

CHAPTER II  
LEGISLATIVE STRUCTURE,  
FINANCIAL OPERATION,  
AND  
RESPONSIBILITIES



## CHAPTER II

### LEGISLATIVE STRUCTURE, FINANCIAL OPERATION, AND RESPONSIBILITIES

This chapter provides an introduction to the Nevada Legislature. It is intended to serve as a handy reference not only for legislators, but also for citizens who wish to participate in the legislative process.

The Legislature is Nevada's foremost political institution. Not only does it enact *laws*, it also creates the machinery for carrying out those enactments. In establishing departments, boards, commissions, and bureaus, the Legislature defines the scope of their powers and the extent of their responsibilities. It also regulates the activities of these State agencies by granting or denying them the authority to hire employees and expend public funds. In addition, the Legislature sets down the fundamental rules of government in Nevada in the form of administrative procedures, civil service rules, and election laws.

#### LEGISLATIVE TERMINOLOGY

The legislative process has acquired a vocabulary of its own over the years. Often these words have a precise and definite meaning that varies considerably from the same word when used in common conversation. This legislative terminology may also vary in meaning from one state legislature to another.

Appendix F provides a list of frequently used terms, primarily from *Mason's Manual of Legislative Procedure*. That manual also contains a number of terms not commonly used in Nevada. The list defines the words most commonly used in the Nevada Legislature as well as those that will assist in a clear understanding of the various subjects and procedures described in this publication. Where possible, the first use of these terms in the *Nevada Legislative Manual* is provided in italics.

#### THE LEGISLATIVE STRUCTURE

Nevada has a two-house (*bicameral*) Legislature consisting of a *Senate* and an *Assembly*. The two houses jointly are designated by the *Nevada Constitution* as "The Legislature of the State of Nevada."<sup>1</sup> The Legislature is one of three separate and distinct branches of government at the state level, the other two being the Executive Branch (headed by the Governor) and the Judicial Branch (with Nevada's Supreme Court at the top of the structure). According to the *Nevada Constitution*, ". . . no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others . . ." except in certain specified instances.<sup>2</sup>

However, it is important to realize that:

The Legislature is part of a larger political system . . . No matter how specific the intent of the Legislature, its decisions will require interpretation and implementation by executive officials; no matter how unambiguous its legislative purposes, its laws may come under review in the judicial process.<sup>3</sup>

### **Size and Apportionment**

Unlike some states, Nevada does not fix the number of its Senators and members of the Assembly in its constitution. Instead, the *Nevada Constitution* sets a maximum limit of 75 legislators from the combined total of the two houses.<sup>4</sup> No minimum limit is set on the size of the Legislature, but “. . . the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.”<sup>5</sup> The actual size of the Legislature is set by *statute*.<sup>6</sup>

Since 1983, the Nevada Legislature has had a 42-member Assembly and a 21-member Senate. It has not always been that way. The Legislature had the maximum 75 members in 1875, 1877, 1879, 1913, and 1915, during periods of population growth. The Legislature could, in theory, be as small as three members—two Assembly members and one Senator. However, the smallest Nevada Legislature consisted of 45 members. This situation occurred during the sessions of 1893 through 1899, a period of population decline. The *Nevada Constitution* states that Senators and members of the Assembly must be *apportioned* among the several counties of the State or among legislative districts in accordance with law.<sup>7</sup> The United States Supreme Court has held that both houses of state legislatures must be apportioned on a population basis under the principle of one person, one vote.<sup>8</sup>

Membership in both houses of the Legislature is geographically apportioned throughout the State on the basis of population. Normally, the Legislature redistricts once every ten years during the session next following the federal decennial census, as required by the *Nevada Constitution*.<sup>9</sup>

### **2001 Reapportionment and Redistricting**

During the 2001 Legislative Session, Nevada legislators reapportioned State Senate and Assembly districts. Maps A through J in Appendix G describe the existing boundaries of Nevada legislative districts as developed by the 2001 Legislature. In addition, detailed maps of every district and related statistics are available on the *Legislative Counsel Bureau's* website at <http://www.leg.state.nv.us/lcb/research/redistreapp.cfm> and through the Bureau's Publications Unit.

