district. The binder or binders constitute the election board register.

2. Each election board register must be delivered or caused to be delivered by the county or city clerk to an election officer of the proper precinct or district before the opening of the polls.

(Added to NRS by 1960, 277; A 1985, 563; 1987, 356)

293.565 Sample ballots: Mailing; notice of location of polling place; procedure if location of polling place changed.

1. At least 10 days before any election, the county or city clerk shall cause to be mailed to each registered voter in the county or city a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

(a) The county or city clerk shall mail a notice of the change to each registered voter in the county or city not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in at least 10-point bold type immediately above the location which states:

**NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION**

2. The cost of mailing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

(Added to NRS by 1960, 278; A 1961, 298; 1967, 852; 1971, 449; 1973, 897; 1979, 268; 1987, 356; 1989, 205)

—ANNOTATIONS—

Administrative Regulations.

General Provisions, NAC 293.010 et seq.

293.567 Number of registered voters in county to be transmitted by county clerk to secretary of state before primary and general elections. After the close of registration for each primary election but not later than the second Friday next preceding the primary election and after the close of registration for each general election but not later than the second Friday next preceding the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the secretary of state.

(Added to NRS by 1960, 278; A 1981, 349)

REGISTRATION OF ELECTORS IN INCORPORATED CITIES

293.570 Registration in incorporated cities; preparation of official election board register.

1. Unless otherwise provided for by special charter, registration of electors in incorporated cities must be accomplished in the manner provided in this chapter.

2. The county clerk shall prepare for the city clerk of each incorporated city within his county the election board register of all electors eligible to vote at a regular or special city election.

3. The official register must be prepared in suitable books, one for each ward or other voting district within each incorporated city. The entries in the election board register must be arranged alphabetically with the surnames first.

4. The county clerk shall keep duplicate originals or copies of the affidavits of registration contained in the official register in his office.

(Added to NRS by 1961, 297; A 1963, 1376; 1985, 563)

293.573 Preparation and contents of checklists for wards and other voting districts.

1. Not later than 3 days preceding the day on which a city election is to be held, the county clerk shall prepare a checklist for each ward or other voting district in the city. Each checklist shall:

(a) Be prepared in an index book and shall contain the names and addresses of all electors eligible to vote at such election for each ward or other voting district arranged alphabetically with surnames first.

(b) Have a blank column at the right of the column of names formed by two parallel perpendicular lines with a written heading showing the particular election to which the checklist applies.

2. Election board members shall check the names of those persons voting, indicating the same by some particular symbol, such as "V" for voted.

(Added to NRS by 1961, 297; A 1963, 1376)

293.575 Delivery of official register and checklists to city clerk. Not later than 3 days before the day on which any regular or special city election is held, the county clerk shall deliver to the city clerk:

1. The official register for the city.

2. The checklists for each ward or voting district therein.

(Added to NRS by 1961, 297; A 1963, 1377)

293.577 City council to provide ballots and supplies. The city council or other governing body of the city shall provide all necessary books, ballots and supplies for the proper conduct of city elections.

(Added to NRS by 1961, 298; A 1963, 1377)

293.580 City council may publish list of registered voters. The city council or other governing body of the city may cause a list of the electors registered to vote at any city election to be published.

(Added to NRS by 1961, 298; A 1963, 1377; 1973, 897)

293.583 Compensation of county registrar; payment from city general fund.

1. As full compensation for all services rendered under the provisions of NRS 293.570 to 293.580, inclusive, the county registrar shall be entitled to receive on behalf of the county the sum of 15 cents for each name of an elector copied by him, regardless of the number of times each name is copied.

2. His account shall be:

(a) A valid claim against the city.

(b) Made out so as to show clearly the number of names copied by him.

(c) Sworn to and filed with the city council or other governing body of the city.

3. His claim, together with all other just and reasonable demands of other persons for books, advertising and supplies necessarily incurred in carrying out the requirements of NRS 293.570 to 293.580, inclusive, shall be audited and paid out of the general fund of the city.

4. All moneys received by the county registrar pursuant to this section shall be deposited by him to the credit of the general fund of the county.

(Added to NRS by 1961, 298; A 1975, 496)

—ANNOTATIONS—

Attorney General's Opinions.

County clerk not entitled to additional pay for making duplicates or to pay for extra help. Under NRS 293.583, compensation payable to county clerk for his services

relating to municipal elections is 15 cents for each name of elector copied by him onto official register, and he is not entitled to additional pay for making duplicates or to pay for extra help. AGO 48 (6-26-1963)

CITY ELECTIONS

293.610 Declaration of single candidate for nomination for office as elected. In any city election, if at 5 p.m. on the last day for filing an affidavit or declaration of candidacy, there is only one candidate for nomination for any office, that candidate must be declared elected and no election may be held for that office.

(Added to NRS by 1987, 332; A 1989, 2170)

293.620 Primary city election.

1. A primary city election must be held in each city of the first class, and in each city of the second class which has so provided by ordinance, on the first Tuesday after the first Monday in May of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. A candidate for any office to be voted for at the primary city election must file an affidavit of candidacy with the city clerk not less than 30 nor more than 40 days before the date of the primary election. The city clerk shall charge and collect from the candidate and the candidate shall pay to the city

clerk, at the time of filing the affidavit of candidacy, a filing fee in an amount fixed by the city council by ordinance. All filing fees so collected by the city clerk must be deposited to the credit of the general fund of the city.

3. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

4. If in the primary city election one candidate receives more than a majority of votes cast in that election for the office for which he is a candidate his name alone must be placed on the ballot for the general city election. If in the primary city election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.

(Added to NRS by 1987, 332; A 1989, 1165)

293.630 General city election in city of first class: Date; candidates voted on by electors at large; terms of councilmen.

1. A general city election must be held in each city of the first and second classes on the 1st Tuesday after the 1st Monday in June of the first odd-numbered year after incorporation, and on the same day every 2 years thereafter as determined by law, ordinance or resolution, at which time there must be elected the elective city officers, the offices of which are required next to be filled by election. All candidates, except as provided in NRS 266.220, at the general city election must be voted upon by the electors of the city at large.

2. The terms of office of city councilmen are 4 years, which terms must be staggered. The councilmen elected to office immediately after incorporation shall decide by lot among themselves which of their offices expire at the next general city election, and thereafter the terms of office must be 4 years.

(Added to NRS by 1987, 332)

293.640 General city election in city of third class: Date; terms of mayor and councilmen; affidavit of candidacy; candidates for mayor voted on by electors at large; candidates for councilmen voted on by electors of ward.

1. A general city election must be held in each city of the third class on the 1st Tuesday after the 1st Monday in June of the first odd-numbered year after incorporation, and on the same day every 2 years thereafter as determined by ordinance.

2. There must be one mayor and three councilmen for each city of the third class. The terms of office of the mayor and the councilmen are 4 years, which terms must be staggered. The mayor and councilmen elected to office immediately after incorporation shall decide by lot among themselves which two of their offices expire at the next general city election, and thereafter the terms of office must be 4 years.

3. A candidate for any office to be voted for at the general city election must file an affidavit of candidacy with the city clerk not less than 30 nor more than 40 days before the day of the general city election. The city clerk shall charge and collect from the candidate and the candidate shall pay to the city clerk, at the time of filing the affidavit of candidacy, a filing fee in an amount fixed by the city council by ordinance.

4. Candidates for mayor must be voted upon by the electors of the city at large. Candidates for councilmen must be voted upon by the electors of their respective wards to represent the wards in which they reside, or by the electors of the city at large to represent the wards in which they reside, in accordance with the provisions of chapter 266 of NRS.

(Added to NRS by 1987, 333)

293.650 Conduct. The conduct of any city election must be under the control of the city council, and it shall by ordinance provide for the holding of the election, appoint the necessary officers thereof, and do all other things required to carry the election into effect.

(Added to NRS by 1987, 333)

293.660 Persons entitled to vote; supplemental registration.

1. Every person who resides within the boundaries of the city at the time of the holding of any city election, and whose name appears upon the official register of voters for the city, is entitled to vote at each special, primary and general city election, and for all officers to be voted for and on all questions submitted to the people at any such elections except as otherwise provided in chapter 266 of NRS.

2. The city council may provide for a supplemental registration.

(Added to NRS by 1987, 333)

293.670 Returns filed with city clerk; canvass of returns; preparation of abstract of votes; limitation on inspection of returns; certificates of election.

1. The election returns from any special, primary or general city election must be filed with the city clerk, who shall immediately place the returns in a safe or vault, and no person may handle, inspect or in any manner interfere with the returns until canvassed by the mayor and city council.

2. The mayor and city council shall meet within 10 days after any election and canvass the returns, declare the result and cause the city clerk to make an abstract thereof. The election returns must then be sealed and kept by the city clerk for 6 months and no person may have access thereto except on order of a court of competent jurisdiction or by order of the city council.

3. The city clerk, under his hand and official seal, shall issue to each person elected a certificate of election. The officers so elected qualify and enter upon the discharge of their respective duties on the first regular meeting

of the city council next succeeding that in which the canvass of returns was made as provided in subsection 2.

(Added to NRS by 1987, 333; A 1991, 1108)

UNLAWFUL ACTS AND PENALTIES

293.700 Bribery of elector. Any person who bribes, offers to bribe, or uses any other corrupt means, directly or indirectly, to influence any elector in giving his vote or to deter him from giving it shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(Added to NRS by 1975, 535; A 1979, 1464)—(Substituted in revision for NRS 293.584)

293.710 Intimidation of voters.

1. It is unlawful for any person, in connection with any election, whether acting himself or through another person in his behalf, to:

(a) Use or threaten to use any force, coercion, violence, restraint or undue influence;

(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;

(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his vote; or

(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.

2. Any violation of this section is a gross misdemeanor.

(Added to NRS by 1960, 268)—(Substituted in revision for NRS 293.585)

293.720 Suppression of or failure to file nomination paper by public officer. Any officer in whose office any nomination paper has been filed, who shall wrongfully suppress, neglect or fail to cause the proper filing thereof at the proper time and the proper place, is guilty of a gross misdemeanor.

(Added to NRS by 1960, 270; A 1967, 552; 1973, 871)—(Substituted in revision for NRS 293.587)

293.730 Interfering with conduct of election; unauthorized delivery, receipt, identification, display or removal of ballot.

1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than the one at which he is entitled to vote.

(e) Show his ballot to any person, after marking it, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of his official duties, inside a polling place, ask another person his name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his ballot by which it may afterward be identified as the one voted by him.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

(Added to NRS by 1960, 270; A 1973, 871; 1985, 335; 1987, 1168; 1989, 2170)

293.740 Soliciting votes; electioneering.

1. It is unlawful inside a polling place:

(a) For any person to solicit a vote or speak to a voter on the subject of marking his ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

2. Any person who violates any provision of this section is guilty of a gross misdemeanor.

(Added to NRS by 1963, 1382; A 1967, 863; 1973, 872; 1977, 464; 1987, 1169; 1989, 2171)

293.750 Removal or destruction of election supplies or equipment.

Any person who, during an election, removes or destroys any of the supplies or equipment placed in the booths or compartments, or removes or defaces the cards of instruction posted as prescribed by this chapter, is guilty of a gross misdemeanor.

(Added to NRS by 1960, 270; A 1973, 872)—(Substituted in revision for NRS 293.593)

293.755 Tampering or interfering with certain election equipment or computer programs used to count ballots; report of violation to district attorney.

1. Any person who tampers or interferes with, or attempts to tamper or interfere with a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a felony.

2. The county clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(Added to NRS by 1991, 2217)

293.760 Alteration, defacement or removal of posted results of votes cast. Any person who, prior to the expiration of 48 hours following the closing of the polls, alters, defaces, removes or destroys the copy of the results of votes cast posted outside a polling place is guilty of a gross misdemeanor. Notice of such penalty shall be printed on the copy posted.

(Added to NRS by 1965, 1254; A 1973, 872)—(Substituted in revision for NRS 293.594)

293.770 Refusal of person sworn by election board to answer questions. Every person who, after being sworn by an election board, refuses to answer any relevant question propounded by such board concerning the right of any other person to vote is guilty of a gross misdemeanor.

(Added to NRS by 1960, 270; A 1973, 872)—(Substituted in revision for NRS 293.595)

293.780 Voting more than once at same election.

1. A person who is entitled to vote shall not vote or attempt to vote more than once at the same election. Any person who votes or attempts to vote twice at the same election is guilty of a gross misdemeanor.

2. Notice of the provisions of subsection 1 must be given by the county or city clerk as follows:

(a) Printed on all sample ballots mailed;

(b) Posted in boldface type at each polling place; and

(c) Posted in boldface type at the office of the county or city clerk.

(Added to NRS by 1973, 403; A 1987, 356)—(Substituted in revision for NRS 293.596)

293.790 Offer to vote by person whose vote has been rejected. If any person whose vote has been rejected offers to vote at the same election, at any polling place other than the one in which he is registered to vote, he is guilty of a gross misdemeanor.

(Added to NRS by 1960, 270; A 1973, 872; 1991, 1686)

293.800 Acts concerning registration of voters; violations of laws governing elections; crimes by public officers.

1. Any person who, either for himself or another, willfully gives a false answer or answers to questions propounded to him by the registrar or deputy registrar relating to the information called for by the affidavit of registration, or who willfully falsifies his registration affidavit in any particular, or who violates any of the provisions of the election laws of this state, or knowingly encourages another to violate such laws is guilty of a gross misdemeanor.

2. Any public officer or other person, upon whom any duty is imposed by this Title, who willfully neglects such duty, or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this state, is, except where some other penalty is provided, guilty of a gross misdemeanor.

3. If such person is a public officer, his office is forfeited upon conviction of any offense provided for in subsection 2.

4. Any person who causes or endeavors to cause his name to be registered, knowing that he is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he causes or endeavors to cause such registration to be made, and any other person who induces, aids, or abets any such person in the commission of either of such acts is guilty of a gross misdemeanor.

(Added to NRS by 1960, 271; A 1961, 294; 1973, 872)—(Substituted in revision for NRS 293.600)

293.810 Registration in more than one county at one time. It is unlawful for any person to be registered as a voter in more than one county at one time.

(Added to NRS by 1987, 1590)

293.820 Solicitation of money for political organization without prior approval or charter.

1. It is unlawful for any person to solicit any money for any organization the title of which incorporates the name, or any form of the name, of any political party in this state without first having obtained written approval therefor, or a charter for that organization, from the central or executive committee of that political party the name of which is being used or incorporated in the title of that organization for the county in which the money is being solicited.

2. This section does not require any person or organization to obtain a charter or written approval if that person or organization is:

(a) Publicly organized for the sole and limited purpose of supporting the candidacy of a particular candidate in a single election.

(b) Chartered by a national political party or organization.

(c) Chartered by a state central committee in Nevada.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

(Added to NRS by 1967, 844; A 1973, 873; 1987, 356, 1373; 1989, 228)

293.830 Betting on election. Any person who makes, offers or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any person, is guilty of a gross misdemeanor.

(Added to NRS by 1960, 271; A 1973, 873)—(Substituted in revision for NRS 293.603)



CHAPTER 293B
MECHANICAL VOTING SYSTEMS

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CHAPTER 293B
MECHANICAL VOTING SYSTEMS

CROSS REFERENCES

Ballots, rejection, NRS 293.367
Board of county commissioners defined, NRS 0.035
Mailing precincts, NRS 293.343 et seq.
Referendum, county, NRS 295.170
Voting information privileged, NRS 49.315



GENERAL PROVISIONS

293B.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 293B.027, 293B.032 and 293B.033 have the meanings ascribed to them in those sections.

(Added to NRS by 1975, 1522; A 1985, 1098; 1987, 357)

293B.027 "Election board" defined. "Election board" means the persons appointed by each county or city clerk to assist in the conduct of an election.

(Added to NRS by 1981, 1742; A 1987, 357)

293B.032 "Mechanical recording device" defined. "Mechanical recording device" means a device:

1. Which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or
2. To which a list of offices and candidates and the statements of measures to be voted on may be affixed and into which a card may be inserted so that the votes cast for each candidate and for or against each measure may be indicated by punching the card with reference to the list.

(Added to NRS by 1985, 1098)

293B.033 "Mechanical voting system" defined. "Mechanical voting system" means a system of voting whereby a voter may cast his vote:

1. On a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or
2. By punching a card which is subsequently counted on an electronic tabulator, counting device or computer.

(Added to NRS by 1985, 1098)

293B.050 Authorization for use of mechanical voting system. At all statewide, county, city and district elections of any kind held in this state, ballots or votes may be cast, registered, recorded and counted by means of a mechanical voting system.

(Added to NRS by 1975, 1522; A 1985, 1099)

293B.055 Applicability of other statutes, charters and ordinances. The provisions of all state laws relating to elections and of any city charter or ordinance not inconsistent with the provisions of this chapter apply to all elections in districts or precincts where mechanical voting systems are used and to all elections where ballots are counted at a central counting place.

(Added to NRS by 1975, 1522; A 1985, 1099)

293B.060 Conflicting laws inapplicable. Any provision of an ordinance which conflicts with the provisions of this chapter does not apply to the districts or precincts in which mechanical voting systems are used, nor to conduct at a central counting place. All ordinances in conflict with any of the provisions of this chapter are of no force or effect in election districts or precincts where mechanical voting systems are used, nor with respect to conduct at a central counting place.

(Added to NRS by 1975, 1523; A 1985, 1099)

REQUIREMENTS

293B.065 Secrecy. A mechanical voting system must secure to the voter secrecy in the act of voting.

(Added to NRS by 1975, 1523; A 1985, 1099)

293B.070 Full choice of candidates and measures. A mechanical voting system must provide facilities for voting for the candidates of as many political parties or organizations as may make nominations, and for or against measures.

