

SENATE BILL NO. 403—SENATOR FARLEY

MARCH 17, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to elections.
(BDR 24-799)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 elections; requiring a candidate who violates certain residency requirements for elected public office to reimburse persons who made certain campaign contributions to the candidate; requiring certain campaign contribution reports; revising provisions governing the filing of a declaration or acceptance of candidacy; enacting provisions relating to an ineligible candidate for office as a Legislator; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may not be a candidate for any elected public office unless, for the 30-day period immediately preceding the date of the close of the filing period for that office, the person has actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law for that office. Existing law provides that a person who knowingly and willfully files an acceptance of candidacy or declaration of candidacy which contains a false statement regarding the person's compliance with the 30-day residency requirement is guilty of a gross misdemeanor. (NRS 293.1755, 293C.200)

Existing law also regulates campaign finance practices, including campaign contributions. (Chapter 294A of NRS) Candidates must comply with certain reporting requirements for campaign contributions and must dispose of unspent or excess campaign contributions after an election. (NRS 294A.120, 294A.125, 294A.128, 294A.160, 294A.200) Candidates may use campaign contributions only for certain authorized purposes such as paying for campaign expenses and certain legal expenses. (NRS 294A.160, 294A.286) The Secretary of State may investigate, bring civil actions and impose civil penalties for violations of the campaign finance laws. (NRS 294A.410, 294A.420)



* S B 4 0 3 R 1 *

Sections 3 and 12 of this bill provide that in addition to any other remedies or penalties, a candidate who violates the 30-day residency requirement prescribed by law must comply with the campaign contribution reimbursement requirements set forth in **section 13** of this bill. **Section 13** provides that if a district court finds that a candidate has violated the 30-day residency requirement, the district court must order the candidate, within a prescribed period, to reimburse certain campaign contributors in an amount equivalent to the amount of the monetary contributions received for that campaign, or any proportion thereof as determined by the district court, whether or not the contributions were spent on any authorized campaign expenses or legal expenses. For any monetary contributions which, singly or cumulatively, exceeded \$100, the candidate must: (1) reimburse the contributor in an equivalent amount of money in the amount or proportion ordered by the district court; or (2) if the contributor declines to be reimbursed or cannot be located, donate an equivalent amount of money in the amount or proportion ordered by the district court to any tax-exempt nonprofit entity. For any monetary contribution which did not exceed \$100, the candidate must donate an equivalent amount of money in the amount or proportion ordered by the district court to any tax-exempt nonprofit entity.

If the candidate is unable to comply with the requirements within the prescribed period, **section 13** authorizes the Secretary of State to extend the period or approve a payment plan. **Section 13** also requires the candidate to submit to the Secretary of State reports of each reimbursement or donation, and **section 16** of this bill authorizes the Secretary of State to impose certain civil penalties if the candidate fails to report within the required period. **Section 13** also prohibits the candidate from disposing of any unspent or excess monetary contributions after the election until it has been determined whether the candidate must reimburse or donate any monetary contributions pursuant to **section 13**. Finally, to make candidates aware of the potential liability under **section 13**, the Secretary of State must include a description of the section in any guides, handbooks or other informational materials prepared for the candidates and on the Internet website of the Secretary of State.

Existing law requires a candidate to file a declaration or acceptance of candidacy before his or her name may appear on a ballot, and existing law specifies the forms for a declaration or acceptance of candidacy. (NRS 293.177, 293C.185) **Sections 4 and 11** of this bill provide that the forms for a declaration or acceptance of candidacy must include a statement in which the candidate acknowledges that a violation of the 30-day residency requirement subjects the candidate to a civil action disqualifying the candidate from entering upon the duties of the office and making the candidate liable under **section 13**.

Existing law requires a candidate for office as a Legislator to meet certain qualifications for the office and, if elected, such a candidate is entitled to receive a certificate of election and must take and subscribe to the official oath before taking office. (NRS 218A.200, 218A.210, 218A.220) **Sections 1, 2, 5-10 and 17-23** of this bill revise the legal rules, standards and procedures that apply to a candidate who is or becomes an ineligible candidate for the office of Legislator during an election.