The 2001 Legislature retained 42 Assembly districts, with an average population of 47,578 people (based on the 2000 U.S. Census). It also retained districts for

21 State Senators. Seventeen of these are single-member senatorial districts, which represent an average of 95,155 citizens per district. The remaining four Senators are in two-member districts in Clark County, which represent about 190,310 residents per district. The average legislative district in Nevada has increased by 66 percent in population over the past decade, reflecting Nevada's rapid growth. The State's population was about 1.2 million in 1990 and reached nearly 2 million in 2000. The actual number of residents in each district has changed since the 2001 reapportionment.

Currently, 14 Senators and 29 Assembly members represent legislative districts in Clark County, while 4 Senators and 7 Assembly members serve primarily Washoe County. Three Senators and six Assembly members represent the remainder of the State. (One Assembly district that includes Washoe County also covers portions of rural Nevada, and one Senate district covers central Nevada and a portion of Clark County.)

### **2011 Reapportionment and Redistricting**

The Bureau of the Census of the United States Department of Commerce is required to deliver redistricting data from the decennial census in 2010 to the states not later than April 1, 2011. Upon receipt of this data, the 2011 Session of the Nevada Legislature will be required to reapportion and redistrict the election districts for the members of the Legislature, the members of the United States House of Representatives from the State of Nevada, the Board of Regents of the University of Nevada, and the State Board of Education.

### **Membership Qualifications**

Members of the Assembly are elected every two years by the qualified electors in their respective districts. Senators, on the other hand, serve four-year terms, which are staggered so that, as near as possible, one-half of the number of Senators is elected every two years. A constitutional amendment approved by the voters in 1996 limits legislators to 12 years of service in one *house* (six terms for Assembly members and three terms for Senators).<sup>10</sup> An opinion issued by Nevada's Supreme Court states that the term limit amendment only applies to periods of service commencing after November 27, 1996.<sup>11</sup> Thus term limits first impacted members of the Legislature during the 2010 election cycle.

Members of both houses are elected on the first Tuesday after the first Monday in November of even-numbered years, at intervals of two or four years, depending upon the house in question. Their terms of office begin on the day following their election,<sup>12</sup> but members are not typically sworn in by oath of office until the first day of the legislative session (first Monday of the following February).

To be eligible to serve as a Senator or member of the Assembly, a person must be at least 21 years of age, a qualified elector in the respective county and district, and an actual citizen resident of Nevada for a minimum of one year next preceding the election.<sup>13</sup> However, the *Nevada Constitution* declares that “each House shall judge of the qualifications, elections and returns of its own members . . . and with the concurrence of two-thirds of all the members elected, expel a member.”<sup>14</sup> Thus, theoretically, a house could seat someone who failed to meet the statutory requirements or deny a seat to someone who met all of the legal requirements for membership in the Legislature.

No person holding a federal office of profit (with the exception of postmasters earning less than \$500 per year or commissioners of deeds) or a lucrative office under any other power may serve as a legislator.<sup>15</sup> Persons are also disqualified from holding legislative office if they have been convicted of embezzlement of public funds or bribery in the procurement of election or appointment to office.<sup>16</sup> A legislator may not be appointed to any civil office of profit in the State that was created, or the salary for which was raised, during the legislator’s term of office and for a period of one year after the expiration of the term.<sup>17</sup>

### **Vacancies**

If a legislator resigns from office, the resignation must be delivered to the Governor. If a legislator dies or resigns during a regular or *special session* of the Legislature or at a time when no *biennial* election or regular election is scheduled between the time the vacancy occurs and the date of the next legislative session, the board of county commissioners from the legislator’s district is required to appoint a person who resides in the district and is a member of the same political party as the former incumbent to fill the unexpired term.<sup>18</sup>

If the Senator or Assembly member was elected from a district comprising more than one county, the appointment is required to be made by the county commissioners of each county within or partly within the legislator’s district. Each board of county commissioners first meets separately and determines the single candidate it will nominate to fill the vacancy. Then the boards meet jointly and the chairs, on behalf of the boards, cast a proportionate number of votes based on the population of the district in each county. The person who receives a plurality of these votes is appointed to fill the vacancy. If no candidate receives a plurality of the votes, the various boards of county commissioners each select a candidate. The appointee is then chosen by drawing lots from those candidates nominated by the separate boards.<sup>19</sup>

### **Officers and Employees**

Each house of the Legislature employs such staff as is necessary to its operation. During the legislative session, this staff expands to approximately 200 committee staff, personal secretaries, and others who ensure that the session functions smoothly.

Several positions are permanent and full-time when the Legislature is not in session: the *Secretary of the Senate*, the *Chief Clerk of the Assembly*, and at least one executive assistant and typically at least two support staff for each house.