(Added to NRS by 1975, 1523; A 1985, 1099)

293B.075 Full choice of candidates for offices; vote against all candidates. A mechanical voting system must permit the voter to vote for any person for any office for which he has the right to vote, but none other, or indicate a vote against all candidates.

(Added to NRS by 1975, 1523; A 1985, 1099)

293B.080 "Straight" or "split" ticket. A mechanical voting system must, except at primary elections, permit the voter to vote for all the candidates of one party or in part for the candidates of one party and in part for the candidates of one or more other parties.

(Added to NRS by 1975, 1523; A 1985, 1099)

293B.085 Several elective to same offices; effect of overvote. A mechanical voting system must permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more. If a voter casts more votes for an office than he is lawfully entitled, the counting device or electronic computer must be programmed so that those votes are not counted. The remainder of the voter's ballot must be counted if it is otherwise lawfully voted.

(Added to NRS by 1975, 1523; A 1985, 1099)

293B.090 Prevention of voting more than once. A mechanical voting system must prevent the voter from voting for the same person more than once for the same office.

(Added to NRS by 1975, 1523; A 1985, 1100)

293B.095 Measures on which voter is entitled to vote. A mechanical voting system must permit the voter to vote for or against any measure he may have the right to vote on, but none other.

(Added to NRS by 1975, 1523; A 1985, 1100)

293B.100 Correct registration or recording of votes. A mechanical recording device must correctly register or record, on the voter's ballot, all votes cast for any and all persons and for or against any and all measures.

(Added to NRS by 1975, 1523; A 1985, 1100)

293B.103 Detachable stubs on cards.

1. If a mechanical voting system is used whereby votes are cast by punching a card, the cards to be used must have two detachable stubs. Each of the stubs attached to a particular card must bear the number of that card.

2. One of the stubs must be detached and given to the voter when he returns his voted ballot, and the other stub must be retained by the election board.

(Added to NRS by 1983, 1289; A 1985, 1100)

APPROVAL AND ADOPTION

293B.105 Adoption and use of mechanical voting system by local officers. The board of county commissioners of any county or the city council or other governing body of any city may adopt for use at elections any mechanical voting system approved by the secretary of state or the use of which has been specifically authorized by law. The voting system may be used at any or all elections held in the county or city, for voting, registering and counting votes cast.

(Added to NRS by 1975, 1523; A 1985, 1100)

293B.110 Adoption of different voting devices for different precincts or districts. A mechanical voting system may be adopted for some of the precincts or districts in the same county or city, while the remainder of the precincts or districts in that county or city may be furnished with paper ballots.

(Added to NRS by 1975, 1523; A 1977, 247; 1985, 1100)

293B.115 Provision of mechanical recording devices for polling places; custody when not in use. The board of county commissioners, city council or other governing body which adopts a mechanical voting system, as soon as practicable after adopting it, shall provide for each polling place one or more mechanical recording devices in complete working order. When the devices are not in use at an election, the board, council or governing body shall take custody of them and of the furniture and equipment of the polling place.

(Added to NRS by 1975, 1524; A 1985, 1100)

293B.120 Adoption of mechanical voting system for experimental use in certain precincts. The board of county commissioners of any county or the city council or other governing body of any city, without formally adopting a mechanical voting system which it might lawfully adopt, may provide for its experimental use at an election in one or more precincts. Its use at the election is as valid for all purposes as if it were lawfully adopted.

(Added to NRS by 1975, 1524; A 1985, 1100)

293B.122 Purchase of mechanical recording devices by secretary of state for lease to counties.

1. The secretary of state may purchase mechanical recording devices and lease them to counties, giving priority to those counties still using paper ballots.

2. The secretary of state may pay for such devices purchased by him out of any money specifically appropriated for that purpose by the legislature.

(Added to NRS by 1979, 497; A 1985, 1101)

293B.124 Lease of mechanical recording devices by counties with option to purchase: Contents of agreement; deposit of rental payments.

1. The secretary of state and each participating county shall enter a written agreement designated as "Lease of Equipment with Option to Purchase." Each agreement must provide in substance:

(a) That the systems particularly described in the agreement are leased by the state, as lessor, to the county, as lessee, for a term of 2 years from the date of the agreement, with an exclusive option in the lessee to extend the term for like periods of 2 years at a time, for an agreed maximum term not exceeding 20 years after the date of the agreement.

(b) That the lessee will maintain and insure the systems for the original term and each succeeding agreed term.

(c) That the aggregate of rental payments provided for under the maximum term of the lease agreement must equal the aggregate of the purchase price of the mechanical recording devices covered by the agreement, together with all interest, shipping, installation and other costs paid or agreed to be paid by the state. Upon payment of the latter aggregate sum by any lessee to the state, the

state shall forthwith convey to that lessee legal title to the systems covered by the paid agreement.

2. The secretary of state shall promptly transmit all rental payments received by him under all such agreements to the state general fund.

(Added to NRS by 1979, 497; A 1987, 713)

293B.125 Cost of mechanical voting system; payment for system.

1. The cost of a mechanical voting system is a charge upon the county or city adopting it.

2. The board of county commissioners or city council or other governing body of any city may provide for the payment of the costs of such a voting system in such manner and by such method as they consider in the best local interests, and also may for that purpose issue bonds, certificates of indebtedness, or other obligations which are a charge on the county or city. The bonds, certificates or other obligations may be issued with or without interest, payable at such time as the authorities may determine, but may not be issued or sold at less than par.

(Added to NRS by 1975, 1524; A 1985, 1101)

COMPUTER PROGRAMS

293B.130 Requirements. Before any election where a mechanical voting system is to be used, the county or city clerk shall prepare or cause to be prepared a computer program on cards, tape or other material suitable for use with the computer or counting device to be employed for counting the votes cast. The program must cause the computer or counting device to operate in the following manner:

1. All lawful votes cast by each voter must be counted.

2. All unlawful votes, including but not limited to overvotes or, in a primary election, votes cast for a candidate of a major political party other than the party, if any, of the voter's registration, must not be counted.

3. If the election is:

(a) A primary election held in an even-numbered year, other than a presidential preference primary; or

(b) A general election,

the total votes, other than absentee votes and votes in a mailing precinct, must be accumulated by precinct.

4. The computer or counting device must halt or indicate by appropriate signal if a ballot is encountered which lacks a code identifying the precinct in which it was voted and, in a primary election, identifying the major political party of the voter.

(Added to NRS by 1975, 1525; A 1979, 1304; 1985, 1101; 1987, 357; 1989, 229)

293B.135 Filing before election; inspection.

1. A copy of each election computer program certified by the accuracy certification board for an election in the state must be filed with the secretary of state at least 1 week before the election. Copies of any subsequent alterations in the program must be filed in the same manner before the election.

2. The copies of the programs filed pursuant to subsection 1 are not public records and are not available for inspection by the public.

3. A copy of a program may be inspected:

(a) By the judge, body or board before whom an election is being contested;

(b) Jointly by the parties to the contest if ordered by the judge, body or board; or

(c) By any other person who is authorized by a court of competent jurisdiction.

(Added to NRS by 1975, 1523; A 1989, 2171)

—ANNOTATIONS—**Administrative Regulations.**

Mechanical Voting Systems, NAC
293B.010 et seq.

TESTING OF EQUIPMENT AND PROGRAMS

293B.140 Appointment of accuracy certification board. Before conducting the test required under NRS 293B.150, the county or city clerk shall appoint two persons who are not of the same political party to serve as an accuracy certification board.

(Added to NRS by 1975, 1525; A 1987, 357)

293B.145 Observation of conduct of tests.

1. The accuracy certification board shall observe the conduct of the tests prescribed by NRS 293B.150 and 293B.165.

2. Representatives of the various political parties, candidates and the press may also observe the conduct of such tests.

(Added to NRS by 1975, 1526)

293B.150 Tests required before election day. No sooner than 2 weeks before the election day, the county or city clerk shall test the automatic tabulating equipment and programs to ascertain that the equipment and programs will correctly count the votes cast for all offices and on all measures.

(Added to NRS by 1975, 1526; A 1987, 357)

293B.155 Procedure for conducting tests; inspections of results of test.

1. The tests prescribed by NRS 293B.150 and 293B.165 must be conducted by processing a preaudited group of logic and accuracy test ballots so

punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment and programs to reject those votes.

2. If any error is detected, the cause therefor must be ascertained and corrected and an errorless count must be made before the automatic tabulating equipment and programs are approved.

3. When satisfied with the accuracy of the computer program, the accuracy certification board and the county or city clerk shall date and sign all reports, seal the program, the reports, and all test material in an appropriate container. The container must be kept sealed by the clerk.

4. Except as otherwise provided in this subsection, the contents of such a sealed container are not subject to the inspection of anyone except in the case of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of that judge, body or board. For the period set forth in NRS 293.413 during which a candidate may file a statement of contest, the results of the test must be made available in the clerk's office for public inspection.

(Added to NRS by 1975, 1526; A 1981, 1743; 1987, 358; 1989, 2171)

—ANNOTATIONS—

Administrative Regulations.

Mechanical Voting Systems, NAC
293B.010 et seq.

293B.160 Test program and card deck to be used at election. The computer program and the program card deck used for the test prescribed by NRS 293B.150 shall be used to count the ballots for the election.

(Added to NRS by 1975, 1526)

293B.165 Tests required before and after counting of ballots.

1. A test conducted in the manner prescribed in subsections 1 and 2 of NRS 293B.155 shall be conducted immediately before the start of the official count of the ballots and again immediately after the official count of the ballots.

2. Such tests shall be certified by the accuracy certification board.

(Added to NRS by 1975, 1526)

293B.170 Sealing and disposition of programs and ballots. After the completion of the last logic and accuracy test, the programs used, the logic and accuracy test ballots and the official ballots shall be sealed, retained and disposed of in the manner provided in NRS 293.391 for other ballots.

(Added to NRS by 1975, 1526)

BALLOTS

293B.175 Official ballot in mechanical voting system. In those districts or precincts in which a mechanical voting system is used, the list of offices and candidates and the statements of measures appropriate for use with that system in combination with the device upon which a vote is registered is an official ballot.

(Added to NRS by 1975, 1524; A 1985, 1101)

293B.180 Applicability of provisions governing mechanical voting systems and paper ballots. The laws relating to mechanical voting systems and paper ballots generally, so far as applicable, apply respectively to that part voted upon mechanical recording devices and that part voted upon paper.

(Added to NRS by 1975, 1524; A 1985, 1102)

293B.185 Procedure to be followed if ballot larger than capacity of mechanical recording device. If the ballot is larger than the mechanical recording device can accommodate, the county or city clerk may place it upon more than one device or place part of it upon the recording device and the remainder upon paper.

(Added to NRS by 1975, 1524; A 1985, 1102; 1987, 358)

293B.190 Primary elections: Partisan and nonpartisan arrangement of list of candidates and measures to be voted on at election. When used in primary elections, the list of offices and candidates and the statements of measures to be voted on for each mechanical recording device, except those devices intended solely for nonpartisan voters, must be so arranged that it contains a page or pages setting forth the ballot of one major political party only, followed by a page or pages setting forth the nonpartisan ballot and so that the voter may cast his partisan and nonpartisan votes on a single ballot but may not cast his partisan votes for a candidate of another major political party.

(Added to NRS by 1975, 1524; A 1985, 1102; 1989, 229)

293B.195 Sample ballots: Open for inspection. The sample ballots of mechanical voting systems must be open to public inspection at the polling place during the election day.

(Added to NRS by 1975, 1524; A 1985, 1102)

293B.200 Sample ballots: Size; instructions for voting. The sample ballots must be in full or reduced size and contain suitable illustrated directions for voting on the mechanical recording device.

(Added to NRS by 1975, 1524; A 1985, 1102)

293B.205 Sample ballots: Format; inclusion of certain information regarding proposed constitutional amendment or statewide measure.

1. The officers charged with the duty of providing ballots for any polling place shall provide the polling place with two sample ballots, which must be arranged in the form of:

(a) A booklet or full sheet of paper printed to display a facsimile of the page or several pages which constitute the list of offices and candidates and the statements of measures to be voted on which will be in use at that election; or

(b) A diagram showing that part of the face of the mechanical recording device which will be used at that election containing the list of offices and candidates and the statements of measures to be voted on.

2. All sample ballots must include:

(a) The fiscal note, as provided pursuant to NRS 218.276, for each proposed constitutional amendment or statewide measure.

(b) An explanation, as provided pursuant to NRS 218.443, of each proposed constitutional amendment or statewide measure, including arguments for and against it.

(c) The full text of each proposed constitutional amendment.

(Added to NRS by 1975, 1524; A 1985, 1102; 1987, 111; 1989, 399)

293B.210 Clerk to furnish lists of candidates and measures to be voted on at election; secretary of state to provide to or reimburse county for cards used in elections.

1. If a mechanical voting system is used whereby a vote is cast by punching a card, the county or city clerk shall furnish sufficient lists of offices and candidates and the statements of measures to be voted on for the mechanical recording devices used at any election.

2. The secretary of state shall provide to or reimburse each county for all cards used in each primary or general election. Any reimbursement must be paid from the reserve for statutory contingency account upon recommendation by the secretary of state and approval by the state board of examiners.

(Added to NRS by 1975, 1524; A 1985, 1102; 1987, 112, 358; 1991, 1761)

PREPARATION FOR OPENING POLLS

293B.220 Preparation of mechanical recording devices for use in voting. The county or city clerk shall place the proper lists of offices and candidates and the statements of measures to be voted on on the mechanical recording devices, corresponding with the sample ballots provided for in this chapter, and shall put the devices in order, ready for use in voting.

(Added to NRS by 1975, 1526; A 1985, 1103; 1987, 358)

293B.225 Employment of competent persons by clerk; oaths. To prepare the mechanical recording device for an election, the county or city clerk shall employ competent persons who must be sworn to perform their duties honestly and faithfully.

(Added to NRS by 1975, 1526; A 1985, 1103; 1987, 358)

293B.230 Employment of qualified persons only. The county or city clerk shall not appoint any person to prepare any mechanical recording device for an election unless he is fully qualified to perform his duties in connection with the complete preparation of the devices for the election and the instruction of the election officers and voters.

(Added to NRS by 1975, 1526; A 1985, 1103; 1987, 358)

293B.235 Duties of assistants before opening polls. The assistants referred to in NRS 293B.225 and 293B.230 shall, under the direction of the county or city clerk, prepare the mechanical recording devices for the election and provide for the delivery of the devices to the polling places of the election district in which the election is to be held, or to the custody of the chairman of the election board, together with all furniture and appliances necessary for the proper conduct of the election.

(Added to NRS by 1975, 1527; A 1985, 1103; 1987, 359)

293B.240 Testing of mechanical recording device by clerk. In preparing a mechanical recording device for an election, the county or city clerk shall, according to the printed directions furnished, thoroughly test the device and arrange it so that it will in every particular meet with the requirements for voting and counting at the election.

(Added to NRS by 1975, 1527; A 1985, 1103; 1987, 359)

293B.245 Examination of mechanical recording devices by representatives of political parties before election. Before preparing mechanical recording devices for any election, the county clerk shall mail written notices to the chairmen of the county central committees of at least two of the principal political parties, stating the time and place where the devices will be prepared. At the specified time, one representative of each such political party must be afforded an opportunity to see that the devices are in proper condition for use in the election. The representatives shall not interfere with the persons assigned to prepare the devices or assume any of their duties.

(Added to NRS by 1975, 1527; A 1985, 1103; 1987, 359)

293B.250 Light in voting booth. If the voting booth in which a mechanical recording device is to be installed is not equipped with a light, the county or city clerk may provide a light and direct that it be affixed to the booth or to the device.

(Added to NRS by 1975, 1527; A 1985, 1104; 1987, 359)

293B.255 Booth must conceal mechanical recording device. The booth in which a mechanical recording device is installed must be so constructed that the rear and sides of the booth in combination with the person of the voter hide the device from the view of persons other than the voter.

(Added to NRS by 1975, 1527; A 1985, 1104)

293B.260 Instruction of members of election board before election. Within a reasonable time before each election, the county or city clerk shall instruct the members of the election board in the use of the mechanical voting system and in their duties in connection therewith.

(Added to NRS by 1975, 1527; A 1985, 1104; 1987, 359)

293B.265 Uninstructed members not to serve; exception.

1. A member of an election board shall not serve in any election at which a mechanical voting system is used unless he has received instruction and is fully qualified to perform his duties in connection with the system.

2. NRS 293B.220 to 293B.280, inclusive, do not prevent the appointment and service of a member of an election board to fill a vacancy in an emergency.

(Added to NRS by 1975, 1527, 1528; A 1985, 1104)

293B.270 Meetings for instruction; duty to attend. To give instruction in the mechanical voting system, the county or city clerk shall call any meeting of the election board which may be necessary. The members of the election board of each election precinct in which such a voting system is used shall attend any meeting called for the purpose of receiving instruction concerning their duties and necessary for the proper conduct of the election.

(Added to NRS by 1975, 1527; A 1985, 1104; 1987, 359)

293B.275 Record of attendance at instructional meetings: Certification; effect. The county or city clerk shall keep a record of attendance of those election officers receiving instruction in their duties in connection with the mechanical voting system. The clerk shall certify that the record is a list of election officers who have been instructed pursuant to NRS 293B.260. The list, when so certified, is prima facie evidence that the election officers have been properly instructed in their duties.

(Added to NRS by 1975, 1527; A 1985, 1104; 1987, 359)

293B.280 Testing of mechanical recording devices by members of election board. Before the polls are open for election, the members of the election board shall test every mechanical recording device by fully voting on it with an unofficial ballot.