Section 17 defines the term "ineligible candidate" to mean a candidate for office as a Legislator who fails to meet any qualification required for the office or who is found by a court to be disqualified from entering upon the duties of the office. If, after the date a candidate files a declaration or acceptance of candidacy and on or before the date of the general election, the candidate is or becomes such an ineligible candidate, **sections 1, 2, 5-10 and 17-23** provide that the ineligible candidate: (1) is not eligible to be seated as a Legislator; (2) must not be issued a certificate of election regardless of the number of votes cast for the ineligible candidate; (3) shall not take and subscribe to the official oath as a Legislator; and



(4) may not demand or receive a recount of the vote at the election or contest the results of the election.

Lastly, before the Assembly meets for each regular session, existing law requires the Secretary of State to make out a roll from the election returns of the persons who received the highest number of votes to be elected as members of the Assembly, and the members whose names appear upon the roll must be allowed to participate in the organization of the Assembly. (NRS 218A.400) **Section 22** provides that the Secretary of State shall not include an ineligible candidate upon the roll of the persons elected as members of the Assembly and the name of the ineligible candidate must not appear upon the roll regardless of the number of votes cast for the ineligible candidate.

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

Section 1. NRS 293.034 is hereby amended to read as follows:

293.034 "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 ~~§~~, *except that if the name of an ineligible candidate, as defined in section 17 of this act, could not be removed from the ballot pursuant to this chapter, such a certificate must not be prepared for the ineligible candidate regardless of the number of votes cast for the ineligible candidate.*

Sec. 2. NRS 293.042 is hereby amended to read as follows:

293.042 "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 ~~§~~, *except that an ineligible candidate, as defined in section 17 of this act, may not contest the election for the office for which he or she is an ineligible candidate.*

Sec. 3. NRS 293.1755 is hereby amended to read as follows:

293.1755 1. In addition to any other requirement provided by law, no person may be a candidate for any office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations of candidacy or acceptances of candidacy for the office which the person seeks, the person has, in accordance with NRS 281.050, actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or will represent.



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

3. In addition to any other remedy or penalty provided by law, if a district court finds that a person who is a candidate for any office violated subsection 1, the person is subject to the requirements of section 13 of this act.

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

Sec. 4. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in March.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; *that I understand that if I violate the foregoing residency requirements, it*



subjects me to a civil action disqualifying me from entering upon the duties of this office and making me liable upon order of the court pursuant to section 13 of this act to reimburse each person who made a monetary contribution to my campaign in an amount determined by the court, whether or not I already used the monetary contribution for campaign expenses or legal expenses pursuant to chapter 294A of NRS; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 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, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; 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 the month of of the year

.....
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

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 under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; *that I understand that if I violate the foregoing residency requirements, it subjects me to a civil action disqualifying me from entering upon the duties of this office and making me liable upon order of the court pursuant to section 13 of this act to reimburse each person who made a monetary contribution to my campaign in an amount determined by the court, whether or not I already used the monetary contribution for campaign expenses or legal expenses pursuant to chapter 294A of NRS*; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; 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; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; 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 the month of of the year

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

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by



1 registered or certified mail, one of the copies to the candidate at the
2 specified address, unless the candidate has designated in writing to
3 the filing officer a different address for that purpose, in which case
4 the filing officer shall mail the copy to the last address so
5 designated.

6 6. If the filing officer receives credible evidence indicating that
7 a candidate has been convicted of a felony and has not had his or her
8 civil rights restored by a court of competent jurisdiction, the filing
9 officer:

10 (a) May conduct an investigation to determine whether the
11 candidate has been convicted of a felony and, if so, whether the
12 candidate has had his or her civil rights restored by a court of
13 competent jurisdiction; and

14 (b) Shall transmit the credible evidence and the findings from
15 such investigation to the Attorney General, if the filing officer is the
16 Secretary of State, or to the district attorney, if the filing officer is a
17 person other than the Secretary of State.

