

EMERGENCY REQUEST of Senate Majority Leader

Senate Bill No. 557—Senators Cannizzaro, Ratti, Dondero Loop, Scheible, Parks; Brooks, Cancela, Denis, D. Harris, Ohrenschall, Spearman, Washington and Woodhouse

CHAPTER.....

AN ACT relating to campaign practices; defining “personal use” of campaign contributions; prohibiting a candidate or public officer from paying himself or herself a salary with campaign contributions; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes it unlawful for a candidate to spend money received as a campaign contribution for the candidate’s personal use. Existing law also authorizes a candidate who is elected to a public office to use unspent contributions to pay expenses related to the public office. (NRS 294A.160)

Section 6 of this bill clarifies that it is unlawful for a public officer to use unspent contributions for the public officer’s personal use. **Section 3** of this bill defines “personal use” as the use of contributions to fulfill a commitment, obligation or expense of: (1) a candidate that would exist irrespective of his or her campaign; or (2) a public officer that would exist irrespective of the duties of his or her public office.

Section 6 makes it unlawful for a candidate or public officer to pay himself or herself a salary with campaign contributions.

Section 9 of this bill increases the existing civil penalty from \$5,000 to \$10,000 for each violation of the campaign finance laws.

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

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this act.

Sec. 2. “Organization” means:

- 1. Any form of business or social organization; and*
- 2. Any nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust, unincorporated organization, labor union, committee for political action, political party and committee sponsored by a political party.*

Sec. 3. “Personal use” means any use of contributions to fulfill a commitment, obligation or expense of:



1. A candidate that would exist irrespective of his or her campaign.

*2. A public officer that would exist irrespective of the duties of his or her public office,
↪ as applicable.*

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 294A.0025 to 294A.014, inclusive, *and sections 2 and 3 of this act*, have the meanings ascribed to them in those sections.

Sec. 6. NRS 294A.160 is hereby amended to read as follows:

294A.160 1. It is unlawful for ~~for~~:

(a) A candidate to spend money received as a contribution ~~for~~:

(1) For the candidate's personal use ~~for~~; or

(2) To pay himself or herself a salary.

(b) A public officer to spend unspent contributions:

(1) For the public officer's personal use; or

(2) To pay himself or herself a salary.

2. Notwithstanding the provisions of NRS 294A.286, a candidate or public officer may use contributions to pay for any legal expenses that the candidate or public officer incurs in relation to a campaign or serving in public office without establishing a legal defense fund. Any such candidate or public officer shall report any expenditure of contributions to pay for legal expenses in the same manner and at the same time as the report filed pursuant to NRS 294A.120 or 294A.200. A candidate or public officer shall not use contributions to satisfy a civil or criminal penalty imposed by law.

3. Every candidate for office at a primary election, general election or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary election, general election or special election shall dispose of the money through one or any combination of the following methods:

(a) Return the unspent money to contributors;

(b) Use the money in the candidate's next election or for the payment of other expenses related to public office or his or her campaign, regardless of whether he or she is a candidate for a different office in the candidate's next election;

(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; or



(3) Any combination of persons or groups set forth in subparagraphs (1) and (2);

(d) Donate the money to any tax-exempt nonprofit entity; or

(e) Donate the money to any governmental entity or fund of this State or a political subdivision of this State. A candidate who donates money pursuant to this paragraph may request that the money be used for a specific purpose.

4. Every candidate for office at a primary election, general election or special election who withdraws pursuant to NRS 293.202 or 293C.195 after filing a declaration of candidacy or an acceptance of candidacy, is removed from the ballot by court order or is defeated for or otherwise not elected to that office and who received contributions that were not spent or committed for expenditure before the primary election, general election or special election shall, not later than the 15th day of the second month after the election, dispose of the money through one or any combination of the following methods:

(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; or

(3) Any combination of persons or groups set forth in subparagraphs (1) and (2);

(c) Donate the money to any tax-exempt nonprofit entity; or

(d) Donate the money to any governmental entity or fund of this State or a political subdivision of this State. A candidate who donates money pursuant to this paragraph may request that the money be used for a specific purpose.