(Added to NRS by 1975, 1528; A 1985, 1104)

CONDUCT OF VOTING

293B.285 Visibility and placement of mechanical recording devices. The open part of the booth containing the mechanical recording device and every part of the polling place must be in plain view of the election officers and watchers. The booth must be placed at least 4 feet from the poll clerk's table.

(Added to NRS by 1975, 1528; A 1985, 1105)

293B.290 Periodic inspection of mechanical recording devices. The election officers shall inspect each mechanical recording device periodically during the day to see that the list of offices and candidates and the statements of measures to be voted on is intact, and that the device is otherwise in good working order.

(Added to NRS by 1975, 1528; A 1985, 1105)

293B.295 Exclusion of voter until right to vote ascertained. After the opening of the polls, a member of the election board shall not issue any voter a ballot nor allow him to enter the booth until they ascertain that he is entitled to vote.

(Added to NRS by 1975, 1528; A 1985, 1105)

293B.300 Primary elections: Issuance of partisan ballot; directions to voter.

1. In a primary election, a member of the election board for a precinct shall issue each partisan voter a ballot which is of a distinctive color associated with the voter's major political party, which contains a distinctive code associated with that party and on which is clearly printed the name of the party.

2. The member of the election board shall then direct the partisan voter to a mechanical recording device containing the list of offices and candidates arranged for the voter's major political party in the manner provided in NRS 293B.190.

(Added to NRS by 1975, 1525; A 1985, 1105; 1989, 229)

293B.305 Primary elections: Issuance of nonpartisan ballot; alternative directions to voters. Unless a major political party allows a nonpartisan voter to vote for its candidates:

1. In a primary election, a member of the election board for a precinct shall issue each nonpartisan voter a ballot of a distinctive color, code and printed designation identifying it as a nonpartisan ballot.

2. The member of the election board shall then:

(a) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates setting forth only the nonpartisan ballot;

(b) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates arranged for a partisan ballot, instruct the voter to vote only the nonpartisan section of the list and advise the voter that any votes he may cast in the partisan section will not be counted; or

(c) Issue a nonpartisan ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample nonpartisan ballot and an instruction sheet to the nonpartisan voter and instruct him to punch his ballot by reference to the sample ballot.

(Added to NRS by 1975, 1525; A 1985, 1105; 1987, 360, 1373; 1989, 230)

293B.310 Primary elections: Optional manner of voting when party comprises less than 5 percent of voters. In a primary election, the county clerk may require those partisan voters in a precinct or district whose political parties each comprise less than 5 percent of the registered voters for that precinct or district to vote in the manner prescribed for nonpartisan voters in NRS 293B.305.

(Added to NRS by 1975, 1525; A 1987, 360)

293B.315 Information concerning operation of mechanical recording device to be given to voter before he enters booth; subsequent information. Before each voter enters the voting booth, a member of the election board shall, so far as possible, inform him how to operate the mechanical recording device and illustrate its operation upon the demonstration model of the device. If any voter, after entering the voting booth, asks for information, a member of the election board shall give him the necessary information.

(Added to NRS by 1975, 1528; A 1985, 1106)

293B.320 Time allowed in booth; removal from booth. A voter shall not remain within the voting booth longer than 2 minutes. If he refuses to leave it after the lapse of 2 minutes, he may be removed by the election board.

(Added to NRS by 1975, 1528)

PROCESSING OF BALLOTS

293B.325 Pickup and delivery; processing before polls close. The county clerk may order deputized officers to pick up all voted ballots from any or all of the precincts or districts after the polls have been opened for 5 hours. At least two such officers who are not members of the same political party shall deliver any ballots which are picked up early to the central counting place. The various boards operating the central counting place may

begin to process those ballots upon receipt, but no reports may be printed by the counting device or computer until the polls have closed.

(Added to NRS by 1975, 1531; A 1985, 1106; 1987, 360)

293B.330 Duties of election board upon closing of polls. Upon closing of the polls, the election board shall:

1. Secure all mechanical recording devices against further voting.
2. Count the number of ballots in the ballot boxes.
3. Account for all ballots on the ballot statement.
4. Place all official ballots, the ballot statement and any other records, reports and materials as directed by the county or city clerk into the container provided by him to transport those items to a central counting place and seal the container.

(Added to NRS by 1975, 1528; A 1985, 1106; 1987, 360; 1991, 2226)

293B.335 Delivery of ballots and election materials to receiving center or counting place; disposition of other materials.

1. The chairman and at least one other member of the election board shall deliver the sealed container to a receiving center or to the central counting place, as directed by the county or city clerk. Insofar as is practicable, the other board member must be of a different political party than the chairman.

2. The chairman shall provide for the transportation or other disposition of all other supplies and election materials as directed by the clerk.

(Added to NRS by 1975, 1528; A 1987, 360)

293B.340 Intermediate point may be designated as receiving center; handling procedures. The county or city clerk may provide that an intermediate point other than the central counting place be designated as a receiving center for ballots in transit. In that case, he shall appoint officers to inspect seals, issue receipts, maintain logs and effect the final transportation of ballots to the central counting place.

(Added to NRS by 1975, 1528; A 1987, 361)

293B.345 Board relieved of responsibility after delivery and receipt. The election board has no further responsibility for the care, custody, security, tabulation or counting of ballots after the official ballots have been delivered to a receiving center or to the central counting place and a receipt has been issued for such ballots.

(Added to NRS by 1975, 1528)

293B.350 Clerk to supervise operation of central counting place. The county or city clerk shall supervise the operation of the central counting place.

(Added to NRS by 1975, 1528; A 1987, 361)

293B.355 Responsibility for proper operation and use of computer or counting device owned or leased by state. When a computer or counting device owned or leased by the State of Nevada is used to count ballots, the county or city clerk and computer facility manager shall determine that such use complies with the provisions of this chapter. The clerk shall exercise his authority in a manner consistent with established procedures for the operation and use of the computer, so far as is practicable.

(Added to NRS by 1975, 1529; A 1987, 361)

293B.360 Creation of special election boards; appointment of officers.

1. To facilitate the processing and computation of votes cast at any election conducted under a mechanical voting system, the county clerk shall create a computer program and processing accuracy board, and may create:

- (a) A central ballot inspection board;
- (b) An absent ballot mailing precinct inspection board;
- (c) A ballot duplicating board;
- (d) A ballot processing and packaging board; and
- (e) Such additional boards or appoint such officers as he deems necessary for the expeditious processing of ballots.

2. The county clerk may determine the number of members to constitute any board. He shall make any appointments from among competent persons who are registered voters in this state. The members of each board must represent all political parties as equally as possible. The same person may be appointed to more than one board but must meet the particular qualifications for each board to which he is appointed.

3. All persons appointed serve at the pleasure of the county clerk.

(Added to NRS by 1975, 1529; A 1981, 1701; 1985, 1106)

293B.365 Duties of central ballot inspection board. The central ballot inspection board shall:

1. Receive the ballots in sealed containers.
2. Inspect the containers and remove the ballots.
3. Register the numbers of ballots by precinct.
4. Deliver any damaged ballots to the ballot duplicating board.
5. Receive duplicates of damaged ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct.
6. Place each damaged original ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct.
7. Reject any ballot that has been marked in a way that identifies the voter.
8. Place each rejected ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot.

(Added to NRS by 1975, 1529; A 1985, 1107)

293B.370 Duties of absent ballot mailing precinct inspection board. The absent ballot mailing precinct inspection board shall:

1. Perform functions similar to those of the central ballot inspection board and the ballot duplicating board as those functions are applicable to absent and mailing ballots.
2. Bundle the empty absentee and mailing return envelopes according to ballot type or precinct and deliver the bundles to the county clerk.
3. Treat any absentee or mailing envelope found not to contain a ballot as a rejected ballot and place each such envelope in a separate larger envelope on which must be written the ballot code or precinct and the reason for the rejection.

(Added to NRS by 1975, 1529; A 1987, 697)

293B.375 Duties of ballot duplicating board. The ballot duplicating board shall:

1. Receive damaged ballots, including ballots which have been torn, bent or mutilated.
2. Receive cards with incompletely punched chips.
3. Prepare on a distinctly colored, serially-numbered ballot marked "duplicate" an exact copy of each damaged ballot.
4. In the case of a card with an incompletely punched chip:
 - (a) Remove the incompletely punched chip; or
 - (b) Duplicate the card without punching the location of the incompletely punched chip, according to the county clerk's determination of the probable intent of the voter.
5. Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.
6. Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the county clerk.

(Added to NRS by 1975, 1529; A 1981, 1702; 1985, 1107)

293B.380 Ballot processing and packaging board: Composition; duties.

1. The ballot processing and packaging board must be composed of persons who are qualified in the use of the data processing equipment to be operated for the voting count.
2. The board shall:
 - (a) Permit only those persons authorized by the county clerk to gain access to the counting area where the computers are located during the period when ballots are being processed.
 - (b) Receive ballots and maintain groupings of them by precinct.
 - (c) Before each counting of the ballots (or computer run) begins, validate the testing material with the counting program.

(d) Maintain a log showing the sequence in which the ballots of each precinct are processed, as a measure to ensure that the ballots of all precincts are processed.

(e) After each counting of the ballots, again verify the testing material with the counting program to substantiate that there has been no substitution or irregularity.

(f) Record an explanation of any irregularity that occurs in the processing.

(g) If the election is:

(1) A primary election held in an even-numbered year, other than a presidential preference primary; or

(2) A general election,

ensure that a list is compiled indicating the total votes, other than absentee votes and votes in a mailing precinct, which each candidate accumulated in each precinct.

(h) Collect all returns, programs, testing materials, ballots and other items used in the election at the computer center and package and deliver the items to the county clerk for sealing and storage.

(Added to NRS by 1975, 1530; A 1979, 1305; 1985, 1107)

293B.385 Computer program and processing accuracy board: Appointment; duties.

1. The county clerk shall appoint the members of the computer program and processing accuracy board no later than 7 days before the election in which they will serve.

2. The board shall verify that:

(a) Any invalid voting of a ballot will cause it to be rejected.

(b) Votes can be counted for each candidate and proposition.

(c) Any overvote for an office or proposition will cause a rejection of the vote for that office or proposition.

(d) Where multiple votes may be cast, the maximum number of votes permitted a voter cannot be exceeded without rejecting the vote for that selection, but any undervote will be counted.

(e) Neither a voter's omission to vote nor his irregular vote on any particular office or proposition will prevent the counting of his vote as to any other office or proposition on the ballot.

(Added to NRS by 1975, 1530; A 1981, 1702; 1985, 1108)

293B.390 Additional duties of accuracy certification board. In addition to the duties prescribed in NRS 293B.145, 293B.155 and 293B.165, the accuracy certification board shall certify as to whether in their judgment the ballots were accurately counted. If they determine an inaccuracy exists, they shall furnish a written explanation for their determination.

(Added to NRS by 1975, 1531; A 1985, 1108)



CHAPTER 294A

CAMPAIGN PRACTICES

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- 294A.007 "Contribution" defined.
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- 294A.015 Campaign contributions: Deposit in separate account required; penalty. [Replaced in revision by NRS 294A.130.]
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- 294A.045 Printed material concerning campaign must identify person paying for publication or dissemination; exceptions; penalty. [Replaced in revision by NRS 294A.320.]
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- 294A.051 Committee for political action: Registration with secretary of state required; form. [Replaced in revision by NRS 294A.230.]
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- 294A.053 Committee for the recall of a public officer: Registration. [Replaced in revision by NRS 294A.250.]
- 294A.054 Committee for the recall of a public officer: Resident agent. [Replaced in revision by NRS 294A.260.]
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CAMPAIGN CONTRIBUTIONS

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- 294A.290 Code of fair campaign practices.
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- 294A.350 Filing of reports required despite withdrawal of candidacy or lack of campaign contributions or expenses.
294A.360 Time when candidate for city office must file reports; approval of form of report by secretary of state required.
294A.370 Media to make certain information available.

ADMINISTRATION AND ENFORCEMENT

- 294A.380 Powers of secretary of state.
294A.390 Distribution of forms and regulations.
294A.400 Compilation by secretary of state of reported contributions and expenditures; public inspection.
294A.410 Reporting and enforcement of certain violations.
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CHAPTER 294A
CAMPAIGN PRACTICES

CROSS REFERENCES

Administrative Procedure Act, NRS 233B.010 et seq.

Advertising signs, posting on public utility poles unlawful, NRS 704.638

Ethics, commission on, opinions not to include guidance on questions regarding campaign practices, NRS 281.521

Ethics in Government Law, Nevada, NRS 281.411 et seq.

Mobile home parks, candidate granted access, NRS 118B.150

Unlawful acts, NRS 293.700 et seq.



GENERAL PROVISIONS

294A.002 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 294A.004 to 294A.009, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1981, 730; A 1983, 1374; 1989, 1061, 2172)

294A.004 "Campaign expenses" defined. "Campaign expenses" means all expenditures contracted for or made for advertising on television, radio, billboards, posters and in newspapers, and all other expenditures contracted for or made to further directly the campaign for the election or defeat of a candidate or group of candidates or the passage or defeat of a question or group of questions on the ballot, including any payments made to a candidate or any person who is related to the candidate within the second degree of consanguinity or affinity.

(Added to NRS by 1981, 730; A 1991, 1393)

294A.005 "Candidate" defined. "Candidate" means any person:

1. Who files a declaration of candidacy;
2. Who files an acceptance of candidacy; or
3. Whose name appears on an official ballot at any election.

(Added to NRS by 1977, 1363; A 1981, 730)

294A.0055 "Committee for political action" defined. "Committee for political action" means an organization which receives contributions, makes contributions to candidates or other persons or makes expenditures designed to affect the outcome of any primary, general or special election or question on the ballot. The term does not include a committee for the recall of a public officer.

(Added to NRS by 1989, 2172)

294A.006 "Committee for the recall of a public officer" defined. "Committee for the recall of a public officer" means an organization which receives contributions, makes contributions to candidates or persons or makes expenditures designed to affect the recall of a public officer.

(Added to NRS by 1989, 1060)

294A.007 "Contribution" defined. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes the payment by any person other than a candidate of compensation for the personal services of another person which are rendered to a:

1. Candidate;

2. 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 the 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;

3. Committee for political action which makes an expenditure on behalf of a candidate or group of candidates; or

4. 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, without charge to the candidate, person or committee.

(Added to NRS by 1981, 730; A 1991, 1393)

294A.009 "Person" defined. "Person" is limited to a natural person, any labor union, any business or voluntary association, any committee for political action or sponsored by a political party and any corporation.

(Added to NRS by 1983, 1373; A 1985, 514)

294A.010 Campaign contributions: Reports required; penalty. [Replaced in revision by NRS 294A.120.]

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

Nevada Cases.

Indictment for failure to report campaign contributions and expenses defective for lack of necessary allegations. Indictment of candidate for state senate for failure to report campaign contributions and campaign expenses as required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), respectively, was fatally defective because it did not allege that accused had either received contributions or incurred expenses. *Hilkert v. Sheriff, Clark County*, 93 Nev. 153, 561 P.2d 448 (1977), cited, *Kostelac v. Sheriff, Clark County*, 93 Nev. 177, at 177, 561 P.2d 1334 (1977), *Arvey v. Sheriff, Clark County*, 93 Nev. 188, at 188, 561 P.2d 1341 (1977)

Attorney General's Opinions.

Statute applicable to candidates for all elective offices in state. NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), requiring reports of political campaign contributions and expenses, apply to candidates for all elective offices in state, including local district offices. AGO 198 (1-28-1976)

Reports by candidates who lost at primary election. Candidates for public office who lost at primary election were required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200) to report total amount of their campaign contributions and expenses for 20 days immediately preceding general election not later than 30 days after general election. AGO 85-8 (6-21-1985)

294A.015 Campaign contributions: Deposit in separate account required; penalty. [Replaced in revision by NRS 294A.130.]

294A.020 Campaign expenses: Reports required; penalty. [Replaced in revision by NRS 294A.200.]

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

Nevada Cases.

Indictment for failure to report campaign contributions and expenses defective for lack of necessary allegations. Indictment of candidate for state senate for failure to report campaign contributions and campaign expenses as required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), respectively, was fatally defective because it did not allege that accused had either received contributions or incurred expenses. *Hilkert v. Sheriff, Clark County*, 93 Nev. 153, 561 P.2d 448 (1977), cited *Kostelac v. Sheriff, Clark County*, 93 Nev. 177, at 177, 561 P.2d 1334 (1977), *Arvey v. Sheriff, Clark County*, 93 Nev. 188, at 188, 561 P.2d 1341 (1977)

Statute not unconstitutional where related provisions held to violate U.S. 1st amendment. Constitutionality of NRS 294A.020 (NRS 294A.200), requiring disclosure of campaign expenditures, was upheld on appeal from denial of pretrial petition for writ of habeas corpus challenging indictment thereunder. Legislature intended disclosure provi-

sions to stand or fall on own merit, and fact that United States Supreme Court ruling had invalidated related provisions placing limits on campaign expenditures as violating U.S. 1st amendment freedom of expression did not require invalidation of disclosure law where disclosure served important independent functions of information and deterrence. *Arvey v. Sheriff, Clark County*, 93 Nev. 469, 567 P.2d 470 (1977)

Attorney General's Opinions.

Statute applicable to candidates for all elective offices in state. NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), requiring reports of political campaign contributions and expenses, apply to candidates for all elective offices in state, including local district offices. AGO 198 (1-28-1976)

Reports by candidates who lost at primary election. Candidates for public office who lost at primary election were required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200) to report total amount of their campaign contributions and expenses for 20 days immediately preceding general election not later than 30 days after general election. AGO 85-8 (6-21-1985)

294A.031 Filing of reports required despite withdrawal of candidacy or lack of campaign contributions or expenses. [Replaced in revision by NRS 294A.350.]

