



**Republican  
National  
Committee**  
Counsel's Office

September 28, 2023

**RE: Comments Concerning Proposed Regulations LCB File Nos. R011-23, R012-23 & R014-23**

Dear Members of the Legislative Commission:

Before the Legislative Commission today are several proposed regulations related to election administration. Despite receiving multiple written comments voicing serious concerns over the proposals, the Office of the Secretary of State approved the proposed regulations with limited debate or explanation as to their necessity. Today, the Legislative Commission has the opportunity to reject these drastic and counterproductive proposals.

The Republican National Committee (RNC) writes to specifically highlight concerns over proposed regulations LCB File Nos. **R011-23**, **R012-23**, and **R014-23**. Both **R011-23** and **R012-23** seek removal of *existing* ballot safeguards, providing no adequate alternatives and no explanations as to why removal is necessary. Further, **R011-23** and **R014-23** would greatly expand election workers' discretion to remove observers from ballot counting locations based on vague and entirely subjective criteria, which will undoubtedly hamper election transparency and dissuade upstanding Nevadans from exercising their right to observe such ballot counting.

Regarding **R011-23**: Under existing election regulations, any ballot mailed to a voter with a disability pursuant to NRS 293.269951 includes a unique identification number. This identification number is an added layer of security that assists in tracking and verifying ballots sent to some of our society's most vulnerable voters. Inexplicably, Section 11 of **R011-23** would do away with this unique identification number requirement. There is simply no good reason to undo existing safeguards for mailed ballots that protect the franchise of voters with a disability.

Further, **R011-23** Section 22 seeks to amend NAC 293.322, which currently allows members of the public to observe the handling of mail ballots so long as they "do not interfere with the handling of the mail ballots." The proposed change empowers county clerks to prevent a member of the public from viewing the mail ballot process if that individual "compromise[s] the security or secrecy of the mail ballots." The RNC appreciates the need for orderly processing of ballots absent disruption, but the regulation does not identify what portions of mail ballots are properly considered "secret" and what actions would compromise their "security." The proposed

regulation lacks clear standards that would inform members of the public how to conform their conduct with the law and that would guide county clerks in the exercise of their authority. NRS 293.269931(1) makes clear “[t]he counting procedure must be public” and the proposed regulation would almost certainly empower election officials to act in ways that would infringe upon the public’s statutory right to observe the counting process. At a time when interest in our election process is so high, the state should not enact vague statutes making it easier to remove observers from counting facilities without clear guidance on what actions are prohibited.

Regarding **R012-23**: NAC 293B.040 currently requires each county and city clerk to submit to the Secretary of State “a plan to ensure the accuracy and security of voting in the county or city,” which must include the identity of “the person who is responsible for transporting the ballots, results cartridges and VVPATs from the polling place to the central counting place” and “the time allotted for travel from the polling place to the central counting place.” These requirements ensure each locality establishes a chain of custody for ballots in case any issues arise, promoting transparency and boosting the public’s trust that all ballots can be accounted for at any time on Election Day. Without explanation and without proposing alternatives, **R012-23** seeks to remove these commonsense reporting requirements on ballot chain of custody. The results of this change are as predictable as they are destructive: less transparency, more public concern, and a greater chance of lost or compromised ballots on Election Day.

Regarding **R014-23**: Section 10 of **R014-23** would empower a county or city clerk “at his or her discretion” to “[l]imit the number of persons in the recount facility who are observing the conduct of a recount pursuant to this section for reasons of public safety or to maintain order.” While efficiency and lack of disruption are crucial to election administration, **R014-23** vests substantial discretion in clerks to limit public observation of recounts without any meaningful standards to guide the exercise of this discretion. To reiterate, any proposed changes to Nevada’s election laws should be in the interest of *increasing* transparency and public engagement rather than empowering local officials to *limit* access to recount facilities based on vague and undefined “public safety” concerns. We have seen such broad grants of discretion to local officials abused in the past, both in Nevada and elsewhere, and the RNC urges the Legislative Commission to reject this proposal that will make such future abuse more likely.

Nevada stands at a critical juncture. With public concerns over election integrity and administration at an all-time high, the state can either work towards transparency and civic engagement or it can breed distrust by eliminating access and commonsense safeguards. Too many of the proposed election regulations to be considered by the Legislative Commission today would result in the latter outcome, which is why the RNC urges the rejection of any such proposed regulation, and specifically the rejection of LCB File Nos. **R011-23**, **R012-23**, and **R014-23**.

Respectfully,

/s/ Stephen J. Kenny  
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