18 7. The receipt of information by the Attorney General or
19 district attorney pursuant to subsection 6 must be treated as a
20 challenge of a candidate pursuant to subsections 4 and 5 of NRS
21 293.182. If the ballots are printed before a court of competent
22 jurisdiction makes a determination that a candidate has been
23 convicted of a felony and has not had his or her civil rights restored
24 by a court of competent jurisdiction, the filing officer must post a
25 notice at each polling place where the candidate's name will appear
26 on the ballot informing the voters that the candidate is disqualified
27 from entering upon the duties of the office for which the candidate
28 filed the declaration of candidacy or acceptance of candidacy.

29 **Sec. 5.** NRS 293.395 is hereby amended to read as follows:

30 293.395 1. The board of county commissioners, after making
31 the abstract of votes as provided in NRS 293.393, shall cause the
32 county clerk to certify the abstract and, by an order made and
33 entered in the minutes of its proceedings, to make:

34 (a) A copy of the certified abstract; and

35 (b) A mechanized report of that abstract in compliance with
36 regulations adopted by the Secretary of State,

37 and forthwith transmit them to the Secretary of State.

38 2. On the fourth Tuesday of November after each general
39 election, the justices of the Supreme Court, or a majority thereof,
40 shall meet with the Secretary of State, and shall open and canvass
41 the vote for the number of presidential electors to which this State
42 may be entitled, United States Senator, Representative in Congress,
43 members of the Legislature, state officers who are elected statewide
44 or by district, district judges, or district officers whose districts



1 include area in more than one county and for and against any
2 question submitted.

3 3. ~~[The]~~ *Except as otherwise provided in NRS 218A.200,*
4 *218A.210 and 218A.220 and section 17 of this act, the* Governor
5 shall issue certificates of election to and commission the persons
6 having the highest number of votes and shall issue proclamations
7 declaring the election of those persons.

8 **Sec. 6.** NRS 293.397 is hereby amended to read as follows:

9 293.397 ~~[A]~~ *Except as otherwise provided in NRS 218A.200,*
10 *218A.210 and 218A.220 and section 17 of this act, a* certificate of
11 election or commission must not be withheld from the person
12 having the highest number of votes for the office because of any
13 contest of election filed in the election or any defect or informality
14 in the returns of any election, if it can be ascertained with reasonable
15 certainty from the returns what office is intended and who is entitled
16 to the certificate or commission.

17 **Sec. 7.** NRS 293.400 is hereby amended to read as follows:

18 293.400 1. If, after the completion of the canvass of the
19 returns of any election, two or more persons *who are not ineligible*
20 *candidates as defined in section 17 of this act* receive an equal
21 number of votes, which is sufficient for the election of one or more
22 but fewer than all of them to the office, the person or persons
23 elected must be determined as follows:

24 (a) In a general election for a United States Senator,
25 Representative in Congress, state officer who is elected statewide or
26 by district, district judge, or district officer whose district includes
27 area in more than one county, the Legislature shall, by joint vote of
28 both houses, elect one of those persons to fill the office.

29 (b) In a primary election for a United States Senator,
30 Representative in Congress, state officer who is elected statewide or
31 by district, district judge, or district officer whose district includes
32 area in more than one county, the Secretary of State shall summon
33 the candidates who have received the tie votes to appear before the
34 Secretary of State at a time and place designated by the Secretary of
35 State and the Secretary of State shall determine the tie by lot. If the
36 tie vote is for the office of Secretary of State, the Governor shall
37 perform these duties.