294A.035 Time when candidates for city office must file reports. [Replaced in revision by NRS 294A.360.]

294A.041 Expenses of advocacy regarding candidate or question: Reports required; penalty. [Replaced in revision by NRS 294A.210.]

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

294A.045 Printed material concerning campaign must identify person paying for publication or dissemination; exceptions; penalty. [Replaced in revision by NRS 294A.320.]

294A.050 Media to make certain information available. [Replaced in revision by NRS 294A.370.]

294A.051 Committee for political action: Registration with secretary of state required; form. [Replaced in revision by NRS 294A.230.]

294A.052 Committee for political action: Resident agent. [Replaced in revision by NRS 294A.240.]

294A.053 Committee for the recall of a public officer: Registration. [Replaced in revision by NRS 294A.250.]

294A.054 Committee for the recall of a public officer: Resident agent. [Replaced in revision by NRS 294A.260.]

294A.055 Committee for the recall of a public officer: Reports required of contributions received or made; penalty. [Replaced in revision by NRS 294A.270.]

294A.056 Committee for the recall of a public officer: Reports of expenditures required; penalty. [Replaced in revision by NRS 294A.280.]

294A.057 Use of term "reelect" in campaign. [Replaced in revision by NRS 294A.330.]

294A.058 Creating implication that candidate is incumbent. [Replaced in revision by NRS 294A.340.]

294A.060 Powers of secretary of state. [Replaced in revision by NRS 294A.380.]

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

294A.065 Distribution of forms and regulations. [Replaced in revision by NRS 294A.390.]

294A.070 Compilation by secretary of state of reported contributions and expenditures; public inspection. [Replaced in revision by NRS 294A.400.]

294A.080 Enforcement of certain violations. [Replaced in revision by NRS 294A.410.]

CAMPAIGN CONTRIBUTIONS

294A.100 Limits on amount contributed by natural person; penalty.

1. A natural person shall not make a contribution or contributions to a candidate for:

(a) A city, county, state or judicial office in a total amount which exceeds \$2,000; or

(b) A statewide office in a total amount which exceeds \$10,000, during the period beginning on the day after the last general election for the office and ending on the day of the general election for that office.

2. A candidate shall not accept a contribution made in violation of subsection 1.

3. A person who violates any provision of this section is guilty of a misdemeanor.

(Added to NRS by 1991, 1401)

294A.110 Limits on amount contributed by person other than natural person; exceptions; penalty.

1. A person, other than a natural person, political party or committee sponsored by a political party, shall not make a contribution or contributions to a candidate for:

(a) A city, county, state or judicial office in a total amount which exceeds \$10,000; or

(b) A statewide office in a total amount which exceeds \$20,000, during the period beginning on the day after the last general election for that office and ending on the day of the general election for that office.

2. A candidate shall not accept a contribution made in violation of subsection 1.

3. A person who violates any provision of this section is guilty of a misdemeanor.

(Added to NRS by 1991, 1401)

249A.120 Report required of contributions received; penalty.

1. Every candidate for state, district, county or township office at a primary or general election shall, not later than:

(a) Fifteen days before the primary election, for the period from the last election for that office up to 20 days before the primary election;

(b) Fifteen days before the general election, whether or not the candidate won the primary election, for the period from 20 days before the primary election up to 20 days before the general election; and

(c) The 15th day of the second month after the general election, for the remaining period up to 30 days after the general election, report the total amount of his campaign contributions on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

2. Except as otherwise provided in subsection 3, every candidate for a district office at a special election shall, not later than:

(a) Fifteen days before the special election, for the period from his nomination up to 20 days before the special election; and

(b) Thirty days after the special election, for the remaining period up to the special election,

report the total amount of his campaign contributions on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report the total amount of his campaign contributions on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury, 30 days after the special election, for the period from the filing of the notice of intent to circulate the petition for recall up to the special election.

4. Reports of campaign contributions must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail the report to that officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. Every county clerk who receives from candidates for legislative or judicial office, except the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to subsection 2 shall file a copy of each report with the secretary of state within 10 working days after he receives the report.

6. Each contribution in excess of \$500 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the first reporting period, must be separately identified with the name and address of the contributor and the date of the contribution or contributions, tabulated and reported on the form provided by the secretary of state.

7. Except as otherwise provided in this section, any candidate who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

(Added to NRS by 1975, 591; A 1977, 1364; 1979, 488; 1981, 730; 1983, 346; 1985, 269, 1109; 1991, 1394)—(Substituted in revision for NRS 294A.010)

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

Nevada Cases.

Indictment for failure to report campaign contributions and expenses defective for lack of necessary allegations. Indictment of candidate for state senate for failure to report campaign contributions and campaign

expenses as required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), respectively, was fatally defective because it did not allege that accused had either received contributions or incurred expenses. *Hilkert v. Sheriff, Clark County*, 93 Nev. 153, 561 P.2d 448 (1977), cited, *Kostelac v. Sheriff, Clark County*, 93 Nev. 177, at 177, 561 P.2d 1334

(1977), Arvey v. Sheriff, Clark County, 93 Nev. 188, at 188, 561 P.2d 1341 (1977)

Attorney General's Opinions.

Statute applicable to candidates for all elective offices in state. NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), requiring reports of political campaign contributions and expenses, apply to candidates for all elective offices in state, including local district offices. AGO 198 (1-28-1976)

Reports by candidates who lost at primary election. Candidates for public office who lost at primary election were required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200) to report total amount of their campaign contributions and expenses for 20 days immediately preceding general election not later than 30 days after general election. AGO 85-8 (6-21-1985)

294A.130 Deposit of contributions received in separate account; penalty.

1. Every candidate for state, district, county, city or township office shall, not later than 1 week after he receives minimum campaign contributions of \$100, open and maintain a separate account in a financial institution for the deposit of any campaign contributions he receives. The candidate shall not commingle the money in the account with money collected for other purposes.

2. The candidate may close the separate account:

- (a) If he was a candidate in a special election, after that election;
 - (b) If he lost in the primary election, after the primary election; or
 - (c) If he won the primary election, after the general election,
- and as soon as all payments of money committed have been made.

3. Any candidate who willfully violates any of the provisions of this section is guilty of a misdemeanor.

(Added to NRS by 1989, 2140)—(Substituted in revision for NRS 294A.015)

294A.140 Certain persons who make expenditures on behalf of candidate or group of candidates required to report contributions received; committee for political action which makes expenditure on behalf of candidate or group of candidates required to report contributions received; penalty.

1. Except as otherwise provided in subsection 6, 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 which makes an expenditure on behalf of a candidate or group of candidates shall, not later than:

- (a) Fifteen days before a primary election or primary city election, for the period from 30 days after the last election for that office to 20 days before that election;
- (b) Fifteen days before a general election or general city election, whether or not the candidate won the primary election or primary city election, for the

period from 20 days before that election to 20 days before the general election or general city election; and

(c) The 15th day of the second month after a general election or general city election, for the remaining period up to 30 days after the general election or general city election, report the total amount of contributions received on the form designed and provided by the secretary of state and shall sign the report under penalty of perjury.

2. The report of campaign contributions must identify each contribution in excess of \$500. Contributions which a contributor has made cumulatively in excess of \$500 since the beginning of the first reporting period must be separately identified with the name and address of the contributor and the date of the contribution or contributions tabulated and reported on the form designed and provided by the secretary of state.

3. If the candidate is elected from one county, the reports must be filed with the county clerk of that county. If the candidate is elected from one city, the reports must be filed with the city clerk of that city. For all other candidates the reports must be filed with the secretary of state. A person may make his report to the appropriate officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

5. Except as otherwise provided in this section, any person who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

6. The provisions of this section do not apply to a political party or committee sponsored by a political party.

(Added to NRS by 1991, 1389)

294A.150 Person or group of persons advocating passage or defeat of question on ballot required to report contributions received; penalty.

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, not later than:

(a) Fifteen days before a primary election or primary city election, for the period from 30 days after the last election for that office to 20 days before that election;

(b) Fifteen days before a general election or general city election, whether or not the candidate won the primary election or primary city election, for the period from 20 days before that election to 20 days before the general election or general city election; and

(c) The 15th day of the second month after a general election or general city election, for the remaining period up to 30 days after the general election or general city election,

report the total amount of contributions received on the form designed and provided by the secretary of state and signed by the person or a representative of the group under penalty of perjury.

2. Each contribution in excess of \$500 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the first reporting period, must be separately identified with the name and address of the contributor and the date of the contribution or contributions tabulated and reported on the form provided by the secretary of state.

3. If the question is submitted to the voters of only one county, the reports must be filed with the county clerk of that county. If the question is submitted to the voters of only one city, the reports must be filed with the city clerk of that city. Otherwise, the reports must be filed with the secretary of state. If the person or group of persons is advocating passage or defeat of a group of questions, the reports must be made to the officer appropriate for each question and must be itemized by question.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

5. Except as otherwise provided in this section, any person who willfully violates any of the provisions of this section is guilty of a gross misdemeanor. (Added to NRS by 1991, 1392)

294A.160 Personal use by candidate prohibited; disposition of unspent contributions; penalty.

1. It is unlawful for a candidate to spend money received as a campaign contribution for his personal use.

2. Every candidate for a state, district, county, city or township office at a primary, general or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary, general or special election shall:

(a) Return the unspent money to contributors;

(b) Use the money in his next election or for the payment of other expenses related to public office or his campaign;

(c) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party;

(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or

(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);

(d) Donate the money to any tax-exempt nonprofit entity; or

(e) Dispose of the money in any combination of the methods provided in paragraphs (a) to (d), inclusive.

3. Every candidate for a state, district, county, city or township office at a primary, general or special election who is not elected to that office and received contributions that were not spent or committed for expenditure before the primary, general or special election shall, not later than the 15th day of the second month after his defeat:

- (a) Return the unspent money to contributors;
- (b) Contribute the money to:
 - (1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;
 - (2) A political party;
 - (3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or
 - (4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);
- (c) Donate the money to any tax-exempt nonprofit entity; or
- (d) Dispose of the money in any combination of the methods provided in paragraphs (a), (b) and (c).

4. Every public officer who:

- (a) Holds a state, district, county, city or township office;
- (b) Does not run for reelection and is not a candidate for any other office; and
- (c) Has contributions that are not spent or committed for expenditure remaining from a previous election, shall, not later than the 15th day of the second month after the expiration of his term of office, dispose of those contributions in the manner provided in subsection 3.

5. Any candidate or public officer who willfully violates any provision of this section is guilty of a misdemeanor. The court shall, in addition to any other penalty which may be imposed, order the candidate or public officer to dispose of any remaining contributions in the manner provided in this section.

6. For the purposes of this section, "contributions" include any interest and other income earned thereon.

(Added to NRS by 1991, 1922)

294A.170 Candidate to offer to return unspent contributions received before filing of declaration of candidacy for different office; disposition of unreturned contributions; penalty.

1. If a candidate for state, district, county, city or township office files a declaration of candidacy for an office which is different from the office:

- (a) Which he previously and publicly intended to seek; or
 - (b) He held immediately preceding his declaration of candidacy,
- he shall make a reasonable effort to notify the persons who contributed money to his campaign before he filed his declaration of candidacy and shall return the unspent portion of those contributions if so requested. Any contributions

not returned must be used in his campaign or must be disposed of in the manner provided in NRS 294A.160.

2. Any person who willfully violates the provisions of this section is guilty of a misdemeanor.

(Added to NRS by 1991, 1923)

294A.180 Candidate or elected public officer to file report relating to disposition of unspent contributions; penalty.

1. Each candidate for a state, district, county, city or township office who is not elected to that office shall, not later than the 15th day of the second month after his defeat, file a report with the secretary of state stating the amount of contributions which he received for that campaign but did not spend, and the disposition of those unspent contributions.

2. Each public officer who is elected to a state, district, county, city or township office shall file a report with the secretary of state:

(a) Not later than the 15th day of the second month after his election, stating the amount of campaign contributions which he received but did not spend, and the amount, if any, of those unspent contributions disposed of pursuant to paragraph (a), (b) or (c) of subsection 2 of NRS 294A.160;

(b) Not later than January 15th of each year of his term beginning the year after he filed the report required by paragraph (a), stating the amount, if any, of those unspent contributions disposed of pursuant to NRS 294A.160 during the period since his last report and the manner in which they were disposed of; and

(c) Not later than the 15th day of the second month after he no longer holds that office, stating the amount and disposition of any remaining unspent contributions.

3. The reports required by subsections 1 and 2 must be submitted on a form designed and provided by the secretary of state and signed by the candidate or public officer under penalty of perjury.

4. Except as otherwise provided in this section, any person who willfully violates any provision of this section is guilty of a misdemeanor.

(Added to NRS by 1991, 1923)

294A.190 Disposition of contribution received by candidate from anonymous or unidentifiable contributor. A candidate who receives a contribution of \$100 or more from an anonymous or unidentifiable contributor shall, within 10 days after he receives the contribution, deliver the money to the state treasurer or donate the money to a nonprofit entity. The state treasurer shall deposit the money in the state general fund.

(Added to NRS by 1991, 1392)

EXPENSES RELATING TO ELECTIONS

294A.200 Campaign expenses: Reports required; penalty.

1. Every candidate for state, district, county or township office at a primary or general election shall, not later than:

(a) Fifteen days before the primary election, for the period from 30 days after the last election for that office up to 20 days before the primary election;

(b) Fifteen days before the general election, whether or not the candidate won the primary election, for the period from 20 days before the primary election up to 20 days before the general election; and

(c) The 15th day of the second month after the general election, for the remaining period up to 30 days after the general election, report his campaign expenses on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

2. Except as provided in subsection 3, every candidate for a district office at a special election shall, not later than:

(a) Fifteen days before the special election, for the period from his nomination up to 20 days before the special election; and

(b) Sixty days after the special election, for the remaining period up to 30 days after the special election, report his campaign expenses on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report his campaign expenses on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury, 60 days after the special election, for the period from the filing of the notice of intent to circulate the petition for recall up to 30 days after the special election.

4. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail the report to that officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. County clerks who receive from candidates for legislative or judicial office, except the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to subsection 2 shall file a copy of each report with the secretary of state within 10 working days after he receives the report.

6. Except as otherwise provided in this section, any candidate who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

(Added to NRS by 1975, 592; A 1975, 1486; 1977, 1364; 1979, 488; 1981, 731; 1983, 347; 1985, 1110; 1987, 361; 1989, 2140; 1991, 1395)—(Substituted in revision for NRS 294A.020)

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

Nevada Cases.

Indictment for failure to report campaign contributions and expenses defective for lack of necessary allegations. Indictment of candidate for state senate for failure to report campaign contributions and campaign expenses as required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), respectively, was fatally defective because it did not allege that accused had either received contributions or incurred expenses. *Hilkert v. Sheriff, Clark County, 93 Nev. 153, 561 P.2d 448 (1977)*, cited *Kostelac v. Sheriff, Clark County, 93 Nev. 177, at 177, 561 P.2d 1334 (1977)*, *Arvey v. Sheriff, Clark County, 93 Nev. 188, at 188, 561 P.2d 1341 (1977)*

Statute not unconstitutional where related provisions held to violate U.S. 1st amendment. Constitutionality of NRS 294A.020 (NRS 294A.200), requiring disclosure of campaign expenditures, was upheld on appeal from denial of pretrial petition for writ of habeas corpus challenging indictment thereunder. Legislature intended disclosure provi-

sions to stand or fall on own merit, and fact that United States Supreme Court ruling had invalidated related provisions placing limits on campaign expenditures as violating U.S. 1st amendment freedom of expression did not require invalidation of disclosure law where disclosure served important independent functions of information and deterrence. *Arvey v. Sheriff, Clark County, 93 Nev. 469, 567 P.2d 470 (1977)*

Attorney General's Opinions.

Statute applicable to candidates for all elective offices in state. NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200), requiring reports of political campaign contributions and expenses, apply to candidates for all elective offices in state, including local district offices. AGO 198 (1-28-1976)

Reports by candidates who lost at primary election. Candidates for public office who lost at primary election were required by NRS 294A.010 and 294A.020 (NRS 294A.120 and 294A.200) to report total amount of their campaign contributions and expenses for 20 days immediately preceding general election not later than 30 days after general election. AGO 85-8 (6-21-1985)

294A.210 Certain persons who make expenditures on behalf of candidate or group of candidates required to report expenditures; certain political organizations which make expenditures on behalf of candidate or group of candidates required to report expenditures; penalty.

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, every committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates shall, not later than:

(a) Fifteen days before a primary election or primary city election, for the period from 30 days after the last election for that office to 20 days before that election;

(b) Fifteen days before a general election or general city election, whether or not the candidate won the primary election or primary city election, for the period from 20 days before that election to 20 days before the general election or general city election; and

(c) The 15th day of the second month after a general election or general city election, for the remaining period up to 30 days after the general election or general city election, report the expenditures made on behalf of a candidate or group of candidates in excess of \$500 on forms designed and provided by the secretary of state and signed by the person or a representative of the group under penalty of perjury. The report must also include identification of expenditures which the person or group made cumulatively in excess of \$500 since the beginning of the first reporting period.

2. Expenditures made within the state or made elsewhere but for use within the state, including expenditures made outside the state for printing, television and radio broadcasting or other production of the media, must be included in the report. Expenditures made to communicate with the group's own members on behalf of a candidate or group of candidates must not be included in the report.

