

Amendment No. 384

Senate Amendment to Senate Bill No. 210

(BDR 24-582)

Proposed by: Senate Committee on Legislative Operations and Elections**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

EGO/BJE



Date: 4/20/2009

S.B. No. 210—Makes various changes to the provisions governing the disposition and reporting of campaign contributions. (BDR 24-582)



SENATE BILL NO. 210—SENATOR LEE

MARCH 13, 2009

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes to the provisions governing the disposition and reporting of campaign contributions. (BDR 24-582)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to campaign finance; requiring certain persons to submit proof of how they disposed of unspent campaign contributions; requiring candidates to report the annual balance of their campaign accounts; revising the ~~available options for~~ **provisions governing the disposition of unspent campaign contributions; requiring candidates who do not appear on an election ballot within a certain period to dispose of their unspent campaign contributions;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the disposition of and reporting on the disposition of unspent campaign contributions. (NRS 294A.160, 294A.200, 294A.420) **Section 1** of this bill requires a person who disposes of unspent campaign contributions to submit a separate report that includes proof, as prescribed by the Secretary of State, that the recipients of unspent campaign contributions actually received the money. Pursuant to **section 4** of this bill, a person who fails to file the report required by **section 1** is subject to certain civil penalties.

Section 2 of this bill requires all candidates to indicate on their annual contribution and expenditure reports the balance remaining in their campaign accounts as of the end of the calendar year or the date the account was closed. (NRS 294A.120)

Section 3 of this bill revises the provisions governing the disposition of unspent campaign contributions to: (1) require persons who become candidates **for an office but do not appear on an election ballot within a certain period, who withdraw their candidacy before the election or are not otherwise candidates for that office at the election or who are defeated at the election** to dispose of their unspent campaign contributions **within the specified period, regardless of whether they become candidates after that election; and** (2) authorize the disposition of unspent campaign contributions by donation to the State Distributive School Account or to a county school district fund, **and (3) limit the amount of unspent campaign contributions of an unsuccessful candidate or a former public officer that may be donated to persons or groups advocating the passage or defeat of ballot questions.** (NRS 294A.160)

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 a new section to read as follows:

1. A person who disposes of unspent campaign contributions pursuant to NRS 294A.160 shall file a report which includes proof that the recipients of the unspent campaign contributions have actually received the money.

2. The proof required pursuant to subsection 1 ~~must~~ may include, without limitation, a cancelled check, receipt or other proof of payment, as prescribed by the Secretary of State.

3. The report must be completed on a form designed and provided by the Secretary of State. The form must be signed by the person under penalty of perjury.

4. The report must be filed:

(a) With the officer with whom the person filed his declaration of candidacy or acceptance of candidacy. A person may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(1) On the date it was mailed, if it was sent by certified mail; or

(2) On the date it was received by the officer, if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

(b) Not later than 60 days after the date that the person is required to dispose of his unspent campaign contributions pursuant to NRS 294A.160.

5. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

6. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

Sec. 2. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 he received during the period and contributions received during the period from a contributor which cumulatively exceed \$100 ~~+~~, *and the balance in his account for the deposit of campaign contributions as of December 31 or the date the account was closed.* The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

1 (c) July 15 of the year of the general election for that office, for the period
2 from 11 days before the general election through June 30 of that year,

3 ↪ report each campaign contribution in excess of \$100 he receives during the
4 period and contributions received during the period from a contributor which
5 cumulatively exceed \$100. The report must be completed on the form designed and
6 provided by the Secretary of State pursuant to NRS 294A.373. Each form must be
7 signed by the candidate under penalty of perjury.

8 3. Every candidate for state, district, county or township office at a primary or
9 general election shall, if the general election for the office for which he is a
10 candidate is held on or after July 1 and before the January 1 immediately following
11 that July 1, not later than:

12 (a) Seven days before the primary election for that office, for the period from
13 the January 1 immediately preceding the primary election through 12 days before
14 the primary election; and

15 (b) Seven days before the general election for that office, for the period from
16 11 days before the primary election through 12 days before the general election,
17 ↪ report each campaign contribution in excess of \$100 he received during the
18 period and contributions received during the period from a contributor which
19 cumulatively exceed \$100. The report must be completed on the form designed and
20 provided by the Secretary of State pursuant to NRS 294A.373. Each form must be
21 signed by the candidate under penalty of perjury.

22 4. Except as otherwise provided in subsection 5, every candidate for a district
23 office at a special election shall, not later than:

24 (a) Seven days before the special election, for the period from his nomination
25 through 12 days before the special election; and

26 (b) Thirty days after the special election, for the remaining period through the
27 special election,

28 ↪ report each campaign contribution in excess of \$100 he received during the
29 period and contributions received during the reporting period from a contributor
30 which cumulatively exceed \$100. The report must be completed on the form
31 designed and provided by the Secretary of State pursuant to NRS 294A.373. Each
32 form must be signed by the candidate under penalty of perjury.