5. Every candidate for office who withdraws after filing a declaration of candidacy or an acceptance of candidacy, is defeated for that office at a primary election or is removed from the ballot by court order before a primary election or general election and who received a contribution from a person in excess of \$5,000 shall, not later than the 15th day of the second month after the primary election or general election, as applicable, return any money in excess of \$5,000 to the contributor.

6. Except for a former public officer who is subject to the provisions of subsection 10, every person who qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100 but who, within 4 years after the date of receiving the first of those qualifying contributions, does not:



(a) File a declaration of candidacy or an acceptance of candidacy; or

(b) Appear on an official ballot at any election,

↳ shall, not later than the 15th day of the month after the end of the 4-year period, dispose of all contributions that have not been spent or committed for expenditure through one or any combination of the methods set forth in subsection 4.

7. Except as otherwise provided in subsection 8, every public officer who:

(a) Does not run for reelection to the office which he or she holds;

(b) Is not a candidate for any other office and does not qualify as a candidate by receiving one or more qualifying contributions in excess of \$100; 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 the public officer's term of office, dispose of those contributions in the manner provided in subsection 4.

8. Every public officer who:

(a) Resigns from his or her office;

(b) Is not a candidate for any other office and does not qualify as a candidate by receiving one or more qualifying contributions in excess of \$100; 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 effective date of the resignation, dispose of those contributions in the manner provided in subsection 4.

9. Except as otherwise provided in subsection 10, every public officer who:

(a) Does not run for reelection to the office which he or she holds or who resigns from his or her office;

(b) Is a candidate for any other office or qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100; and

(c) Has contributions that are not spent or committed for expenditure remaining from a previous election,

↳ may use the unspent contributions in a future election. Such a public officer is subject to the reporting requirements set forth in NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.362 for as long as the public officer is a candidate for any office or qualifies



as a candidate by receiving one or more qualifying contributions in excess of \$100.

10. Every former public officer described in subsection 9 who qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100 but who, within 4 years after the date of receiving the first of those qualifying contributions, does not:

(a) File a declaration of candidacy or an acceptance of candidacy; or

(b) Appear on an official ballot at any election,

↳ shall, not later than the 15th day of the month after the end of the 4-year period, dispose of all contributions that have not been spent or committed for expenditure through one or any combination of the methods set forth in subsection 4.

11. In addition to the methods for disposing of the unspent money set forth in this section, a Legislator may donate not more than \$500 of that money to the Nevada Silver Haired Legislative Forum created pursuant to NRS 427A.320.

12. Any contributions received before a candidate for office at a primary election, general election or special election dies that were not spent or committed for expenditure before the death of the candidate must be disposed of in the manner provided in subsection 4.

13. The court shall, in addition to any penalty which may be imposed pursuant to NRS 294A.420, order the candidate or public officer to dispose of any remaining contributions in the manner provided in this section.

14. As used in this section:

(a) "Contribution" includes, without limitation, any interest and other income earned on a contribution.

(b) "Qualifying contribution" means the receipt of a contribution that causes a person to qualify as a candidate pursuant to subsection 4 of NRS 294A.005.

Sec. 7. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. Any report required pursuant to this chapter must be completed on the form designed and made available by the Secretary of State pursuant to this section.

2. The Secretary of State shall design forms to be used for all reports that are required to be filed pursuant to this chapter.

3. The forms designed by the Secretary of State pursuant to this section must only request information specifically required by statute.



4. The Secretary of State shall make available to each candidate, person, *organization*, committee or political party that is required to file a report pursuant to this chapter:

(a) If the candidate, person, committee or political party has submitted an affidavit to the Secretary of State pursuant to NRS 294A.3733 or 294A.3737, as applicable, a copy of the form; or

(b) If the candidate, person, *organization*, committee or political party is required to submit the report electronically to the Secretary of State, access through a secure website to the form.