The legislative employees are under the supervision of the elected officer of each house. In the Senate, this is the Secretary; in the Assembly, the Chief Clerk. The Secretary of the Senate and the Chief Clerk of the Assembly are elected as officers by the members of the houses they serve. They, in turn, supervise the work of the legislative employees.<sup>20</sup>

The Secretary and Chief Clerk perform many varied duties. They are present at each daily session of their respective houses, and during those sessions they “read” each *bill* and *resolution*—though in greatly abbreviated form—to the members of the house. The Secretary and Chief Clerk maintain all records of the Senate and Assembly, supervise compilation of the daily *journals* and *histories* of their respective houses, and advise the presiding officer of each house on matters of parliamentary procedure and the house rules. In addition, the Secretary serves as an *ex officio* member of the Senate Committee on Legislative Operations and Elections, and the Chief Clerk is an *ex officio* member of the Assembly Committee on Legislative Operations and Elections.

When the Legislature is not in session, the permanent legislative officers and employees assist legislative leaders with administrative matters that arise during the *interim*, oversee the publication of the final certified journals and histories, speak with school and civic groups about the legislative process, represent the State at national conferences of legislative officers, and prepare for the next session.

## **Interest Groups and Media**

### **PRESS**

The news corps is an important adjunct to the Legislature. Public awareness is vital to the democratic process, and it is the function of the press to present, analyze, and interpret the news so that the public is informed and can, therefore, more effectively express itself to and through its elected representatives.

Press representatives are granted official accreditation in each chamber through adoption of a simple *motion* to accredit named individuals at the beginning of the session or at selected times during the session. Space in each chamber is provided for members of the news media to televise or otherwise cover legislative proceedings.

### **LOBBYISTS**

Legislative agents or representatives, commonly known as *lobbyists*, represent various organizations, interests, and causes before the Legislature. Like the news media, they are important to the legislative process as sources of information,

channels of communication between constituents and their representatives, and major protagonists in efforts to influence legislation. They frequently point out concerns in bills, suggest *amendments*, provide valuable testimony, and in general assist the Legislature in assessing the merits of proposed legislation.

The activities of lobbyists in Nevada are controlled by the Nevada Lobbying Disclosure Act.<sup>21</sup> The law requires lobbyists to register with the Director of the Legislative Counsel Bureau and provide various information about themselves and the groups or individuals they represent. A lobbyist must file a report each month during a legislative session and within 30 days after the close of a session concerning his or her lobbying activities. Each report must include the total expenditures for the month and, if the lobbyist had expenditures of \$50 or more during the month, the report must itemize expenses in connection with any event hosted by an organization that sponsors the registrant; expenditures for entertainment, gifts, and loans; and other expenditures directly associated with legislative *action*. With the exception of expenditures associated with a function to which every legislator was invited, the reports must identify the legislators on whose behalf the expenditures were made. Data on personal expenditures for food, lodging, and travel expenses or membership dues are not required in the monthly reports. Violation of the Act is a misdemeanor.

Other sections in the *Nevada Revised Statutes* (NRS) also address improper influence exerted upon legislators. For example, any person who interferes with the legislative process is guilty of a gross misdemeanor.<sup>22</sup> Any person who improperly obtains money or other things of value to influence a member of a legislative body in regard to any vote or legislative action is also guilty of a gross misdemeanor.<sup>23</sup> It is a misdemeanor to misrepresent any fact knowingly when testifying or otherwise communicating to a legislator, though witnesses are absolutely privileged to publish defamatory material that is relevant to a proceeding.<sup>24</sup> Moreover, both the giving of a bribe to a legislator and receiving a bribe are crimes against the legislative power and are subject to severe punishments under the law.<sup>25</sup> Although lobbying activities are customarily prohibited on the *floor* of both chambers,<sup>26</sup> lobbyists may appear before any committee of the Legislature.