38 (c) For any office of a county, township, incorporated city, city
39 organized under a special charter where the charter is silent as to
40 determination of a tie vote, or district which is wholly located within
41 one county, the county clerk shall summon the candidates who have
42 received the tie votes to appear before the county clerk at a time and
43 place designated by the county clerk and determine the tie by lot. If
44 the tie vote is for the office of county clerk, the board of county
45 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 the candidate's 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 ~~H~~, *except for an ineligible candidate as defined in section 17 of this act.*

Sec. 8. NRS 293.403 is hereby amended to read as follows:

293.403 1. ~~HA~~ *Except for an ineligible candidate as defined in section 17 of this act,* a candidate defeated at any election may demand and receive a recount of the vote for the office for which he or she is a candidate to determine the number of votes received for the candidate and the number of votes received for the person who won the election 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 the candidate who demands the recount:

(a) Files in writing a demand with the officer with whom the candidate filed his or her declaration of candidacy or acceptance of candidacy; and

(b) 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, the voter:

(a) Files in writing a 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) Deposits in advance the estimated costs of the recount with the person to whom the demand was made.

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.

Sec. 9. NRS 293.407 is hereby amended to read as follows:

293.407 1. ~~[A]~~ *Except for an ineligible candidate as defined in section 17 of this act, 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, Assemblywoman, State Senator, justice of the Supreme Court or judge of the Court of Appeals, 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 the contestant 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.

Sec. 10. NRS 293.427 is hereby amended to read as follows:

293.427 1. The Secretary of State shall deliver the statement of contest filed pursuant to NRS 293.425 and all other documents, including any amendments to the statement, to the presiding officer of the appropriate house of the Legislature on the day of the organization of the Legislature.

2. Until the contest has been decided, the candidate who received the highest number of votes for the office in the contested election must be seated as a member of the appropriate house ~~H~~, *except that if the name of an ineligible candidate, as defined in*



section 17 of this act, could not be removed from the ballot pursuant to this chapter, the ineligible candidate must not be seated as a member of the appropriate house regardless of the number of votes cast for the ineligible candidate.

3. If, before the contest has been decided, a contestant gives written notice to the Secretary of State that the contestant wishes to withdraw his or her statement of contest, the Secretary of State shall dismiss the contest.

4. 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. If after hearing the contest, the house decides to declare the contestant elected, the Governor shall execute a certificate of election and deliver it to the contestant. The certificate of election issued to the other candidate is thereafter void.

5. In a contest of a general election for the office of Assemblyman, Assemblywoman or Senator, the house in which a contest was tried or was to be tried shall determine the remedy, if any, to be awarded to a party to such a contest. The remedy may include, without limitation, any costs incurred by a party in connection with the contest.

Sec. 11. NRS 293C.185 is hereby amended to read as follows:
293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

City 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 under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area



prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; *that I understand that if I violate the foregoing residency requirements, it subjects me to a civil action disqualifying me from entering upon the duties of this office and making me liable upon order of the court pursuant to section 13 of this act to reimburse each person who made a monetary contribution to my campaign in an amount determined by the court, whether or not I already used the monetary contribution for campaign expenses or legal expenses pursuant to chapter 294A of NRS*; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a 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; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; 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 the month of of the year

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

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate



1 actually, as opposed to constructively, resides in accordance with
2 NRS 281.050, if one has been assigned. The declaration or
3 acceptance of candidacy must not be accepted for filing if:

4 (a) The candidate's address is listed as a post office box unless a
5 street address has not been assigned to the residence; or

6 (b) The candidate does not present to the filing officer:

7 (1) A valid driver's license or identification card issued by a
8 governmental agency that contains a photograph of the candidate
9 and the candidate's residential address; or

10 (2) A current utility bill, bank statement, paycheck, or
11 document issued by a governmental entity, including a check which
12 indicates the candidate's name and residential address, but not
13 including a voter registration card issued pursuant to NRS 293.517.

14 4. The filing officer shall retain a copy of the proof of identity
15 and residency provided by the candidate pursuant to paragraph (b)
16 of subsection 3. Such a copy:

17 (a) May not be withheld from the public; and

18 (b) Must not contain the social security number or driver's
19 license or identification card number of the candidate.