3. If the candidate is elected from one county, the reports must be filed with the county clerk of that county. If the candidate is elected from one city, the reports must be filed with the city clerk of that city. Otherwise, the reports must be filed with the secretary of state. If an expenditure is made on behalf of a group of candidates, the reports must be made to the officer appropriate for each candidate and itemized by the candidate. A person may make his report to the appropriate officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

5. Except as otherwise provided in this section, any person who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

(Added to NRS by 1983, 1373; A 1985, 1111; 1987, 362, 1141; 1989, 2141; 1991, 1396)—(Substituted in revision for NRS 294A.041)

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

294A.220 Expenses of advocacy relating to question or group of questions on ballot: Reports required; penalty.

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, not later than:

(a) Fifteen days before a primary election or primary city election, for the period from 30 days after the last election for that office to 20 days before that election;

(b) Fifteen days before a general election or general city election whether or not the candidate won the primary election or primary city election, for the period from 20 days before that election to 20 days before the general election or general city election; and

(c) The 15th day of the second month after a general election or general city election, for the remaining period up to 30 days after the general election or general city election, report expenditures made on behalf of or against a question or group of questions on the ballot in excess of \$500 on the form designed and provided by the secretary of state and signed by the person or a representative of the group under penalty of perjury. The report must also include the identification of expenditures which the person or group made cumulatively in excess of \$500 since the beginning of the first reporting period.

2. Expenditures made within the state or made elsewhere but for use within the state, including expenditures made outside the state for printing, television and radio broadcasting or other production of the media, must be included in the report. Expenditures made to communicate with the group's own members on behalf of or against a question or group of questions must not be included in the report.

3. If the question is submitted to the voters of only one county, the reports must be filed with the county clerk of that county. If the question is submitted to the voters of only one city, the reports must be filed with the city clerk of that city. Otherwise, the reports must be filed with the secretary of state. If an expenditure is made on behalf of a group of questions, the reports must be made to the officer appropriate for each question and must be itemized by question. A person may make his report to the appropriate filing officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

5. Except as otherwise provided in this section, any person who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

(Added to NRS by 1991, 1390)

COMMITTEE FOR POLITICAL ACTION

294A.230 Registration with secretary of state required; form.

1. Each committee for political action shall, before it engages in any activity in this state, register with the secretary of state on forms supplied by him.

2. The form must require:

- (a) The name of the committee;
- (b) The purpose for which it was organized;

- (c) The names and addresses of its officers;
- (d) If the committee for political action is affiliated with any other organizations, the name and address of each organization;
- (e) The name and address of its resident agent; and
- (f) Any other information deemed necessary by the secretary of state.

3. A committee for political action shall file with the secretary of state an amended form for registration within 30 days after any change in the information contained in the form for registration.

(Added to NRS by 1989, 2172; A 1991, 1397)—(Substituted in revision for NRS 294A.051)

294A.240 Resident agent. Each committee for political action shall appoint and keep in this state a resident agent who must be a natural person who resides in this state.

(Added to NRS by 1989, 2172)—(Substituted in revision for NRS 294A.052)

COMMITTEE FOR THE RECALL OF A PUBLIC OFFICER

294A.250 Registration. Each committee for the recall of a public officer shall register with the secretary of state, on a form provided by him. Each form must include:

1. The name of the committee;
2. The purpose for which it was organized;
3. The names and addresses of its officers; and
4. If the committee is organized and located outside this state, the name and address of its resident agent.

(Added to NRS by 1989, 1060)—(Substituted in revision for NRS 294A.053)

294A.260 Resident agent. Each committee for the recall of a public officer which is organized and located outside this state shall appoint and keep in this state a resident agent who must be a natural person residing in this state.

(Added to NRS by 1989, 1060)—(Substituted in revision for NRS 294A.054)

294A.270 Reports required of contributions received or made; penalty.

1. Except as otherwise provided in subsection 2, each committee for the recall of a public officer shall, not later than:

- (a) Fifteen days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall up to 20 days before the special election; and

(b) Thirty days after the election, for the remaining period up to the election, report each contribution received or made by the committee in excess of \$500 on a form provided by the secretary of state and signed under the penalty for perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received or made by the committee in excess of \$500.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall up to the day the court determines that an election will not be held, report each contribution received or made by the committee in excess of \$500.

4. Each report of contributions must be filed with the secretary of state. The committee may mail the report by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. Each contribution, whether from or to a natural person, association or corporation, in excess of \$500, and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the first reporting period, must be separately identified with the name and address of the contributor or person to whom the contribution was given and the date of the contribution or contributions, tabulated and reported on the form provided by the secretary of state.

6. Any person who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

(Added to NRS by 1989, 1060; A 1991, 1397)—(Substituted in revision for NRS 294A.055)

294A.280 Reports of expenditures required; penalty.

1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Fifteen days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall up to 20 days before the special election; and

(b) Thirty days after the election, for the remaining period up to the election, report each expenditure made by the committee in excess of \$500 on a form provided by the secretary of state and signed under the penalty for perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of \$500.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall up to the day the court determines that an election will not be held, report each expenditure made by the committee in excess of \$500.

4. The report must also include identification of expenditures which the committee for the recall of a public officer made cumulatively in excess of \$500 since the beginning of the first reporting period.

5. Each report of expenditures must be filed with the secretary of state. The committee may mail the report by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

6. Any person who willfully violates any of the provisions of this section is guilty of a gross misdemeanor.

(Added to NRS by 1989, 1061; A 1991, 1398)—(Substituted in revision for NRS 294A.056)

REQUIRED AND PROHIBITED PRACTICES

294A.290 Code of fair campaign practices.

1. The filing officer shall give to each candidate who files his declaration of candidacy, acceptance of candidacy or affidavit of candidacy a copy of the form set forth in subsection 2. The filing officer shall inform the candidate that subscription to the code is voluntary.

2. The code must be in the following form:

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty and fair play which every candidate for public office in the State of Nevada has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, the voters may exercise their constitutional right to vote for the candidate of their choice and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

1. I will conduct my campaign openly and publicly and limit attacks against my opponent to legitimate challenges to his voting record or qualifications for office.

2. I will not use character defamation or other false attacks on a candidate's personal or family life.

3. I will not use campaign material which misrepresents, distorts or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which are intended to create or exploit doubts, without justification, about the personal integrity of my opposition.

4. I will not condone any dishonest or unethical practice which undermines the American system of free elections or impedes or prevents the full and free expression of the will of the voters.

I, the undersigned, as a candidate for election to public office in the State of Nevada, hereby voluntarily pledge myself to conduct my campaign in accordance with the principles and practices set forth in this code.

.....
 Date Signature of Candidate

3. A candidate who subscribes to the code and submits the form set forth in subsection 2 to the filing officer may indicate on his campaign materials that he subscribes to the code.

4. The secretary of state shall provide a sufficient number of copies of the form to the county clerks, registrar of voters and other filing officers.

(Added to NRS by 1991, 1392)

294A.300 Legislator, lieutenant governor or governor prohibited from soliciting or accepting contributions during certain period; penalty.

1. It is unlawful for a member of the legislature, the lieutenant governor or the governor to solicit or accept any monetary contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the legislature and ending 30 days after the final adjournment of a regular session of the legislature; or

(b) The day after the governor issues a proclamation calling for a special session of the legislature and ending 15 days after the final adjournment of a special session of the legislature.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. This section does not prohibit the payment of a salary or other compensation or income to a member of the legislature, the lieutenant governor or the governor during a session of the legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

(Added to NRS by 1991, 1402)

294A.310 Solicitation or acceptance of contributions on behalf of legislator or legislative caucus by caucus prohibited during certain period; penalty.

1. A member of an organization whose primary purpose is to provide support for legislators of a particular political party and house shall not solicit or accept contributions on behalf of the legislators or the organization, or solicit or accept a commitment to make such a contribution during the period beginning:

(a) Thirty days before a regular session of the legislature and ending 30 days after the final adjournment of a regular session of the legislature; or

(b) The day after the governor issues a proclamation calling for a special session of the legislature and ending 15 days after the final adjournment of a special session of the legislature.

2. A person shall not make or commit to make a contribution or commitment prohibited by subsection 1.

3. A person shall not accept a contribution on behalf of another person to avoid the prohibitions of this section.

4. A person who violates any provision of this section is guilty of a misdemeanor.

(Added to NRS by 1991, 1402)

294A.320 Printed material concerning campaign must identify person paying for publication or dissemination; exceptions; penalty.

1. Except as otherwise provided in subsection 2, it is unlawful for any person to publish any material or information relating to an election, candidate or any question on a ballot unless that material or information contains:

(a) The name and mailing or street address of each person who has paid for or who is responsible for paying for the publication; and

(b) A statement that each such person has paid for or is responsible for paying for the publication.

2. The provisions of subsection 1 do not apply:

(a) To any candidate or to the political party of that candidate which pays for or is responsible for paying for any billboard, sign or other form of advertisement which refers only to that candidate and in which the candidate's name is prominently displayed.

(b) If the material is expressly approved and paid for by the candidate and the cost of preparation and publishing has been reported by the candidate as a campaign contribution pursuant to NRS 294A.120.

3. Any identification that complies with the requirements of the Communications Act of 1934 and the regulations adopted pursuant to the act shall be deemed to comply with the requirements of this section.

4. Any person who willfully violates any provision of this section is guilty of a misdemeanor.

5. As used in this section:

(a) "Material" means any printed or written matter or any photograph.

(b) "Publish" means the act of:

(1) Printing, posting, broadcasting, mailing or otherwise disseminating;

or

(2) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated,

any material or information to the public.

(Added to NRS by 1989, 910)—(Substituted in revision for NRS 294A.045)

294A.330 Use of term "reelect" in campaign. A person shall not use the term "reelect" in any material, statement or publication supporting the election of a candidate unless the candidate:

1. Was elected to the identical office with the same district number, if any, in the most recent election to fill that office; and
2. Is serving and has served continuously in that office from the beginning of the term to which the candidate was elected.

(Added to NRS by 1989, 961)—(Substituted in revision for NRS 294A.057)

294A.340 Creating implication that candidate is incumbent. A person shall not use the name of a candidate in a way that implies that the candidate is the incumbent in office in any material, statement or publication supporting the election of a candidate unless:

1. The candidate is qualified to use the term "reelect" pursuant to NRS 294A.330; or

2. The candidate:

(a) Was appointed to the identical office with the same district number, if any, after the most recent election to fill that office; and

(b) Is serving and has served continuously in that office since the date of appointment.

(Added to NRS by 1989, 961)—(Substituted in revision for NRS 294A.058)

MISCELLANEOUS PROVISIONS

294A.350 Filing of reports required despite withdrawal of candidacy or lack of campaign contributions or expenses. Every candidate for state, district, county, municipal or township office shall file the reports of campaign contributions and expenses required by NRS 294A.120, 294A.200 and 294A.360, even though he:

1. Withdraws his candidacy;
2. Receives no campaign contributions; or
3. Has no campaign expenses.

(Added to NRS by 1977, 1363; A 1985, 1111)—(Substituted in revision for NRS 294A.031)

294A.360 Time when candidate for city office must file reports; approval of form of report by secretary of state required.

1. Every candidate for city office where the general city election is preceded by a primary city election shall file the reports in the manner required by NRS 294A.120, 294A.200 and 294A.350 for other offices not later than:

(a) Fifteen days before the primary city election, for the period from 30 days after the last election for that office up to 20 days before the primary city election;

(b) Fifteen days before the general city election, whether or not the candidate won the primary city election, for the period from 20 days before the primary city election up to 20 days before the general city election; and

(c) The 15th day of the second month after the general city election, for the remaining period up to 30 days after the general city election.

2. Every candidate for city office where there is no primary city election shall so file those reports:

(a) Twenty days before the general city election, for the period from 30 days after the last election for that office up to 30 days before the general city election; and

(b) The 15th day of the second month after the general city election, for the remaining period up to 30 days after the general city election.

3. The city clerk shall design the form for each report a candidate for city office is required to file pursuant to NRS 294A.120 and 294A.200. The city clerk shall submit the form to the secretary of state for approval. The city clerk shall not use such a form until it is approved.

(Added to NRS by 1985, 1109; A 1987, 362; 1989, 2141; 1991, 1395)—(Substituted in revision for NRS 294A.035)

294A.370 Media to make certain information available.

1. A newspaper, radio broadcasting station, outdoor advertising company, television broadcasting station, direct mail advertising company, printer or other person or group of persons which accepts, broadcasts, disseminates, prints or publishes:

(a) Advertising on behalf of any candidate or group of candidates;

(b) Political advertising for any person other than a candidate; or

(c) Advertising for the passage or defeat of a question or group of questions on the ballot,

shall make available for inspection, at any reasonable time beginning at least 10 days before each primary election, primary city election, general election or general city election and ending at least 30 days after the election, information setting forth the cost of all such advertisements accepted and broadcast, disseminated or published.

2. For purposes of this section the necessary cost information is made available if a copy of each bill, receipt or other evidence of payment made out for any such advertising is kept in a record or file, separate from the other business records of the enterprise and arranged alphabetically by name of the candidate or the person or group which requested the advertisement, at the principal place of business of the enterprise.

(Added to NRS by 1975, 1484; A 1977, 1371; 1983, 1374; 1987, 363, 1142)—(Substituted in revision for NRS 294A.050)

ADMINISTRATION AND ENFORCEMENT

294A.380 Powers of secretary of state. The secretary of state may adopt and promulgate regulations, prescribe forms and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.

(Added to NRS by 1975, 592)—(Substituted in revision for NRS 294A.060)

—ANNOTATIONS—

Administrative Regulations.

Campaign Practices, NAC 294A.010 et seq.

294A.390 Distribution of forms and regulations.

1. The officer with whom a candidate files:

- (a) A declaration of candidacy;
- (b) An acceptance of candidacy; or
- (c) An affidavit of candidacy,

shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the secretary of state pursuant to this chapter. The candidate shall acknowledge receipt of the material.

2. The officer who is to receive reports pursuant to NRS 294A.140, 294A.150, 294A.210 and 294A.220 shall furnish the necessary forms and regulations upon request. The person requesting the material shall acknowledge receipt thereof.

(Added to NRS by 1977, 1363; A 1983, 1375; 1985, 1112; 1987, 1374; 1991, 1399)—(Substituted in revision for NRS 294A.065)

294A.400 Compilation by secretary of state of reported contributions and expenditures; public inspection. The secretary of state shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$500 and the total campaign expenses of each of the candidates for legislative and judicial offices from whom reports of those contributions and expenses are required.

2. The contributions made to a committee for the recall of a public officer in excess of \$500.

3. The expenditures exceeding \$500 made by a:

- (a) Person on behalf of a candidate other than himself.
- (b) Person or group of persons on behalf of or against a question or group of questions on the ballot.
- (c) Group of persons advocating the election or defeat of a candidate.
- (d) Committee for the recall of a public officer.

4. The contributions in excess of \$500 made to:

(a) A 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 the 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.

(b) A 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.

(c) A committee for political action which makes an expenditure on behalf of a candidate or group of candidates.

(Added to NRS by 1975, 592; A 1977, 1365; 1979, 489; 1983, 1375; 1987, 1142; 1989, 1070; 1991, 1399)—(Substituted in revision for NRS 294A.070)

294A.410 Reporting and enforcement of certain violations. If it appears that the provisions of NRS 294A.120 to 294A.180, inclusive, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360, have been violated:

1. The secretary of state shall report the alleged violation to the attorney general; and

2. A county or city clerk shall report the alleged violation to the appropriate district attorney, and the attorney general or district attorney to whom the report is made shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(Added to NRS by 1975, 592; A 1975, 1486; 1977, 1365, 1372; 1983, 1375; 1987, 697; 1989, 1062, 2142; 1991, 1400, 1924)—(Substituted in revision for NRS 294A.080)

CHAPTER 295

INITIATIVE AND REFERENDUM

STATE INITIATIVE AND REFERENDUM

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- 295.140 Petition for referendum: Required signatures; filing.
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- 295.190 Special election for submission of question to registered voters; procedure.

MUNICIPAL INITIATIVE AND REFERENDUM

- 295.195 Definitions.
- 295.200 Registered voters' power of initiative and referendum concerning city ordinances.

CH. 295 INITIATIVE AND REFERENDUM

- 295.205 Commencement of proceedings: Petitioners' committee; form and requirements of petition; circulator's affidavit.
 - 295.210 Filing, examination, certification and amendment of petition; council and court to review sufficiency of petition.
 - 295.215 Consideration by council; submission to registered voters; withdrawal of petition.
 - 295.220 Results of election.
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CHAPTER 295
INITIATIVE AND REFERENDUM

CROSS REFERENCES

Advisory questions, submission by governing body, NRS 293.482

Board of county commissioners defined, NRS 0.035

Initiative—

 Constitutional provisions, Const. Art. 19

 Forgery in signing or filing initiative petition, NRS 205.125

Petitions, sufficiency of, NRS 293.1276 et seq.

Referendum—

 Conservation districts—

 Creation, NRS 548.205 et seq.

 Discontinuance, NRS 548.525 et seq.

 Land use regulations, NRS 548.410 et seq.

 Constitutional provisions, Const. Art. 19

 Forgery in signing or filing referendum petition, NRS 205.125



STATE INITIATIVE AND REFERENDUM

295.015 Copy of petition for initiative to be filed with secretary of state before presentation of petition to voters for signatures. A copy of a petition for initiative must be placed on file in the office of the secretary of state before it may be presented to the registered voters for their signatures. (Added to NRS by 1963, 1384; A 1981, 12; 1985, 1112)

—ANNOTATIONS—

Attorney General's Opinions.