## LEGISLATIVE POWERS, PRIVILEGES, AND RESPONSIBILITIES

### Legislator Duties

The *Nevada Constitution* vests the lawmaking authority for the State in the Nevada Legislature.<sup>27</sup> Generally, the Legislature is empowered to enact the laws of the State;<sup>28</sup> levy taxes on individuals, businesses, property, and sales;<sup>29</sup> appropriate the funds collected for the support of public institutions and the administration of State government;<sup>30</sup> propose amendments to the constitutions of the U.S. and Nevada;<sup>31</sup> and consider legislation proposed by *initiative petitions*.<sup>32</sup> In addition, the Legislature is directed to establish a State university;<sup>33</sup> a public school system;<sup>34</sup> and a statewide, uniform system of county and township government.<sup>35</sup> The Legislature

also has the power to create, revise, or abolish certain county positions;<sup>36</sup> determine the compensation of legislative officers and employees,<sup>37</sup> certain State officials,<sup>38</sup> Supreme Court justices and District Court judges,<sup>39</sup> and specified county officers;<sup>40</sup> decide the winner of a tied election for a district or State office or the office of U.S. Senator or Representative;<sup>41</sup> *impeach* the Governor, other State officials, or any judge, except a justice of the peace;<sup>42</sup> and pardon, reprieve, or compel the enforcement of a sentence for the conviction for treason.<sup>43</sup> The Legislature also provides oversight of the Executive and Judicial Branches of government through the *budget*<sup>44</sup> and *audit*<sup>45</sup> processes and reviews the regulations developed by State agencies.<sup>46</sup>

The majority of the Legislature's work, however, consists of generating, revising, and occasionally repealing the laws of the State. Through a process defined by the *Nevada Constitution*, State law, and *legislative rules*, the members of the Legislature consider over 1,000 bills and resolutions throughout each *regular session*. The regular sessions of the Senate and Assembly are required to be held during each odd-numbered year, beginning on the first Monday of February.<sup>47</sup> At other times, the Governor may, for a specific purpose, call the Legislature into special session.<sup>48</sup>

During the session, legislators have several responsibilities. They shepherd the measures they introduce through the legislative process by providing testimony at *hearings*, working with others to improve the legislation, and encouraging their colleagues to vote in favor of their bills. Legislators also serve on the committees that review each piece of legislation. Each legislator is typically assigned to three *standing committees*. As committee members, legislators listen to and question witnesses about the provisions of a measure,<sup>49</sup> participate in subcommittees created to focus on a specific bill or issue,<sup>50</sup> and vote on whether the bill or resolution should be transmitted to the full house.

At times, all legislators may be required to participate in a *committee of the whole*.<sup>51</sup> Such a committee is formed only a few times during a regular session. Much more common are the *conference committees*, formed to resolve differences between amendments proposed by each house to the same bill.<sup>52</sup> Occasionally, legislators may be assigned to a *joint committee* of the two houses.<sup>53</sup>

Legislators also are required to attend the meetings of their respective houses,<sup>54</sup> commonly referred to as "floor sessions." The meeting procedures of the Senate, Assembly, and these various committees are discussed elsewhere in this manual.

When not on the floor or in meetings, legislators confer with constituents who call or visit, with lobbyists who represent organizations or certain opinions, and with staff who provide assistance and requested information. Legislators are frequently asked to speak to various groups and attend numerous community functions, most often when the Legislature is not in session.

When the session ends, legislators continue to make speeches, assist constituents, serve on special legislative committees, and compile information in preparation for the next session. Often, legislators serve as facilitators among various groups. For example, a legislator might contact a government agency on behalf of a constituent or bring opposing factions together to solve a problem. In addition, legislators monitor the implementation of certain bills passed during the preceding session. In this capacity, a legislator might attend a hearing conducted by a State agency formulating pertinent regulations.

Between sessions, a legislator may serve on one or more interim committees. Some of these committees study a specific subject, provide oversight of ongoing issues, or are part of national organizations that bring together legislators from the various states to discuss similar problems. Permanent committees of the Legislature are created through statute.<sup>55</sup> Temporary committees usually originate in *concurrent resolutions*<sup>56</sup> passed in one session and are dissolved by the beginning of the next.

The foregoing description of legislative responsibilities is not comprehensive. Like employees in the private sector, legislators are often responsible for other duties as assigned. Any legislator who chairs a committee or assumes a *leadership* role conducts those duties in addition to the ones mentioned. Legislators are also expected by their political parties and communities to perform certain functions, such as attending party *caucuses* and important local events. In addition, most legislators hold full-time jobs and must fulfill their responsibilities to their employers. Although Nevada prides itself on having a citizen Legislature, it demands a significant commitment of time and effort from each of its citizen representatives.