20 5. By filing the declaration or acceptance of candidacy, the
21 candidate shall be deemed to have appointed the city clerk as his or
22 her agent for service of process for the purposes of a proceeding
23 pursuant to NRS 293C.186. Service of such process must first be
24 attempted at the appropriate address as specified by the candidate in
25 the declaration or acceptance of candidacy. If the candidate cannot
26 be served at that address, service must be made by personally
27 delivering to and leaving with the city clerk duplicate copies of the
28 process. The city clerk shall immediately send, by registered or
29 certified mail, one of the copies to the candidate at the specified
30 address, unless the candidate has designated in writing to the city
31 clerk a different address for that purpose, in which case the city
32 clerk shall mail the copy to the last address so designated.

33 6. If the city clerk receives credible evidence indicating that a
34 candidate has been convicted of a felony and has not had his or her
35 civil rights restored by a court of competent jurisdiction, the city
36 clerk:

37 (a) May conduct an investigation to determine whether the
38 candidate has been convicted of a felony and, if so, whether the
39 candidate has had his or her civil rights restored by a court of
40 competent jurisdiction; and

41 (b) Shall transmit the credible evidence and the findings from
42 such investigation to the city attorney.

43 7. The receipt of information by the city attorney pursuant to
44 subsection 6 must be treated as a challenge of a candidate pursuant
45 to subsections 4 and 5 of NRS 293C.186. If the ballots are printed



before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 12. NRS 293C.200 is hereby amended to read as follows:

293C.200 1. In addition to any other requirement provided by law, no person may be a candidate for a city office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations or acceptances of candidacy for the office that the person seeks, the person has in accordance with NRS 281.050, actually, as opposed to constructively, resided in the city or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or which he or she will represent.

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

3. In addition to any other remedy or penalty provided by law, if a district court finds that a person who is a candidate for any office violated subsection 1, the person is subject to the requirements of section 13 of this act.

Sec. 13. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other remedy or penalty provided by law, but except as otherwise provided in this section, if a district court finds that a person who is a candidate for any office violated subsection 1 of NRS 293.1755 or subsection 1 of NRS 293C.200, the district court shall order the candidate, in the manner and within the period prescribed by this section, to reimburse each person who made a monetary contribution to the candidate in an amount equal to the monetary contribution or any proportion thereof as determined by the district court, whether or not the candidate used the monetary contribution for campaign expenses or legal expenses pursuant to this chapter.

2. Except as otherwise provided in subsection 3, the candidate shall reimburse each person in the amount or proportion ordered by the district court for each monetary contribution in excess of \$100 and any other monetary contributions which cumulatively exceeded \$100 from the same person.

3. If a person who made a monetary contribution declines to be reimbursed pursuant to this section or cannot be located at the



1 address listed on the report submitted to the Secretary of State
2 pursuant to NRS 294A.120 or a different address after a
3 reasonable search, the candidate shall donate an equivalent
4 amount of money in the amount or proportion ordered by the
5 district court to any tax-exempt nonprofit entity.

6 4. If the candidate received any contributions in the amount
7 of \$100 or less, the candidate shall donate an equivalent amount
8 of money in the amount or proportion ordered by the district court
9 to any tax-exempt nonprofit entity.

10 5. Except as otherwise provided in subsection 6, not later
11 than the 15th day of the second month after the date that written
12 notice of entry of the district court's order is served or, if an
13 appeal is taken, after the date that the appeal is resolved by a final
14 order, the candidate shall make all the reimbursements and
15 donations required by this section.

16 6. If, by the date prescribed by subsection 5, the candidate is
17 unable to make all the reimbursements and donations required by
18 this section, the Secretary of State may, upon a request filed by the
19 candidate before that date:

20 (a) Extend the period for making all the reimbursements and
21 donations required by this section; or

22 (b) Approve an installment plan proposed by the candidate to
23 make, in installments, all the reimbursements and donations
24 required by this section.