Persons who enact initiative measures are bound by same constitutional restrictions as legislature. People, in enacting initiative measures, are coordinate legislative body with same sovereignty as legislature and bound by same constitutional limitations and restrictions. AGO 153 (12-21-1934)

Presumption that persons enacting initiative measures know law. Rule that legislature is presumed to know state of law on subject upon which it legislates is applicable to people when enacting initiative measures. AGO 153 (12-21-1934)

Currently registered voter may perform acts under statute without voting in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in furtherance of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 80-4 (2-26-1980)

295.035 Petition for initiative proposing amendment to constitution: Secretary of state to use same number for identification of petition when submitted at successive elections. If the initiative petition proposes an amendment to the constitution, in resubmitting the initiative to the voters, the secretary of state shall use the same identifying number or other identification used for the first submission.

(Added to NRS by 1963, 1384; A 1973, 332; 1985, 550)

—ANNOTATIONS—

Attorney General's Opinions.

Procedure to amend constitution must be adopted by legislature. Before amendment to constitution can be made, independent of legislature, method of procedure must be adopted

by legislature, even though Nev. Art. 19, § 3 (cf. Nev. Art. 19, § 5, as amended 1962), declares provisions of section self-executing. AGO 115 (1-30-1924)

295.045 Petition for referendum: Filing; submission to voters at general election.

1. A copy of a petition for referendum must be placed on file in the office of the secretary of state before it may be presented to the registered voters for their signatures.

2. A petition for referendum must be filed with the secretary of state not less than 120 days before the date of the next succeeding general election.

3. The secretary of state shall certify the questions to the county clerks, and they shall publish them in accordance with the provisions of law requiring county clerks to publish questions and proposed constitutional amendments which are to be submitted for popular vote.

4. The title of the statute or resolution must be set out on the ballot, and the question printed upon the ballot for the information of the voters must be as follows: "Shall the statute (setting out its title) be approved?"

5. Where a mechanical voting system is used, the title of the statute must appear on the list of offices and candidates and the statements of measures to be voted on and may be condensed to no more than 25 words.

6. The votes cast upon the question must be counted and canvassed as the votes for state officers are counted and canvassed.

(Added to NRS by 1963, 1383; A 1977, 247; 1979, 268; 1981, 13; 1985, 1112)

—ANNOTATIONS—

Attorney General's Opinions.

Disregard of petition lacking requisite number of signatures. Referendum petition which lacks requisite number of signatures should be disregarded by secretary of state. AGO 97 (11-10-1913)

Secretary of state may not determine legal sufficiency of petition. If referendum petition appears to be in due form, secretary of state must file same since he has no authority to exercise judicial discretion to determine legal sufficiency of petition. AGO 379 (7-14-1930)

Signer may not withdraw name after petition filed. Signer of referendum petition may not withdraw name after petition is filed. AGO 379 (7-14-1930)

When repeal of statute by referendum effective. Repeal of statute as result of referendum becomes effective immediately upon canvass of vote as provided in NRS 296.420 (cf. NRS 293.395). AGO 382 (8-5-1930)

Status of law not receiving required number of votes on referendum. Where law submitted for referendum does not receive required number of votes for approval or disapproval, it occupies same status it occupied prior to referendum. AGO 161 (5-1-1935)

Law not receiving required number of votes on referendum may be amended or repealed by legislature. Where law submitted to people as referendum measure does not receive majority vote of approval or disapproval, law stands as regular statute and can be amended or repealed by legislature. AGO 5 (2-8-1943)

Sales and use tax law can only be amended by direct vote of people. Sales and use tax law (see NRS ch. 372) approved by referendum vote of people cannot be amended except by direct vote of people. AGO 228 (12-10-1956)

Currently registered voter may perform acts under statute without voting in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in furtherance of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 80-4 (2-26-1980)

295.055 Petition for initiative or referendum: Regulations specifying format; each document of petition limited to voters of single county; removal of name from petition.

1. The secretary of state shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

3. A person who signs a petition may remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.

(Added to NRS by 1963, 1385; A 1985, 550; 1987, 1374)

—ANNOTATIONS—

Administrative Regulations.

Initiative and Referendum, NAC 295.020

petition filed. Signer of referendum petition may not withdraw name after petition is filed. AGO 379 (7-14-1930)

Attorney General's Opinions.

Signer may not withdraw name after

295.056 Petition for initiative or referendum: Requirements for submission of signatures to county clerk.

1. Before a petition for initiative or referendum is filed with the secretary of state, the petitioners must submit to each county clerk for verification the document or documents which were circulated for signature within his county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not less than 95 days before the next regular session of the legislature.

3. If a petition for initiative proposes an amendment to the constitution, the document or documents must be submitted not less than 155 days before the date of the next succeeding general election.

4. If the petition is for referendum, the document or documents must be submitted not less than 185 days before the date of the next succeeding general election.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time.

(Added to NRS by 1983, 923; A 1985, 551, 1113; 1991, 2226)

—ANNOTATIONS—

Administrative Regulations.

Initiative and Referendum, NAC 295.020

which provides time within which certain initiative and referendum petitions must be presented to county clerks, does not conflict with Nev. Art. 19, § 2, concerning time within which initiative petition must be filed with secretary of state, or related provisions of NRS 295.056 et seq. AGO 84-7 (4-16-1984)

Attorney General's Opinions.

Administrative regulation concerning time to present initiative and referendum petitions does not conflict with statute. Section 295.010 of Nevada Administrative Code,

COUNTY INITIATIVE AND REFERENDUM

295.075 "Board" defined. As used in NRS 295.075 to 295.125, inclusive, unless the context otherwise requires, "board" means the board of county commissioners.

(Added to NRS by 1967, 380)

—ANNOTATIONS—

Attorney General's Opinions.

Statutes do not provide for removal of signatures from initiative petitions. Signers of county initiative petitions may not remove their names from petitions after they have

been officially filed with appropriate filing officer. Statutes governing such petitions (see NRS 295.075 et seq.) make no provision for removal of names at request of signers. AGO 227 (11-28-1978)

295.085 Registered voters' power of initiative and referendum concerning county ordinances. The registered voters of a county have power:

1. To propose ordinances to the board and, if the board fails to adopt an ordinance so proposed without change in substance, to adopt or reject it at an election.

2. To require reconsideration by the board of any adopted ordinance and, if the board fails to repeal an ordinance so reconsidered, to approve or reject it at an election.

(Added to NRS by 1967, 380)

295.095 Commencement of proceedings: Petitioners' committee; form and requirements of petition; circulator's affidavit.

1. Any five registered voters of the county may commence initiative or referendum proceedings by filing with the county clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the county equal to 15 percent or more of the number of voters who voted at the last preceding general election in the county.

3. Referendum petitions must be signed by a number of registered voters of the county equal to 10 percent or more of the number of voters who voted at the last preceding general election in the county.

4. A petition must be filed within 180 days after the date that the affidavit required by subsection 1 is filed with the county clerk.

5. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style and assembled as one instrument for filing. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period

specified in subsection 4. Each document must contain or have attached thereto throughout its circulation the full text of the ordinance proposed or sought to be reconsidered.

6. Each document of a petition must have attached to it when filed an affidavit executed by the circulator thereof stating:

- (a) That he personally circulated the document;
- (b) The number of signatures thereon;
- (c) That all the signatures were affixed in his presence;
- (d) That he believes them to be genuine signatures of the persons whose names they purport to be; and
- (e) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(Added to NRS by 1967, 380; A 1989, 1182)

—ANNOTATIONS—

Attorney General's Opinions.

Currently registered voter may perform acts under statute without voting in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in

furtherance of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 80-4 (2-26-1980)

295.105 Filing, examination, certification and amendment of petition; court and board to review sufficiency of petition.

1. Within 20 days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered or certified mail.

2. A petition must not be certified insufficient for lack of the required number of valid signatures if, in the absence of other proof of disqualification, any signature on the face thereof does not exactly correspond with the signature appearing on the official register of voters and the identity of the signer can be ascertained from the face of the petition. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the county clerk within 2 days after receiving the copy of his certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of the certificate. A supplementary petition must comply with the requirements of subsections 5 and 6 of NRS 295.095, and within 5 days after it is filed the county clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the petitioners' committee by registered or certified mail.

3. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request board review under subsection 4 within the time

required, the county clerk shall promptly present his certificate to the board and the certificate is a final determination as to the sufficiency of the petition.

4. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving a copy of the certificate, file a request that it be reviewed by the board. The board shall review the certificate at its next meeting following the filing of the request and approve or disapprove it, and the determination of the board is a final determination as to the sufficiency of the petition.

5. A final determination as to the sufficiency of a petition is subject to court review. A final determination of insufficiency, even if sustained upon court review, does not prejudice the filing of a new petition for the same purpose.

(Added to NRS by 1967, 380; A 1989, 1183)

295.115 Consideration by board; submission to registered voters; withdrawal of petition.

1. When an initiative or referendum petition has been finally determined sufficient, the board shall promptly consider the proposed initiative ordinance in the manner provided by law for the consideration of ordinances generally or reconsider the referred ordinance by voting its repeal. If the board fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the registered voters of the county.

2. The vote of the county on a proposed or referred ordinance shall be held not less than 30 days and not later than 1 year from the date of the final board vote thereon. If no primary or general election is to be held within the period prescribed in this subsection, or if the deadline for placing questions on the ballot has passed when the time for action by the board expires, the board shall provide for a special election; otherwise, the vote shall be held at the same time as such primary or general election, except that the board may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

3. An initiative or referendum petition may be withdrawn at any time prior to the 30th day preceding the day scheduled for a vote of the county or the deadline for placing questions on the ballot, whichever is earlier, by filing with the county clerk a request for withdrawal signed by at least four members of the petitioners' original committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Added to NRS by 1967, 381; A 1969, 896)

295.125 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(Added to NRS by 1967, 382)

**COUNTY REFERENDUM CONCERNING SPECIFIC
LEGISLATIVE ACTS OR RESOLUTIONS**

295.140 Petition for referendum: Required signatures; filing. Whenever 10 percent or more of the registered voters of any county of this state, as shown by the number of registered voters who voted at the last preceding general election, shall express their wish that any act or resolution enacted by the legislature, and pertaining to such county only, be submitted to the vote of the people, they shall file with the county clerk, not less than 4 months before the time set for the next succeeding general election, a petition, which shall contain the names and residence addresses of at least 10 percent of the registered voters of such county, demanding that a referendum vote be had by the people of the county at the next general election or at any election called for such purpose, upon the act or resolution on which the referendum is demanded.

(Added to NRS by 1960, 280)

—ANNOTATIONS—**Nevada Cases.**

Residents of Humboldt County could not use initiative and referendum to challenge formation of Pershing County out of Humboldt County. Legislature, by enactment of sec. 1, ch. 62, Stats. 1919 (cf. NRS 243.325), intended that formation of Pershing County out of Humboldt County become effective immediately without regard to wishes of inhabitants of Humboldt County. Although such statute was local legislation, it was not legislation in and for Humboldt County and residents thereof had no right to benefits of initiative and referendum, Nev. Art. 19, § 3 (cf. Nev. Art. 19, § 4, as amended 1962), sec. 1, ch. 137, Stats. 1915 (cf. NRS 295.140), and in prohibition and mandamus proceedings, officials of Humboldt County were required to

recognize valid formation of Pershing County. *County of Pershing v. Sixth Judicial Dist. Court*, 43 Nev. 78, 181 Pac. 960, 183 Pac. 314 (1919)

Attorney General's Opinions.

Signer may not withdraw name after petition filed. Signer of referendum petition may not withdraw name after petition is filed. AGO 379 (7-14-1930)

Currently registered voter may perform acts under statute without voting in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in furtherance of qualifying political party or independent candidate, placing initiative and

referendum measures on ballot and initiating persons voted in last preceding general election. AGO 80-4 (2-26-1980)
recall elections, regardless of whether these

295.150 Names of registered voters may be contained in more than one petition; verification of petition.

1. The names of the registered voters petitioning need not be all upon one petition, but may be contained on one or more petitions; but each petition shall be verified by at least one of the voters who has signed such petition.

2. The voter making the verification shall swear, on information and belief, that the persons signing the petition are registered voters of the county and state, and that such signatures are genuine and were executed in his presence.

(Added to NRS by 1960, 280)

295.160 Submission of question to people; publication.

1. The county clerk shall file the petition upon its receipt by him. At the next general election or at the election called for such purpose, he shall submit the act or resolution, by appropriate questions on the ballot, for the approval or disapproval of the people of such county.

2. The county clerk shall publish such questions in accordance with the provisions of law requiring county clerks to publish questions and proposed constitutional amendments which are to be submitted for popular vote.

(Added to NRS by 1960, 280)

295.170 Form of question on ballot; count and canvass of votes.

1. The subject matter of such questions must be stated concisely on the ballot, and the question printed upon the ballot for the information of the voter must be as follows: "Shall the act (setting out the title thereof) be approved?"

2. Where a mechanical voting system is used, the title of the act must appear on the list of offices and candidates and the statements of measures to be voted on and may be condensed by the district attorney to 20 words.

3. The district attorney shall prepare an explanation of each such question, which must be placed on the ballot or the list of offices and candidates and the statements of measures to be voted on, or posted in the polling place.

4. The votes cast upon such question must be counted and canvassed as the votes for county officers are counted and canvassed.

(Added to NRS by 1960, 281; A 1967, 1226; 1977, 248; 1985, 1114)

295.180 Effect of approval or disapproval of majority of registered voters.

1. When a majority of the registered voters of the county voting upon the question submitted, by their vote, approve the act or resolution, it is the law of the state, and may not be repealed, overruled, annulled, set aside or in any

way made inoperative, except by a direct vote of the registered voters of that county.

2. When a majority of the registered voters of that county voting upon the question submitted disapproves, the act or resolution is void.

(Added to NRS by 1960, 281; A 1987, 1374)

—ANNOTATIONS—

Attorney General's Opinions.

Majority vote sufficient in county referendum. In county referendum, vote of major-

ity of those voting on question is sufficient to approve or disapprove measure. AGO 92 (10-3-1932)

295.190 Special election for submission of question to registered voters; procedure.

1. After the filing of a referendum petition with the county clerk as provided in NRS 295.140, a special election shall be called by the board of county commissioners for the purpose of submitting the question to the registered voters of the county if a petition requesting a special election, signed by 40 percent or more of the registered voters of the county as shown by the number of registered voters who voted at the last preceding general election, and verified in the manner provided in NRS 295.150, is filed with the board of county commissioners.

2. A special election called by the board of county commissioners pursuant to subsection 1 shall be held within 40 days after the petition requesting the special election is filed with the board of county commissioners.

(Added to NRS by 1960, 281)

MUNICIPAL INITIATIVE AND REFERENDUM

295.195 Definitions. As used in NRS 295.195 to 295.220, inclusive, unless the context otherwise requires:

1. "City" means an incorporated city.
 2. "Council" means the governing body of a city.
- (Added to NRS by 1967, 377; A 1987, 1719)

295.200 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:

1. Propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a city election.

2. Require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, approve or reject it at a city election.

(Added to NRS by 1967, 378; A 1987, 364)

295.205 Commencement of proceedings: Petitioners' committee; form and requirements of petition; circulator's affidavit.

1. Any five registered voters of the city may commence initiative or referendum proceedings by filing with the city clerk an affidavit:

(a) Stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form;

(b) Stating their names and addresses;

(c) Specifying the address to which all notices to the committee are to be sent; and

(d) Setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the city equal to 15 percent or more of the number of voters who voted at the last preceding city election.

3. Referendum petitions must be signed by a number of registered voters of the city equal to 10 percent or more of the number of voters who voted at the last preceding city election.

4. A petition must be filed within 180 days after the date that the affidavit required by subsection 1 is filed with the city clerk.

5. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style and assembled as one instrument for filing. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection 4. Each document must contain or have attached thereto throughout its circulation the full text of the ordinance proposed or sought to be reconsidered.

6. Each document of a petition must have attached to it when filed an affidavit executed by the circulator thereof stating:

(a) That he personally circulated the document;

(b) The number of signatures thereon;

(c) That all the signatures were affixed in his presence;

(d) That he believes them to be genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(Added to NRS by 1967, 378; A 1987, 364; 1989, 1184)

—ANNOTATIONS—**Attorney General's Opinions.**

Currently registered voter may perform acts under statute without voting in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in

furtherance of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 80-4 (2-26-1980)

295.210 Filing, examination, certification and amendment of petition; council and court to review sufficiency of petition.

1. Within 20 days after the petition is filed, the city clerk shall examine the signatures thereon, complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered or certified mail.

2. If more than 500 names are signed on the documents filed with him, the city clerk must examine the signatures by sampling them randomly for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the city clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 signatures or 5 percent of the signatures, whichever is greater.

3. A petition must not be certified insufficient for lack of the required number of valid signatures if, in the absence of other proof of disqualification, any signature on the face thereof does not exactly correspond with the signature appearing on the official register of voters and the identity of the signer can be ascertained from the face of the petition. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the city clerk within 2 days after receiving the copy of his certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of the certificate. A supplementary petition must comply with the requirements of subsections 5 and 6 of NRS 295.205, and within 5 days after it is filed the city clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the petitioners' committee by registered or certified mail.

4. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection 5 within the time required, the city clerk must promptly present his certificate to the council and the certificate is a final determination as to the sufficiency of the petition.

5. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of the request and approve or disapprove it, and the council's determination is a final determination as to the sufficiency of the petition.

6. A final determination as to the sufficiency of a petition is subject to court review. A final determination of insufficiency, even if sustained upon

court review, does not prejudice the filing of a new petition for the same purpose.

(Added to NRS by 1967, 378; A 1989, 1184)

295.215 Consideration by council; submission to registered voters; withdrawal of petition.

1. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided by law for the consideration of ordinances generally or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the registered voters of the city.

2. The vote of the city on a proposed or referred ordinance must be held not less than 30 days and not later than 1 year after the date of the final vote of the council thereon. If no regular city election is to be held within the period prescribed in this subsection, or if the deadline for placing questions on the ballot has passed when the time for action by the board expires, the council shall provide for a special election. Otherwise the vote must be held at the primary or general city election, except that the council may provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance must be made available at the polls.