### **Privileges and Immunities**

Members of the Legislature are immune from arrest on civil process for 15 days prior to and during the course of a session.<sup>57</sup> Subpoenas served on legislators and the Lieutenant Governor by administrative bodies are ineffective during legislative sessions.<sup>58</sup> The statutes also protect legislators by prohibiting employment contracts that work a loss of seniority on any person absent from regular duties or place of employment while attending a legislative session.<sup>59</sup> In addition, legislative service cannot be considered as a break in service by an administrator of a private pension plan.<sup>60</sup>

### **Limitations on the Legislative Power**

Although the Nevada Legislature has far-ranging authority to enact legislation dealing with social and political concerns, it is not without certain constitutional restrictions that circumscribe its powers. The Legislature shall not pass any local or *special laws* covering the following cases:

1. The regulation of the jurisdiction and duties of justices of the peace and constables or the fixing of their compensation;
2. Punishments for crimes and misdemeanors;
3. The regulation of the practices of courts of justice;
4. Any changes in venue of civil or criminal cases;
5. The granting of divorces;
6. The changing of names of persons;
7. Vacating roads, town plots, streets, alleys, and public squares;
8. The summoning and impaneling of grand and petit juries and the provision for their compensation;
9. The regulation of county and township business;
10. The regulation of the election of county and township officers;
11. The assessment and collection of taxes for state, county, and township purposes;
12. The regulation of the opening and conducting of elections of state, county, or township officers, and the designation of places of voting;
13. The sale of real estate belonging to minors or other persons laboring under legal disabilities;
14. Giving effect to invalid deeds, wills, or other instruments;
15. Refunding money paid into the State Treasury or into the treasury of any county; or
16. The release of the indebtedness, liability, or obligation of any corporation, association, or person to the State or its subdivisions.<sup>61</sup>

These restrictions, however, do not deny the power of the Legislature to establish and regulate the compensation and fees of certain county officers or to authorize and empower the boards of county commissioners of the various counties of the State to establish and regulate the compensation and fees of township officers. It is likewise permitted to establish and regulate the rates of freight, passage, toll, and charges of railroads, toll roads, ditch, flume, and tunnel companies incorporated under the laws of this State or doing business in the State.<sup>62</sup> The Legislature must exercise its powers through *general laws* of uniform operation.<sup>63</sup> Laws cannot be specifically directed to special or local instances.

In addition, the State's constitution prohibits the Legislature from levying a personal income tax or authorizing a state-operated lottery in Nevada.<sup>64</sup> It must

establish a uniform system of county and township government throughout the State.<sup>65</sup> It may not abolish any county without the approval of the electors residing within the county's jurisdiction.<sup>66</sup>

Individual freedoms, as enumerated in Article 1 of the *Nevada Constitution*, may not be abridged by the Legislature. These rights include such things as the freedom of speech, press, religion, and assembly and prohibitions against bills of attainder, ex-post-facto laws, and laws infringing the obligation of contracts. The list is varied, but most of the rights spelled out in Article 1 of the *Nevada Constitution* are included in the *U.S. Constitution* and, hence, are doubly safeguarded from legislative encroachment.<sup>67</sup> The *Nevada Constitution* also sets a state debt limitation of 2 percent, exclusive of interest, of the assessed valuation of the State<sup>68</sup> and prohibits State assumption of county, city, and corporation debts, unless such debts have been incurred to repel invasion, suppress insurrection, or provide for the public defense.<sup>69</sup>

The Nevada Legislature cannot exercise powers reserved by the *U.S. Constitution* to the federal government or those preempted by the Congress. The State cannot, for example, establish diplomatic relations with a foreign nation; declare war; or, without the consent of the Congress, lay any impost or duties on imports or exports.<sup>70</sup> In some areas, however, the State and the federal government may exercise concurrent jurisdiction and the Legislature, in these instances, may exercise its lawmaking powers.

The Legislature must provide a uniform rate of assessment and taxation throughout the State and may not permit a total tax levy in excess of 5 cents on the dollar of assessed valuation. Under NRS 361.453, the current limitation on the total ad valorem tax levy is set at \$3.64 on each \$100 of assessed valuation. In the case of mines and mining claims, only the net proceeds of minerals may be taxed. Personal property in interstate transit may not be taxed in Nevada, and the Legislature may not impose a state inheritance tax upon the inhabitants of the State. Business inventories are also exempt from taxation.<sup>71</sup>

Outside of these and a few other minor restrictions mentioned in the *Nevada Constitution*, the Legislature may enact any laws it deems necessary to promote the general health, welfare, safety, or happiness of the people. Where the exercise of legislative prerogatives is questioned on constitutional grounds, it is within the purview of the courts to determine the legitimacy of any enactment. Until the courts have decided a question, there is a presumption of validity that adheres to all legislative acts.

