

SENATE BILL NO. 333—SENATORS SETTELMAYER, GOICOECHEA,
SEEVERS GANSERT, HAMMOND, PICKARD; HANSEN,
HARDY AND KIECKHEFER

MARCH 18, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to elections.
(BDR 24-738)

FISCAL NOTE: Effect on Local Government: No.
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 person who makes certain campaign contributions to candidates to file a report of contributions with the Secretary of State; limiting the form of monetary contributions to candidates; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires candidates and certain other persons, committees and political organizations to file with the Secretary of State reports disclosing certain contributions received and campaign expenses and expenditures made. (NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220) **Section 1** of this bill requires, with limited exception, a person who makes a monetary contribution to an individual candidate in excess of \$1,000 to report that contribution to the Secretary of State. **Sections 1 and 3** of this bill require, with limited exception, such a report of contributions to be filed electronically. **Section 4** of this bill requires the Secretary of State to include these contributions in the compiled information made publicly available by the Secretary of State in each odd-numbered year. **Section 5** of this bill provides that a person who fails to report a monetary contribution to an individual candidate in excess of \$1,000 may be subject to a civil penalty.

Existing law sets forth certain limits on contributions to a candidate for a primary or general election for state, district, county or township office. (NRS 294A.100) **Section 2** of this bill prohibits a person from making a monetary contribution to a candidate in a form other than by credit card or a check, money order or other written financial instrument.



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. Every person who makes a monetary contribution to a candidate in excess of \$1,000 shall, except as otherwise provided in subsection 2, report to the Secretary of State all such contributions made not later than:

(a) April 15 of the year, for the period beginning January 1 and ending on March 31 of the year;

(b) July 15 of the year, for the period beginning April 1 and ending on June 30 of the year;

(c) October 15 of the year, for the period beginning July 1 and ending on September 30 of the year; and

(d) January 15 of the following year, for the period beginning October 1 and ending on December 31 of the year.

2. A person who makes a monetary contribution in the form of a check in excess of \$1,000 shall report that contribution pursuant to subsection 1 during the period that the check is presented for collection at a financial institution. If the check is never presented for collection at a financial institution by the candidate, the person is not required to report the contribution.

3. Except as otherwise provided in NRS 294A.3737, the reports must be filed electronically with the Secretary of State.

4. If a person makes a contribution in excess of \$1,000 to more than one candidate, the reports must be itemized for each candidate.

5. A report shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 2. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make or commit to make a contribution or contributions to a candidate for any office, except a federal office ~~to~~:

(a) If it is a monetary contribution, in a form other than a credit card or a check, money order or other written financial instrument; and

(b) In an amount which exceeds \$5,000 for the primary election, regardless of the number of candidates for the office, and \$5,000 for the general election, regardless of the number of candidates for the office, during the period:

~~to~~ *(1) Beginning January 1 of the year immediately following the last general election for the office and ending December 31 immediately following the next general election for the office, if that office is a state, district, county or township office; or*



~~1~~ ~~(b)~~ (2) Beginning from 30 days after the last election for the
2 office and ending 30 days after the next general city election for the
3 office, if that office is a city office.

4 2. A candidate shall not accept a contribution or commitment
5 to make a contribution made in violation of subsection 1.

6 3. A person who willfully violates any provision of this section
7 is guilty of a category E felony and shall be punished as provided in
8 NRS 193.130.

9 **Sec. 3.** NRS 294A.3737 is hereby amended to read as follows:

10 294A.3737 1. ~~1A~~ *Except as otherwise provided in*
11 *subsection 2, a* person, committee or political party that is required
12 to file a report pursuant to this chapter is not required to file the
13 report electronically if the person, committee or political party:

14 (a) Did not receive contributions or expend money in excess of
15 \$10,000 in the previous calendar year; and

16 (b) Has on file with the Secretary of State an affidavit which
17 satisfies the requirements set forth in subsection ~~2~~ 3 and which
18 states that:

19 (1) The person, committee or political party does not own or
20 have the ability to access the technology necessary to file
21 electronically the report; and

22 (2) The person, committee or political party does not have
23 the financial ability to purchase or obtain access to the technology
24 necessary to file electronically the report.

25 2. *A person who is required to file a report pursuant to*
26 *section 1 of this act is not required to file the report electronically*
27 *if the person:*

28 (a) *Did not make contributions to candidates in excess of*
29 *\$10,000 in the previous calendar year; and*

30 (b) *Has on file with the Secretary of State an affidavit which*
31 *satisfies the requirements set forth in subsection 3 and which*
32 *states that:*

33 (1) *The person does not own or have the ability to access*
34 *the technology necessary to file electronically the report; and*

35 (2) *The person does not have the financial ability to*
36 *purchase or obtain access to the technology necessary to file*
37 *electronically the report.*

38 3. The affidavit described in subsection 1 must be:

39 (a) In the form prescribed by the Secretary of State and signed
40 under an oath to God or penalty of perjury. A person who signs the
41 affidavit under an oath to God is subject to the same penalties as if
42 the person had signed the affidavit under penalty of perjury.

43 (b) Filed:

44 (1) At least 15 days before any report is required to be filed
45 pursuant to this chapter by the person, committee or political party.



(2) Not earlier than January 1 and not later than January 15 of each year, regardless of whether or not the person, committee or political party was required to file any report pursuant to this chapter in the previous year.

~~13.1~~ 4. A person, committee or political party that has properly filed the affidavit pursuant to this section may file the relevant report with the Secretary of State by transmitting the report by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date on which it is received by the Secretary of State.

Sec. 4. 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, 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, committee, political party or nonprofit corporation;
- (b) The total amount of goods and services provided to the person, 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, 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.

6. The monetary contributions made by a person to an individual candidate in excess of \$1,000.

Sec. 5. 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 *and 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 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 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



1 contributions and made no expenditures during the relevant
2 reporting periods.

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

6 5. When considering whether to waive, pursuant to subsection
7 4, a civil penalty that would otherwise be imposed pursuant to
8 subsection 3, the Secretary of State may consider, without
9 limitation:

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

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

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

21 (d) Whether the violation was inadvertent;

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

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

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

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

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

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

39 **Sec. 6.** 1. The provisions of sections 1 and 2 of this act do
40 not apply to any contribution made to a candidate before January 1,
41 2020.

42 2. No person is required to file a report required pursuant to
43 section 1 of this act before April 15, 2020.

44 **Sec. 7.** This act becomes effective:



- 1 1. Upon passage and approval for the purpose of adopting any
- 2 regulations and performing any other preparatory administrative
- 3 tasks that are necessary to carry out the provisions of this act; and
- 4 2. On January 1, 2020, for all other purposes.