3. An initiative or referendum petition may be withdrawn at any time before the 30th day preceding the day scheduled for a vote of the city or the deadline for placing questions on the ballot, whichever is earlier, by filing with the city clerk a request for withdrawal signed by at least four members of the petitioners' original committee. Upon the filing of that request the petition has no further effect and all proceedings thereon must be terminated.

(Added to NRS by 1967, 379; A 1969, 896; 1987, 364)

—ANNOTATIONS—

Attorney General's Opinions.

City council need not consider or submit unconstitutional proposal. Provision of Nev. Art. 19, § 4, permitting enactment of special legislation for municipality by initiative petition, does not extend to special law which would confer financial benefit on private corporation through expenditure of public funds

in violation of Nev. Art. 1, § 8, and Nev. Art. 8, § 10, and city council is not obligated to consider for enactment or submit to the people under NRS 295.215 a proposal offered by initiative petition where such proposal would be unconstitutional if enacted. AGO 79-3 (2-13-1979)

295.220 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances

are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(Added to NRS by 1967, 379)



CHAPTER 298

PRESIDENTIAL ELECTORS AND ELECTIONS

PRESIDENTIAL ELECTORS

- 298.010 Time when chosen; number.
- 298.020 Selection of party's nominees.
- 298.025 Nominees of presidential candidates receiving highest number of votes at general election become presidential electors.
- 298.030 Time when presidential electors required to convene at seat of government.
- 298.040 Filling vacancy upon death or absence of presidential elector.
- 298.050 Convening and voting for President and Vice President.
- 298.060 Presidential electors to use separate ballots.
- 298.070 Lists of persons voted for and number of votes; certification; transmission to President of the Senate.
- 298.080 Proceedings of presidential electors to conform to United States Constitution and laws.

PRESIDENTIAL ELECTIONS

- 298.109 Nomination of independent candidates for President and Vice President; designation of candidate's nominees for presidential electors; challenge to candidacy.
 - 298.250 Voting by former or new residents.
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CHAPTER 298
PRESIDENTIAL ELECTORS AND ELECTIONS

CROSS REFERENCES

Absent ballot, voter residing outside United States, NRS 293.3155, 293.501
Election of presidential electors, NRS 281.010
Opposition to all candidates, provision to register, NRS 293.269, 293B.075



PRESIDENTIAL ELECTORS

298.010 Time when chosen; number. In each year when the election of President and Vice President of the United States is to take place, there shall be chosen as many electors of President and Vice President of the United States as this state is then entitled to.

[Part 1:108:1866; B § 2599; BH § 1636; C § 1782; RL § 2765; NCL § 4765] + [3:108:1866; B § 2601; BH § 1638; C § 1784; RL § 2767; NCL § 4767]

298.020 Selection of party's nominees.

1. Each political party in this state, qualified by law to place upon the general election ballot candidates for the office of President and Vice President of the United States in the year when they are to be elected, shall, at the state convention of the political party held in that year, choose from the qualified electors, who are legally registered members of that political party, the number of presidential electors required by law and no more, who must be nominated by the delegates at the state convention. Upon the nomination thereof, the chairman and the secretary of the convention shall certify the names and addresses of the nominees to the secretary of state, who shall record the names in his office as the nominees of that political party for presidential elector.

2. Each minor political party in this state, qualified by law to place upon the general election ballot candidates for the office of President and Vice President of the United States in the year when they are to be elected, shall choose from the qualified electors, the number of presidential electors required by law. The person who is authorized to file the list of candidates of the minor political party with the secretary of state pursuant to NRS 293.1725 shall certify the names and addresses of the nominees to the secretary of state, who shall record the names in his office as the nominees of that political party for presidential elector.

[1:38:1949; 1943 NCL § 4767.01] + [2:38:1949; A 1953, 135] + [3:38:1949; 1943 NCL § 4767.03]—(NRS A 1969, 65; 1979, 405; 1989, 2172)

—ANNOTATIONS—

Attorney General's Opinions.

Statute constitutional. Provisions of 1943 NCL §§ 4767.01-4767.03 (cf. NRS 298.020) and NCL § 2473 as amended (cf. NRS

293.267), relating to nomination and election of presidential electors are not in conflict with U.S. 14th amendment. AGO 854 (1-19-1950)

298.025 Nominees of presidential candidates receiving highest number of votes at general election become presidential electors. residential electors are not nominated at the primary election or placed upon the general election ballot, but the nominees of the presidential candidates who receive

298.030 PRESIDENTIAL ELECTORS AND ELECTIONS

the highest number of votes at the general election thereby become the official presidential electors, and they shall perform the duties of such electors as required by law and the Constitution of the United States.

(Added to NRS by 1979, 405)

298.030 Time when presidential electors required to convene at seat of government. The presidential electors so chosen shall convene at the seat of government on the 1st Monday after the 2nd Wednesday in December next after their election, at 2 p.m., or on such other date as the Congress of the United States may by law hereafter provide.

[Part 6:108:1866; A 1869, 64; 1917, 391; 1937, 186; 1931 NCL § 4770]

—ANNOTATIONS—

Attorney General's Opinions.

No travel expenses or mileage for presidential electors. Presidential electors are not entitled to payment by the state for travel expenses and mileage from their residences to Carson City. AGO 1 (12-12-1916)

Provision in conflict with federal statute is invalid. State law fixing time for meeting of presidential electors which conflicts with federal statute is invalid as to such provision. AGO 1 (12-12-1916)

298.040 Filling vacancy upon death or absence of presidential elector. In case of the death or absence of any presidential elector chosen, or if the number of presidential electors shall from any cause be deficient, the national committeewoman, the national committeeman and the state chairman of the party whose nominees for President and Vice President received the greatest number of votes in the state at the next preceding general election shall forthwith elect, from the qualified electors of this state registered as affiliated with such prevailing party, as many persons as will supply the deficiency. A majority of such three party officials shall be sufficient to fill such vacancies.

[Part 6:108:1866; A 1869, 64; 1917, 391; 1937, 186; 1931 NCL § 4770]—(NRS A 1961, 296)

298.050 Convening and voting for President and Vice President. The presidential electors, when convened, shall vote by ballot for one person for President and one person for Vice President of the United States, one of whom, at least, shall not be an inhabitant of this state. The presidential electors shall vote only for the nominees for President and Vice President of the party that prevailed in this state in the preceding general election.

[Part 7:108:1866; A 1869, 64; 1917, 391; 1937, 186; 1931 NCL § 4771]—(NRS A 1961, 296)

298.060 Presidential electors to use separate ballots. The presidential electors shall name in their ballots the persons voted for as President, and in distinct ballots the persons voted for as Vice President.

[Part 7:108:1866; A 1869, 64; 1917, 391; 1937, 186; 1931 NCL § 4771]

298.070 Lists of persons voted for and number of votes; certification; transmission to President of the Senate. The presidential electors shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes given for each, which lists they shall sign, certify, seal and transmit to the seat of the Government of the United States, directed to the President of the Senate.

[Part 7:108:1866; A 1869, 64; 1917, 391; 1937, 186; 1931 NCL § 4771]

298.080 Proceedings of presidential electors to conform to United States Constitution and laws. In complying with the provisions of NRS 298.050 to 298.070, inclusive, the presidential electors shall, in all respects, proceed conformably to the Constitution of the United States and the laws of the United States.

[Part 7:108:1866; A 1869, 64; 1917, 391; 1937, 186; 1931 NCL § 4771]

PRESIDENTIAL ELECTIONS

298.109 Nomination of independent candidates for President and Vice President; designation of candidate's nominees for presidential electors; challenge to candidacy.

1. A person who desires to be an independent candidate for the office of President of the United States must, not later than 5 p.m. on the second Friday in August in each year in which a presidential election is to be held, pay a filing fee of \$250 and file with the secretary of state a declaration of candidacy and a petition of candidacy, in which he may also designate his nominee for Vice President. The petition must be signed by the candidate for President, his nominee for Vice President if designated, and by a number of registered voters equal to not less than 3 percent of the total number of votes cast at the last preceding general election for candidates for Representative in Congress and must request that the names of the proposed candidates be placed on the ballot at the general election that year.

2. The petition may consist of more than one document. Each document must bear the name of a county and only registered voters of that county may sign the document. The documents which are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 65 days before filing the petition of candidacy with the secretary of state. Each person signing shall add to his signature the address of the place at which he resides and the name of the county wherein he is registered to vote. Each document of the petition must also contain the affirmation of at least one of the signers that all signatures thereon are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. Each independent candidate so nominated for the office of President shall at the time of filing his petition as provided in subsection 1, or within 10

298.250 PRESIDENTIAL ELECTORS AND ELECTIONS

days thereafter, file with the secretary of state his written designation of the names of the number of presidential electors then authorized by law, whom the independent candidate desires to act as his electors, all of whom must then be registered voters. Immediately following receipt of each candidate's written designation of his nominees for electors, the secretary of state shall record them in his office as the nominees for presidential electors of that independent candidate.

4. If the candidacy of any person who seeks to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed with the first judicial district court not later than 5 p.m. on the third Friday in August. Any judicial proceeding relating to the challenge must be set for hearing not later than 5 days after the third Friday in August.

(Added to NRS by 1979, 404; A 1983, 1289; 1985, 270; 1987, 1375; 1989, 2173)

298.250 Voting by former or new residents.

1. If a former resident of the State of Nevada otherwise qualified to vote in another state in any election for President and Vice President has commenced his residence in the other state after the 30th day next preceding that election and for this reason does not satisfy the requirements for registration in the other state, he may vote for President and Vice President only in that election:

(a) In person in the county of the State of Nevada which was his former residence, if he is otherwise qualified to vote there; or

(b) By absent ballot in the county of the State of Nevada which was his former residence, if he is otherwise qualified to vote there and complies with the applicable requirements of NRS 293.310 to 293.340, inclusive.

2. If a new resident of the State of Nevada otherwise qualified to vote in another state in any election for President and Vice President has commenced his residence in this state after the 30th day next preceding that election and for this reason does not satisfy the requirements for registration in this state, he may vote for President and Vice President in this state.

3. The secretary of state may, in a manner consistent with the election laws of this state, adopt such regulations as may be necessary to effectuate the purposes of this section.

(Added to NRS by 1971, 261; A 1983, 1290)

—ANNOTATIONS—

Administrative Regulations.

Presidential Electors and Elections, NAC
298.010

CHAPTER 304

ELECTION OF UNITED STATES SENATORS AND REPRESENTATIVES IN CONGRESS

ELECTION OF UNITED STATES SENATORS

- 304.010 Nomination and election.
- 304.030 Governor to appoint qualified person upon vacancy in office.

ELECTION OF REPRESENTATIVES IN CONGRESS

- 304.040 Nomination of candidates.
- 304.050 Election.
- 304.060 Congressional districts. [Effective until January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and until January 4, 1993, for all other purposes.]
- 304.060 Congressional districts. [Effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.]
- 304.070 Copies of maps of congressional districts: Duties of director of legislative counsel bureau. [Effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.]
- 304.080 Copies of maps of congressional districts: Duties of secretary of state. [Effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.]



CHAPTER 304
ELECTION OF UNITED STATES SENATORS
AND REPRESENTATIVES IN CONGRESS

CROSS REFERENCES

Absent ballot, voter residing outside United States, NRS 293.3155, 293.501
Canvass of vote by supreme court, Const. Art. 5 § 4
Opposition to all candidates, provision to register, NRS 293.269, 293B.075
Representatives elected, NRS 281.010
Senators elected, NRS 281.010
Tie vote, legislature to elect one person by joint vote, Const. Art. 5 § 4



ELECTION OF UNITED STATES SENATORS

—ANNOTATIONS—

Attorney General's Opinions.

Permissible candidacy of justices of supreme court and district judges. Justices of supreme court and district judges may not

be candidates for any other state office during term for which elected, but may be candidates for U.S. Senator or Representative in Congress. AGO 897 (3-29-1950)

304.010 Nomination and election. At the primary and general election next preceding the expiration of the time for which any United States Senator was elected or appointed to represent the State of Nevada in the United States Senate, candidates for United States Senator may be nominated and elected in the same manner as provided by law for the nomination and election of state officers.

(Added to NRS by 1960, 281)

304.030 Governor to appoint qualified person upon vacancy in office.

In case of a vacancy in the office of United States Senator caused by death, resignation or otherwise, the governor may appoint some qualified person to fill the vacancy, who shall hold office until the next general election and until his successor shall be elected and seated.

(Added to NRS by 1960, 281)

—ANNOTATIONS—

Nevada Cases.

Temporary appointment continues to ensuing biennial election rather than election at expiration of term. U.S. 17th amendment provides that vacancy in office of U.S. Senator shall be filled by election of people but governor of state may make temporary appointment until such election is had, and NCL § 2593 (cf. NRS 304.030), providing that person so appointed shall hold office until next general election must be interpreted to mean ensuing biennial election rather than election at expiration of term. *Brown v. Georgetta*, 70 Nev. 500, 275 P.2d 376 (1954)

Attorney General's Opinions.

Death of incumbent U.S. Senator after reelection and before new term creates two vacancies; governor should fill both. Death of incumbent U.S. Senator after reelection but before commencement of new term creates two vacancies—one for remainder of current term and another beginning on first day of new

term. Such vacancies should be filled by appointments by governor, first such appointment being for remainder of unexpired term and second for period from commencement of new term until next general election and the election and qualification of a successor. AGO B-20 (11-25-1940)

U.S. Senator appointed by governor may serve only until ensuing general election. Phrase "next general election" in NCL § 2593 (cf. NRS 304.030), when construed in conjunction with U.S. 17th amendment, refers to next ensuing general election held in state, and not to next general election at which U.S. Senator would regularly be elected. Thus, U.S. Senator appointed by governor is authorized to serve only temporarily and until such election. AGO 350 (10-1-1954)

Candidate winning next general election after vacancy immediately qualifies to take office. Where vacancy occurs in senatorial

office, candidate winning next general election immediately qualifies to take such office regardless of whether Congress is in session or not. AGO 350(a) (12-1-1954)

ELECTION OF REPRESENTATIVES IN CONGRESS

304.040 Nomination of candidates. Party candidates for Representative in Congress shall be nominated in the same manner as state officers are nominated.

(Added to NRS by 1960, 282)

304.050 Election.

1. At the general election in each even-numbered year, there shall be elected the number of Representatives in the Congress of the United States to which the State of Nevada is entitled.

2. Representatives in Congress shall be elected by the registered voters of their respective districts.

(Added to NRS by 1960, 282)

304.060 Congressional districts. [Effective until January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and until January 4, 1993, for all other purposes.]

The following congressional districts are hereby created:

1. Congressional district 1 consisting of all of Clark County except:

- (a) Assembly districts 1, 17 and 20;
- (b) In census tract 31, that part in assembly district 2;
- (c) In census tract 32, that part in assembly district 13.

2. Congressional district 2 consisting of:

- (a) All counties in the state except Clark County;
- (b) In Clark County:
 - (1) Assembly districts 1, 17 and 20;
 - (2) In census tract 31, that part in assembly district 2;
 - (3) In census tract 32, that part in assembly district 13.

(Added to NRS by 1981, 926)

304.060 Congressional districts. [Effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.] The following congressional districts are hereby created:

The following congressional districts are hereby created:

1. Congressional district 1 consisting of all of Clark County except those census voting districts in Clark County listed in paragraph (b) of subsection 2.

2. Congressional district 2 consisting of:

- (a) All counties in the state except Clark County; and
- (b) In Clark County, census voting districts 0005, 0045, 0075, 0090, 0125, 0170, 0195, 0285, 0320, 0395, 0410, 0415, 0445, 0595, 0615, 0625,

0655, 0670, 0705, 0715, 0745, 0805, 0860, 0870, 0875, 0900, 0930, 0950, 0980, 0985, 0990, 1020, 1050, 1055, 1060, 1065, 1095, 1185, 1195, 1615, 1620, 1625, 1630, 1635, 1640, 1645, 1650, 1655, 1660, 1665, 1675, 1680, 1685, 1690, 1695, 1750, 1925, 1940, 1955, 2075, 2090, 2335, 2340, 2345, 2350, 2360, 2365, 2370, 2380, 2385, 2390, 2430, 2435, 2440, 2445, 2450, 2455, 2460, 2475, 2485, 2490, 2495, 2500, 2505, 2510, 2515, 2520, 2530, 2535, 2540, 2545, 2555, 2565, 2745, 2950, 2960, 2965, 2975, 2980, 2990, 3175, 3180, 3185, 3190, 3210 and 3255.

3. As used in this section, "census voting district" means the voting district:

(a) Based on the geographic and population data bases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the legislative counsel bureau for use by the Nevada legislature; and

(b) Designated in the maps filed with the office of the secretary of state pursuant to subsection 3 of NRS 304.070.

(Added to NRS by 1981, 926; A 1991, 1046, effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.)

304.070 Copies of maps of congressional districts: Duties of director of legislative counsel bureau. [Effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.] The director of the legislative counsel bureau shall:

1. Retain in an office of the legislative counsel bureau, copies of maps of the congressional districts described in NRS 304.060.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

3. File a copy of the maps with the secretary of state.

(Added to NRS by 1991, 1046, effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.)

304.080 Copies of maps of congressional districts: Duties of secretary of state. [Effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.] The secretary of state shall:

1. Provide to the clerk of each county and the clerk of Carson City, copies of the maps filed pursuant to subsection 3 of NRS 304.070.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

(Added to NRS by 1991, 1046, effective January 1, 1992, for the purposes of nominating and electing representatives in the Congress of the United States and on January 4, 1993, for all other purposes.)