25 7. If the Secretary of State approves an installment plan
26 pursuant to this section, the Secretary of State shall:

27 (a) Create a record which describes the circumstances that
28 require the installment plan, sets forth the terms of the installment
29 plan and establishes the dates on which any reports regarding the
30 reimbursements and donations required by this section are due;
31 and

32 (b) Ensure that the record is available for review by the
33 general public.

34 8. In addition to the reporting requirements set forth in NRS
35 294A.120, 294A.125, 294A.128, 294A.200 and 294A.286, the
36 candidate shall submit to the Secretary of State a report listing all
37 reimbursements and donations made pursuant to this section not
38 later than the dates established by the Secretary of State by
39 regulation.

40 9. Except as otherwise provided in NRS 294A.3733, any
41 report required pursuant to this section must be filed electronically
42 with the Secretary of State. The report shall be deemed to be filed
43 on the date that it was received by the Secretary of State.



1 **10. The candidate shall not use any contributions received as**
2 **a candidate for another election to comply with the provisions of**
3 **this section.**

4 **11. The candidate shall not dispose of any unspent or excess**
5 **contributions pursuant to NRS 294A.160 until after the date**
6 **prescribed by subsection 5. If, after that date, the candidate has**
7 **any unspent or excess contributions, the candidate shall dispose of**
8 **the unspent or excess contributions pursuant to NRS 294A.160 but**
9 **only to the extent that such unspent or excess contributions are**
10 **not necessary to comply with the provisions of this section.**

11 **12. The provisions of this section do not apply to a legal**
12 **defense fund established pursuant to NRS 294A.286.**

13 **13. The Secretary of State shall include a description of the**
14 **provisions of this section:**

15 **(a) In any guides, handbooks or other informational materials**
16 **prepared for candidates; and**

17 **(b) On the Internet website of the Secretary of State.**

18 **Sec. 14.** NRS 294A.160 is hereby amended to read as follows:

19 294A.160 1. It is unlawful for a candidate to spend money
20 received as a contribution for the candidate's personal use.

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

31 3. ~~Every~~ **Except as otherwise provided in section 13 of this**
32 **act, every** candidate for office at a primary election, general election
33 or special election who is elected to that office and received
34 contributions that were not spent or committed for expenditure
35 before the primary election, general election or special election shall
36 dispose of the money through one or any combination of the
37 following methods:

38 (a) Return the unspent money to contributors;

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

43 (c) Contribute the money to:

44 (1) The campaigns of other candidates for public office or for
45 the payment of debts related to their campaigns;



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

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

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

9 4. ~~{Every}~~ *Except as otherwise provided in section 13 of this*
10 *act, every* candidate for office at a primary election, general election
11 or special election who withdraws pursuant to NRS 293.202 or
12 293C.195 after filing a declaration of candidacy or an acceptance of
13 candidacy, is removed from the ballot by court order or is defeated
14 for or otherwise not elected to that office and who received
15 contributions that were not spent or committed for expenditure
16 before the primary election, general election or special election
17 shall, not later than the 15th day of the second month after the
18 election, dispose of the money through one or any combination of
19 the following methods:

20 (a) Return the unspent money to contributors;

21 (b) Contribute the money to:

22 (1) The campaigns of other candidates for public office or for
23 the payment of debts related to their campaigns;

24 (2) A political party; or

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

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

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

32 5. ~~{Every}~~ *Except as otherwise provided in section 13 of this*
33 *act, every* candidate for office who withdraws after filing a
34 declaration of candidacy or an acceptance of candidacy, is defeated
35 for that office at a primary election or is removed from the ballot by
36 court order before a primary election or general election and who
37 received a contribution from a person in excess of \$5,000 shall, not
38 later than the 15th day of the second month after the primary
39 election or general election, as applicable, return any money in
40 excess of \$5,000 to the contributor.

41 6. Except as otherwise provided in subsections 7 and 8, every
42 public officer who:

43 (a) Does not run for reelection to the office which he or she
44 holds and is not a candidate for any other office; and



(b) 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.