33 5. Every candidate for state, district, county, municipal or township office at a
34 special election to determine whether a public officer will be recalled shall list each
35 of the campaign contributions that he receives on the form designed and provided
36 by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate
37 under penalty of perjury, 30 days after:

38 (a) The special election, for the period from the filing of the notice of intent to
39 circulate the petition for recall through the special election; or

40 (b) A district court determines that the petition for recall is legally insufficient
41 pursuant to subsection 6 of NRS 306.040, for the period from the filing of the
42 notice of intent to circulate the petition for recall through the date of the district
43 court's decision.

44 6. Reports of campaign contributions must be filed with the officer with
45 whom the candidate filed the declaration of candidacy or acceptance of candidacy.
46 A candidate may mail or transmit the report to that officer by regular mail, certified
47 mail, facsimile machine or electronic means. A report shall be deemed to be filed
48 with the officer:

49 (a) On the date that it was mailed if it was sent by certified mail; or

50 (b) On the date that it was received by the officer if the report was sent by
51 regular mail, transmitted by facsimile machine or electronic means, or delivered
52 personally.

7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after he receives the report.

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 3. NRS 294A.160 is hereby amended to read as follows:

294A.160 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, primary city, general city or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city 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, regardless of whether he is a candidate for a different office in his 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;

(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) *Donate the money to the State Distributive School Account in the State General Fund or to any county school district fund; or*

(f) Dispose of the money in any combination of the methods provided in paragraphs (a) to ~~(d);~~ (e), inclusive.

3. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who withdraws his candidacy before the election or is not otherwise a candidate for that office at the election or who is not elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall, not later than the 15th day of the second month after ~~this defeat;~~ the date of the election for which he withdrew his candidacy or was not otherwise a candidate for the office or at which he was defeated, regardless of whether he becomes a candidate after that election:

(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; ~~except that the contribution to any one such person or group must not exceed \$10,000;~~ 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) *Donate the money to the State Distributive School Account in the State General Fund or to any county school district fund; or*

(e) Dispose of the money in any combination of the methods provided in paragraphs (a) ~~1, (b) and (c)~~ to (d), inclusive.

4. Every candidate for a state, district, county, city or township office who is defeated at a primary or primary city election and received a contribution from a person in excess of \$5,000 shall, not later than the 15th day of the second month after his defeat, return any money in excess of \$5,000 to the contributor.

5. ~~A person who qualifies as a candidate in accordance with the definition set forth in subsection 4 of NRS 294A.005 by receiving campaign contributions in excess of \$100 but who, within 4 years after the qualifying event, does not:~~

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

~~(b) Appear on a ballot as a candidate for office;~~

~~shall, not later than the 15th day of the month after the end of the 4-year period, dispose of any unspent contributions in the manner provided in subsection 3.~~

~~6.~~ 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.

~~6.~~ ~~7.~~ In addition to the methods for disposing the unspent money set forth in subsections ~~2, 3 and 4, to 5, inclusive,~~ a Legislator may donate not more than \$500 of that money to the Nevada Silver Haired Legislative Forum created pursuant to NRS 427A.320.

~~7.~~ ~~8.~~ Any contributions received before a candidate for a state, district, county, city or township office at a primary, general, primary city, general city 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 3.

~~8.~~ ~~9.~~ 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.

~~9.~~ ~~10.~~ As used in this section, "contributions" include any interest and other income earned thereon.

Sec. 4. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity 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.270, 294A.280, 294A.283, 294A.286, 294A.360 or 294A.377 *or section 1 of this act* 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 person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.283, 294A.286, 294A.300, 294A.310, 294A.360 or 294A.377 *or section 1 of this act* is subject to a civil penalty of not more than \$5,000 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

1 Nevada by the Secretary of State in the First Judicial District Court and deposited
2 by the Secretary of State for credit to the State General Fund in the bank designated
3 by the State Treasurer.

4 3. If a civil penalty is imposed because a person or entity has reported its
5 contributions, expenses or expenditures after the date the report is due, except as
6 otherwise provided in this subsection, the amount of the civil penalty is:

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

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

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

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

15 4. For good cause shown, the Secretary of State may waive a civil penalty that
16 would otherwise be imposed pursuant to this section. If the Secretary of State
17 waives a civil penalty pursuant to this subsection, the Secretary of State shall:

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

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

22 **Sec. 5. A person who:**

23 1. Was a candidate pursuant to this subsection against a public officer who
24 a primary, general, primary city, general city or special election held before
25 October 1, 2009;

26 2. Withdrew his candidacy or was not otherwise a candidate for that
27 office at that election or was not elected to that office; and

28 3. Received contributions that were not spent or committed for
29 expenditure before that election,

30 ➤ shall, on or before December 1, 2009, dispose of those unspent campaign
31 contributions in the manner set forth in subsection 3 of NRS 294A.160, as
32 amended by section 3 of this act, regardless of whether he became a candidate
33 after that election.