CHAPTER 306
RECALL OF PUBLIC OFFICERS

- 306.015 Notice of intent to circulate petition for recall: Requirements; signatures; verification; limitation of time for filing petition; removal of name from petition; penalty.
 - 306.017 Employment of independent legal counsel to provide advice concerning recall of public officer who is legal adviser.
 - 306.020 Public officers subject to recall from office; contents of petition for recall.
 - 306.025 Misrepresenting intent or content of petition for recall prohibited; penalty.
 - 306.030 Petition for recall may consist of number of copies; verification.
 - 306.035 Signatures must be submitted to county clerk for verification before petition for recall may be filed.
 - 306.040 Hearing on petition for recall by district court: Notice; striking of names from petition; determination of sufficiency and validity of petition; call for special election.
 - 306.060 Ballots for recall: Officer's justification; use of sample ballots when mechanical voting system used.
 - 306.070 Form of proposal on ballots for recall; names of nominees.
 - 306.080 Vacancy in office created if no other candidates voted upon in special election.
 - 306.110 Nominating petitions for successors; filing, acceptance of candidacy.
 - 306.120 Conduct of special election.
 - 306.130 Applicability of laws governing elections.
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CHAPTER 306
RECALL OF PUBLIC OFFICERS

CROSS REFERENCES

Constitutional requirements and procedures, Const. Art. 2 § 9
Forgery in signing or filing recall petition, NRS 205.125
Petitions, sufficiency of, NRS 293.1276 et seq.



—ANNOTATIONS—

Nevada Cases.

Duty to call and provide for special election not discretionary; mandamus proper to enforce compliance. Under Nev. Art. 2, § 9, and ch. 258, Stats. 1913 (cf. NRS ch. 306), relating to recall of public officers, after appropriate petition had been filed, duty of clerk to call and city governing body to provide for special election was clear and allowed of no discretion. Mandamus was proper remedy to enforce compliance with duty. *State ex rel. Matzdorf v. Scott*, 52 Nev. 216, 285 Pac. 511 (1930), cited, *State ex rel. Cooper v. Reese*, 57 Nev. 125, at 130, 59 P.2d 647 (1936)

Petition for recall of city mayor to be filed with city clerk. Under Nev. Art. 2, § 9, and ch. 258, Stats. 1913 (cf. NRS ch. 306), relating to recall of public officers, which contained no exact designation of official with whom petitions for recall of city mayor were to be filed, provisions of election laws and other analogous statutes demonstrated legislative intent that petitions were to be filed with city clerk. *State ex rel. Matzdorf v. Scott*, 52 Nev. 216, 285 Pac. 511 (1930)

No right to withdraw signatures from petition. Under Nev. Art. 2, § 9, and ch. 258, Stats. 1913 (cf. NRS ch. 306), relating to recall of public officers, which contained no provision for withdrawal of signatures from petition, and pursuant to policy to construe act liberally to promote its purposes, no such right could be inferred. *State ex rel. Matzdorf v. Scott*, 52 Nev. 216, 285 Pac. 511 (1930), cited, *Cleland v. Eighth Judicial Dist. Court*, 92 Nev. 454, at 456, 552 P.2d 488 (1976)

Jurisdiction to call special election attaches when proper petition is filed and is not ousted by subsequent withdrawal of names. Jurisdiction to call special election after petition for recall of city mayor had been filed pursuant to ch. 258, Stats. 1913 (cf. NRS ch. 306), attached at time proper petition was filed, and could not be ousted where names were subsequently withdrawn from petition. *State ex rel. Matzdorf v. Scott*, 52 Nev. 216, 285 Pac. 511 (1930)

Withdrawal of names after petition filed of no legal effect; officer with whom petition filed cannot consider matters beyond petition or arising after filing. Withdrawals of names from petitions for recall of city mayor after petitions were filed pursuant to ch. 258, Stats. 1913 (cf. NRS ch. 306), were of no legal effect, absent statutory provision, because officer with whom they were filed was required to ascertain, on date of filing, whether petition on its face complied with statutory requirement. Officer had no authority to consider matters beyond petition, or matters arising subsequent to its filing. *State ex rel. Matzdorf v. Scott*, 52 Nev. 216, 285 Pac. 511 (1930)

Attorney General's Opinions.

Chapter not applicable to federal officers; secretary of state should refuse to file petition to recall U.S. Senator. Nev. Art. 2 § 9, and NRS ch. 306, relating to recall of public officers, do not apply to federal officers and thus do not authorize filing of notice of intent to circulate petition to recall U.S. Senator elected from Nevada. Such notice is defective on its face and secretary of state should refuse to file it. AGO 225 (6-8-1978)

306.015 Notice of intent to circulate petition for recall: Requirements; signatures; verification; limitation of time for filing petition; removal of name from petition; penalty.

1. Before a petition to recall a public officer is circulated, the persons proposing to circulate the petition shall file a notice of intent with the filing officer with whom the public officer to be recalled filed his declaration of candidacy, acceptance of candidacy or affidavit of candidacy pursuant to NRS 293.185, 293.620 or 293.640.

2. The notice of intent:

(a) Must be signed by three registered voters who actually voted in the state or in the county, district or municipality electing the officer at the last preceding general election.

(b) Must be verified before a person authorized by law to administer oaths that the statements and signatures contained in the notice are true.

(c) Is valid until the verification of signatures is completed pursuant to NRS 293.1276 to 293.1279, inclusive.

3. The persons filing the notice of intent shall, if they believe the required signatures to be sufficient, submit the petition to the county clerk pursuant to NRS 306.035 within 60 days after the date on which the notice of intent was filed. Copies of the petition are not valid for any subsequent petition.

4. The county clerk shall, upon completing the verification of the signatures on the petition, file the petition with the filing officer with whom the public officer to be recalled filed his declaration of candidacy, acceptance of candidacy or affidavit of candidacy.

5. If the persons filing the notice of intent do not submit the petition to the county clerk for the verification of the signatures thereon, they shall file the petition with the filing officer with whom the public officer to be recalled filed his declaration of candidacy, acceptance of candidacy or affidavit of candidacy within 60 days after the date on which the notice of intent was filed. Any person who fails to file the petition as required by this subsection is guilty of a misdemeanor. Copies of the petition are not valid for any subsequent petition.

6. Any person who signs a petition to recall any public officer may remove his name from the petition by submitting a request in writing to the county clerk at any time before the petition is submitted for the verification of the signatures thereon pursuant to NRS 306.035.

(Added to NRS by 1975, 1166; A 1985, 1166; 1991, 2214, 2226)

—ANNOTATIONS—

Attorney General's Opinions.

Requirements for signatures on notice of intent to circulate recall petition. Under NRS 306.015, notice of intent to circulate recall petition must be signed by three cur-

rently registered voters who actually voted in last preceding general election held in jurisdiction which elected officer being recalled. AGO 80-17 (5-21-1980)

306.017 Employment of independent legal counsel to provide advice concerning recall of public officer who is legal adviser. If a notice of intent to circulate a petition to recall any public officer who is a legal adviser for the state or for a county, district or municipality is filed, the officer with whom the notice is filed may employ independent legal counsel to provide advice concerning the recall, at the expense of the state or the county, district or municipality electing that public officer.

(Added to NRS by 1985, 1114)

306.020 Public officers subject to recall from office; contents of petition for recall.

1. Every public officer in the State of Nevada is subject to recall from office by the registered voters of the state or of the county, district or municipality from which he was elected, as provided in section 9 of article 2 of the constitution of the State of Nevada and this chapter. A public officer who is appointed to an elective office is subject to recall in the same manner as provided for an officer who is elected to that office.

2. The petition must, in addition to setting forth the reason why the recall is demanded:

(a) Contain the residence addresses of the signers and the date that the petition was signed;

(b) Contain a statement of the minimum number of signatures necessary to the validity of the petition;

(c) Contain at the top of each page and immediately above the signature line, in at least 10-point bold type, the words "Recall Petition";

(d) Include the date that a notice of intent was filed; and

(e) Have the designation: "Signatures of registered voters seeking the recall of (name of public officer for whom recall is sought)" on each page if the petition contains more than one page.

(Added to NRS by 1960, 282; A 1963, 1385; 1969, 197; 1971, 159; 1975, 1166; 1981, 22; 1987, 698; 1989, 1062)

—ANNOTATIONS—

Nevada Cases.

Necessity for compliance with statutory requirements. Provisions of NRS 306.020 and 306.030 are intended to safeguard operation of recall procedures under Nev. Art. 2, § 9, and thus aid in operation thereof, and failure to comply with statutory requirements is fatal. *Fiannaca v. Gill*, 78 Nev. 337, 372 P.2d 683 (1962)

Proper verification required. Recall petitions which were not properly verified did not contain number of valid signatures required by NRS 306.020 and 306.030. *Fiannaca v. Gill*, 78 Nev. 337, 372 P.2d 683 (1962), cited, *Lundberg v. Koontz*, 82 Nev. 360, at 365, 418 P.2d 808 (1966)

Merit of reason is for voters to decide. Nev. Art. 2, § 9, and NRS 306.020, which require statement of reason on petition for recall, do not require statement of good reason. Merit is for people to decide, and court in ruling on sufficiency of petition would not intrude on people's prerogative. *Batchelor v. Eighth Judicial Dist. Court*, 81 Nev. 629, 408 P.2d 239 (1965)

Statement of reason for recall. Statement of petition for recall of city councilman and mayor that "[designated person] has lost the respect and confidence of the great majority of the citizens of [designated city] in that the manner in which he contrived to discharge the City Manager . . . violated the concept of fairness held by a majority of such citizens" satisfied requirements of Nev. Art. 2, § 9, and NRS 306.020 for statement of reason. *Batchelor v. Eighth Judicial Dist. Court*, 81 Nev. 629, 408 P.2d 239 (1965)

Attorney General's Opinions.

Necessity of enabling statute. Recall provision of Nevada constitution by its terms requires enabling statute to make it operative. AGO 59 (8-19-1921)

Signer may not withdraw name after petition filed. Signer of recall petition may not withdraw name after petition is filed. AGO 84 (12-31-1921)

Only qualified electors may sign petition. Signer of recall petition must be qualified elector at time of signing. AGO 585 (3-15-1948)

Currently registered voters may sign petitions without voting in last preceding general election. Under NRS 293.128, 293.200, 295.015, 295.045, 295.095, 295.140, 295.205 and 306.020, currently registered voters may sign petitions in furtherance

of qualifying political party or independent candidate, placing initiative and referendum measures on ballot and initiating recall elections, regardless of whether these persons voted in last preceding general election. AGO 80-4 (2-26-1980)

306.025 Misrepresenting intent or content of petition for recall prohibited; penalty.

1. A person shall not misrepresent the intent or content of a petition for the recall of a public officer which is circulated pursuant to the provisions of this chapter.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(Added to NRS by 1989, 1062)

306.030 Petition for recall may consist of number of copies; verification.

1. The petition may consist of any number of copies which are identical in form with the original, except for the name of the county and the signatures and addresses of the residences of the signers. The pages of the petition with the signatures and of any copy must be consecutively numbered. Each page must bear the name of a county and only registered voters of that county may sign the page.

2. Every copy must be verified by at least one of the signers thereof, who shall swear or affirm, before a person authorized by law to administer oaths, that the statements and signatures contained in the petition are true. The verification must also contain a statement of the number of signatures being verified by the signer.

(Added to NRS by 1960, 282; A 1963, 1386; 1975, 1167; 1985, 1219; 1987, 1375)

—ANNOTATIONS—

Nevada Cases.

Necessity for compliance with statutory requirements. Provisions of NRS 306.020 and 306.030 are intended to safeguard operation of recall procedures under Nev. Art. 2, § 9, and thus aid in operation thereof, and failure to comply with statutory requirements is fatal. *Fiannaca v. Gill*, 78 Nev. 337, 372 P.2d 683 (1962)

Proper verification required. Recall petitions which were not properly verified did not contain number of valid signatures required by NRS 306.020 and 306.030. *Fiannaca v. Gill*, 78 Nev. 337, 372 P.2d 683 (1962), cited, *Lundberg v. Koontz*, 82 Nev. 360, at 365, 418 P.2d 808 (1966)

Petition invalid where some copies not verified by person signing particular copy. Where recall petition consisted of number of copies bound together, each identical except for signatures and addresses of signers, but some copies were not verified by person who had signed the particular copy, petition was invalid, because NRS 306.030 requires that each copy be verified and that verifier be one of signers of particular copy verified by him. *Fiannaca v. Gill*, 78 Nev. 337, 372 P.2d 683 (1962), cited, *Lundberg v. Koontz*, 82 Nev. 360, at 365, 418 P.2d 808 (1966)

Attorney General's Opinions.

Signature sheets from copies may not be combined. Signature sheets from copies of

recall petition may not be combined into single petition with one heading. AGO 4 (1-13-1917)

306.035 Signatures must be submitted to county clerk for verification before petition for recall may be filed.

1. Before a petition to recall a state officer who is elected statewide is filed with the secretary of state, the petitioners must submit to each county clerk for verification the document or documents which were circulated for signature within his county.

2. Before a petition to recall a state senator, assemblyman, or a county, district or municipal officer is filed with the proper officer, the petitioners must submit to the county clerk for verification limited to the relevant area in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signatures within his county.

3. If more than one document was circulated, all the documents must be submitted to the clerk at the same time.

(Added to NRS by 1985, 1114; A 1987, 1376)

306.040 Hearing on petition for recall by district court: Notice; striking of names from petition; determination of sufficiency and validity of petition; call for special election.

1. Upon the filing of the petition, the officer with whom the petition is filed shall cause publication of a notice of a hearing on the petition by the district court in and for the appropriate county at a time and place fixed by the district court, which shall give priority to the petition over all but criminal matters and shall set the hearing for a date no later than 30 days after the filing of the petition.

2. If the officer against whom the petition is filed is a:

(a) State officer who is elected statewide, the hearing on the petition must be held by the first judicial district court.

(b) District officer whose district includes area in more than one county, the hearing on the petition must be held in the district court for the county in which the largest population of the district is located.

The notice must be published once in a newspaper of general circulation in the appropriate county or, if the officer is a state officer who is elected statewide, in each county of the state. The notice must contain the names of the signers of the petition and the reasons for the proposed recall. Any person whose name appears on the petition as a signer may appear at the hearing and request that his name be stricken from the petition, and the court shall strike his name if good cause appears therefor.

3. At the conclusion of the hearing, the court shall make a determination of the sufficiency and validity of the petition within 5 days, and shall instruct the officer with whom the petition is filed either to cease any further proceedings in the matter or, if the officer against whom the petition was filed has not

resigned, to issue a call, not sooner than 10 days nor more than 20 days after the date of the order, for a special election to be held in the state, or in the county, district or municipality electing the officer against whom the petition was filed, to determine whether the people will recall him.

(Added to NRS by 1960, 282; A 1963, 1386; 1981, 23; 1985, 1115; 1987, 698, 1376; 1991, 2215)

—ANNOTATIONS—

Attorney General's Opinions.

Recall elections should not be held as part of regular election. Recall elections are

special elections and should not be held as part of regular election. AGO B-10 (9-17-1940)

306.060 Ballots for recall: Officer's justification; use of sample ballots when mechanical voting system used.

1. If the officer against whom the petition is filed furnishes no justification of his course in office, none need appear on the ballot at the election upon his recall.

2. Where a mechanical voting system is used, the reason for demanding the recall of the officer and the officer's justification need not be printed on the ballot, but must be printed on sample ballots, which must be mailed to all registered voters or presented to registered voters upon their application to vote.

(Added to NRS by 1960, 282; A 1977, 248; 1981, 23; 1985, 1115)

—ANNOTATIONS—

Attorney General's Opinions.

Rights of officer being recalled concerning statement in recall ballot. Recall ballot must contain statement of officer being recal-

led, and if officer is misled as to his rights concerning statement, election is illegal. AGO 42 (7-14-1931)

306.070 Form of proposal on ballots for recall; names of nominees.

1. If there are no other candidates nominated to be voted for at the special election, there must be printed on the ballot the name of the officer sought to be recalled, the office which he holds, and the words "For Recall" and "Against Recall."

2. If there are other candidates nominated for the office to be voted for at the special election, there must be printed upon the ballot the name of the officer sought to be recalled, and the office which he holds, and the name or names of such other candidates as may be nominated to be voted for at the special election, and the words "For Recall" and "Against Recall" must be omitted.

3. In other respects the ballot must conform with the requirements of this Title.

(Added to NRS by 1960, 283; A 1977, 248; 1985, 1115)

306.080 Vacancy in office created if no other candidates voted upon in special election. If any officer is recalled upon a special election and other candidates are not nominated to be voted for at the special election, the vacancy thereby created must be filled in the manner provided by law.

(Added to NRS by 1960, 283; A 1981, 23)

306.110 Nominating petitions for successors; filing, acceptance of candidacy.

1. A petition to nominate other candidates for the office must be signed by registered voters of the state, or of the county, district or municipality holding the election, equal in number to 25 percent of the number of registered voters who voted in the state, or in the county, district or municipality holding the election at the last preceding general election.

2. The nominating petition must be filed, at least 15 days before the date of the special election, with the officer with whom the recall petition is filed.

3. Each candidate who is nominated for office must file an acceptance of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 at least 15 days before the date of the special election.

(Added to NRS by 1960, 283; A 1971, 160; 1981, 24; 1991, 2227)

306.120 Conduct of special election. Any special election shall be conducted as provided in chapter 293 of NRS for primary and general elections.

(Added to NRS by 1960, 283)

306.130 Applicability of laws governing elections. The general election laws of this state, so far as applicable, shall apply to all elections held under this chapter.

(Added to NRS by 1960, 284)