7. A public officer who:

(a) Resigns from his or her office;

(b) 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 effective date of the resignation, dispose of those contributions in the manner provided in subsection 4.

8. A public officer who:

(a) Does not run for reelection to the office which he or she holds and is a candidate for any other office; and

(b) 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.

9. In addition to the methods for disposing of the unspent money set forth in subsections 3, 4, 5, 7 and 8, a Legislator may donate not more than \$500 of that money to the Nevada Silver Haired Legislative Forum created pursuant to NRS 427A.320.

10. 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.

11. 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.

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

Sec. 15. NRS 294A.350 is hereby amended to read as follows:

294A.350 1. Except as otherwise provided in subsection 2, every candidate for office shall file the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.286, *and section 13 of this act*, even though the candidate:

(a) Withdraws his or her candidacy pursuant to NRS 293.202 or 293C.195;



(b) Ends his or her campaign without withdrawing his or her candidacy pursuant to NRS 293.202 or 293C.195;
(c) Receives no contributions;
(d) Has no campaign expenses;
(e) Is not opposed in the election by another candidate;
(f) Is defeated in the primary election;
(g) Is removed from the ballot by court order; or
(h) Is the subject of a petition to recall and the special election is not held.

2. Except as otherwise provided in subsection 3, a candidate described in paragraph (a), (b), (f) or (g) of subsection 1 may simultaneously file all the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.286 *and section 13 of this act* that are due after the candidate disposes of any unspent or excess contributions as provided in subsections 4 and 5 of NRS 294A.160, as applicable, *or after the candidate makes all reimbursements and donations required by section 13 of this act, whichever is later*, if the candidate gives written notice to the Secretary of State, on the form prescribed by the Secretary of State, that the candidate is ending his or her campaign and will not accept any additional contributions. If the candidate has submitted a withdrawal of candidacy pursuant to NRS 293.202 or 293C.195 to an officer other than the Secretary of State, the candidate must enclose with the notice a copy of the withdrawal of candidacy. A form submitted to the Secretary of State pursuant to this subsection must be signed by the candidate under an oath to God or penalty of perjury. A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.

3. This section does not exempt a person whose name appears on the ballot and who is elected to office from any reporting requirement of this chapter.

Sec. 16. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a candidate, person, 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 *or section 13 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 candidate, person, 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, 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 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, committee, political party or nonprofit corporation has reported its contributions, campaign expenses, independent expenditures , **reimbursements, donations** 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, 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, 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, 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. 17. Chapter 218A of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this section and NRS 218A.200, 218A.210 and 218A.220, unless the context otherwise requires, “ineligible candidate” means a person who is a candidate for office as a Legislator and who:

1. Fails to meet any qualification required for the office pursuant to the Constitution or laws of this State; or

2. Is found by a court of competent jurisdiction to be disqualified from entering upon the duties of the office pursuant to the Constitution or laws of this State.

Sec. 18. NRS 218A.200 is hereby amended to read as follows:

218A.200 *1.* A person is not eligible to be elected or appointed to office as a Legislator unless the person:

~~1-1~~ (a) Is a qualified elector;

~~1-2~~ (b) Has been an actual, as opposed to constructive, citizen resident of this State for 1 year next preceding the person’s election or appointment; ~~and~~

~~3-1~~ (c) At the time of election or appointment, has attained the age of 21 years ~~1-1~~; and

(d) Meets all other qualifications for the office as required by the Constitution and laws of this State.

2. A person is not eligible to be seated as a Legislator if, at any time after the person most recently filed a declaration of candidacy or acceptance of candidacy for the office of Legislator pursuant to chapter 293 of NRS and on or before the date of the most recent general election held for the office, the person is or becomes an ineligible candidate.