5. A report filed pursuant to this chapter must be signed under an oath to God or penalty of perjury. If the candidate, person, *organization*, committee or political party is required to submit electronically a report described in subsection 1, the form must be signed electronically under an oath to God or penalty of perjury. A person who signs the report or form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.

Sec. 8. NRS 294A.400 is hereby amended to read as follows:

294A.400 Based on the reports received pursuant to this chapter, the Secretary of State shall, not later than February 15 of each odd-numbered year, prepare and make available for public inspection a compilation of:

1. The following totals for each candidate from whom reports of contributions and campaign expenses are required pursuant to this chapter:

- (a) The total amount of monetary contributions to the candidate;
- (b) The total amount of goods and services provided to the candidate in kind for which money would otherwise have been paid;
- (c) The total amount of loans guaranteed by a third party and forgiveness of any loans previously made to the candidate;
- (d) The total amount committed to the candidate via written commitments for contributions; and
- (e) The total amount of campaign expenses.

2. The following totals for each person, *organization*, committee, political party or nonprofit corporation from which reports of contributions and campaign expenses are required pursuant to this chapter:

- (a) The total amount of monetary contributions to the person, *organization*, committee, political party or nonprofit corporation;
- (b) The total amount of goods and services provided to the person, *organization*, committee, political party or nonprofit corporation in kind for which money would otherwise have been paid; and



(c) The total amount of independent expenditures or other expenditures, as applicable, made by the person, **organization**, committee, political party or nonprofit corporation.

3. The following totals for each committee for political action for which reports of contributions and expenditures are required pursuant to this chapter:

(a) The total amount of monetary contributions to the committee for political action;

(b) The total amount of goods and services provided to the committee for political action in kind for which money would otherwise have been paid; and

(c) The total amount of expenditures made by the committee for political action.

4. The contributions made to and expenditures from a committee for the recall of a public officer in excess of \$100.

5. The total contributions received by and expenditures made from a legal defense fund.

Sec. 9. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a candidate, person, **organization**, committee, political party or nonprofit corporation that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.250, 294A.270, 294A.280 or 294A.286 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that candidate, person, **organization**, committee, political party or nonprofit corporation, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a candidate, person, **organization**, committee, political party or nonprofit corporation that violates an applicable provision of this chapter is subject to a civil penalty of not more than ~~[\$5,000]~~ **\$10,000** for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a candidate, person, **organization**, committee, political party or nonprofit corporation has reported its contributions, campaign expenses, independent expenditures or other expenditures after the date the report is due,



except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↳ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his or her office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section.

5. When considering whether to waive, pursuant to subsection 4, a civil penalty that would otherwise be imposed pursuant to subsection 3, the Secretary of State may consider, without limitation:

(a) The seriousness of the violation, including, without limitation, the nature, circumstances and extent of the violation;

(b) Any history of violations committed by the candidate, person, **organization**, committee, political party or nonprofit corporation against whom the civil penalty would otherwise be imposed;

(c) Any mitigating factor, including, without limitation, whether the candidate, person, **organization**, committee, political party or nonprofit corporation against whom the civil penalty would otherwise be imposed reported the violation, corrected the violation in a timely manner, attempted to correct the violation or cooperated with the Secretary of State in resolving the situation that led to the violation;

(d) Whether the violation was inadvertent;

(e) Any knowledge or experience the candidate, person, **organization**, committee, political party or nonprofit corporation has with the provisions of this chapter; and

(f) Any other factor that the Secretary of State deems to be relevant.

6. If the Secretary of State waives a civil penalty pursuant to subsection 4, the Secretary of State shall:



(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

7. The remedies and penalties provided by this chapter are cumulative, do not abrogate and are in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to this chapter or NRS 199.120, 199.145 or 239.330.

Sec. 10. (Deleted by amendment.)

Sec. 11. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after June 3, 2019.

Sec. 12. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