Sec. 19. NRS 218A.210 is hereby amended to read as follows:
218A.210 A person who is elected to office as a Legislator is entitled to receive a certificate of election from the Governor ~~[]~~, *except that if the name of an ineligible candidate could not be removed from the ballot pursuant to chapter 293 of NRS, the Governor shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate.*

Sec. 20. NRS 218A.220 is hereby amended to read as follows:
218A.220 **1.** A person who receives a certificate of election or appointment to office as a Legislator must take and subscribe to the official oath before the person takes office as a Legislator, and an entry thereof must be made on the journal of the proper House.

2. *A person shall not take and subscribe to the official oath to take office as a Legislator if, at any time after the person most recently filed a declaration of candidacy or acceptance of candidacy for the office of Legislator pursuant to chapter 293 of NRS and on or before the date of the most recent general election held for the office, the person is or becomes an ineligible candidate.*

Sec. 21. NRS 218A.260 is hereby amended to read as follows:
218A.260 **1.** If a vacancy occurs in the office of a Legislator during a regular or special session or at a time when no biennial election or regular election at which county officers are to be elected will take place between the occurrence of the vacancy and the next regular or special session, the vacancy must be filled in the manner provided in this section.

2. If the former Legislator was elected or appointed from a district wholly within one county, the board of county commissioners of the county in which the district is located shall fill the vacancy by appointing a person who is a member of the same political party as the former Legislator, ~~[and]~~ who actually, as opposed to constructively, resides in the district ~~[]~~ *and who meets all qualifications for the office as required by NRS 218A.200.*

3. If the former Legislator was elected or appointed from a district comprising more than one county, the county commissioners of each county within or partly within the district shall fill the vacancy by appointing a person who is a member of the same political party as the former Legislator, ~~[and]~~ who actually, as opposed to constructively, resides in the district ~~[]~~ *and who meets all qualifications for the office as required by NRS 218A.200.* To fill the vacancy:

(a) Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy.



(b) The boards shall then meet jointly. The joint meeting must be chaired by the person who is the chair of the board of county commissioners of the county with the largest population in the district. At the joint meeting:

(1) The chair of each board, on behalf of that board, shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of that board's 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.

(2) 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 select a candidate, and the appointee must be chosen by drawing lots among the candidates so selected.

4. The board of county commissioners or the board of the county with the largest population in the district shall issue a certificate of appointment naming the appointee. The county clerk or the clerk of the county with the largest population in the district shall give the certificate to the appointee and send a copy of the certificate to the Secretary of State.

Sec. 22. NRS 218A.400 is hereby amended to read as follows:

218A.400 1. Before the Assembly meets for each regular session, the Secretary of State shall make out a roll from the returns on file in the Secretary of State's office of the persons who received the highest number of votes to be elected to office as members of the Assembly in each district in the general election ~~§~~, *except that if the name of an ineligible candidate could not be removed from the ballot pursuant to chapter 293 of NRS, the Secretary of State shall not include the ineligible candidate upon the roll of the persons elected to office as members of the Assembly and the name of the ineligible candidate must not appear upon the roll regardless of the number of votes cast for the ineligible candidate.*

The members whose names appear upon the roll must be allowed to participate in the organization of the Assembly.

2. On the first day of each regular session at a time that is appropriate for that regular session, the Secretary of State shall call the Assembly to order and shall preside over the Assembly until a presiding officer is elected.

3. If a special session is convened between the date of the general election and the date of the next regular session, the Assembly must be organized for the special session according to the procedure set forth in this section, except that on the first day of



1 the special session, the Secretary of State shall call the Assembly to
2 order at a time that is appropriate for that special session.

3 *4. As used in this section, “ineligible candidate” has the*
4 *meaning ascribed to it in section 17 of this act.*

5 **Sec. 23.** NRS 283.130 is hereby amended to read as follows:

6 283.130 ~~[Any]~~ *Except as otherwise provided in NRS*
7 *218A.200, 218A.210 and 218A.220 and section 17 of this act, any*
8 officer elected or appointed to fill any vacancy shall be
9 commissioned, or shall receive a certificate of election or
10 appointment to such office.

11 **Sec. 24.** This act becomes effective:

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

15 2. On January 1, 2016, for all other purposes.