### **Crimes Against the Legislative Power**

It is unlawful in Nevada to interfere with the legislative process. Disruption of proceedings; defacing official documents or records of the Legislature; withholding, altering, or destroying property owned or used by the Legislature; remaining in the legislative chambers or building after being asked to leave pursuant to the law or rule of

the Legislature; coercing or attempting to coerce any legislative member or employee to perform any official act or to refrain from doing so; and possessing firearms or deadly weapons in the Legislative Building all constitute unlawful interferences with the legislative process and are punishable as gross misdemeanors.<sup>72</sup> Similarly, it is a gross misdemeanor to refuse to testify or produce documents when summoned to appear before either house or any legislative committee.<sup>73</sup> Misdemeanor crimes involving the legislative process include misrepresenting any fact knowingly when testifying or otherwise communicating to a legislator, though witnesses are absolutely privileged to publish defamatory material that is relevant to a proceeding.<sup>74</sup>

It is a felony to alter legislative measures or enrolled bills or resolutions with fraudulent intent. Conviction may result in imprisonment in the State prison for a minimum term of not less than one year and a maximum term of not more than four years. The court may also impose a fine of not more than \$5,000.<sup>75</sup>

### **Contracts in Which a Legislator Has an Interest**

It is unlawful for any member of the Legislature to become a named contractor or named subcontractor under any contract or order for supplies for the State or any of its departments, or for the Legislature or either of its houses, if the contract or order is paid for in whole or in part by money appropriated by the Legislature.<sup>76</sup> It is also unlawful for any member of the Legislature to be interested, directly or indirectly, as a principal, in any such contract.<sup>77</sup> Finally, it is unlawful for any member of the Legislature to be interested in any contract made by the Legislature or to be a purchaser or interested in any purchase or sale made by the Legislature.<sup>78</sup>

Despite the general prohibitions stated above, Nevada law provides that a member of the Legislature may sell or enter into a contract to sell, to the State or any of its departments, any item, commodity, service or capital improvement, if the sources of supply are limited; the contracting process is controlled by rules of open competitive bidding; the member has not taken part in developing the contract plans or specifications and will not be personally involved in opening, considering, or accepting any bids for the sale or contract. Under these same conditions, an exception is provided to the general rule stipulating a public officer (including a legislator) or employee shall not bid on or enter into a contract between any governmental agency and any business entity in which the member has a significant pecuniary interest.<sup>79</sup>

In addition, any member of the Legislature may, if not named in a contract, receive, as direct salary or wages, compensation for which the original source was a legislative appropriation to any governmental entity or a private entity not owned or controlled by the legislator. Finally, the law provides that any member of the Legislature may receive, for services as an instructor or teacher from any county school district or the Nevada System of Higher Education, compensation for which the original source was a legislative appropriation to any governmental entity or a private entity not owned or controlled by the legislator.<sup>80</sup> The statute provides that a legislator who violates

these provisions concerning prohibited interests in a contract is guilty of a gross misdemeanor and forfeits his or her office.<sup>81</sup>

As mentioned earlier under the section entitled “Lobbyists,” anyone offering or giving a bribe or threatening a legislator to influence a vote or to be absent from the pertinent house or committee thereof must, under the law, be punished by imprisonment in the State prison for a minimum term of not less than one year and a maximum term of not more than five years. The court may also impose a fine of not more than \$10,000.<sup>82</sup> Any legislator asking for or receiving a bribe is liable to the same penalty.<sup>83</sup>

In addition to these penalties, either house may imprison nonmembers for disorderly or contemptuous behavior in its presence. Such punishment, however, may not extend beyond the final *adjournment* of the session.<sup>84</sup>

### **Ethics and Conflict of Interest**

The ethical conduct of legislators falls under the jurisdiction of the house of which the legislator is a member for those actions taken within the sphere of legislative activity (e.g., disclosure, voting and abstention, et cetera) and under the jurisdiction of Nevada’s Commission on Ethics for conduct that falls outside the sphere of legitimate legislative activity. Specifically, the NRS sets forth certain limitations on the amount of campaign contributions received, the time period during which they may be accepted, and their proper use.<sup>85</sup> The NRS also dictates the reporting of personal financial information, the filing of the financial disclosure statement, bribery, the prohibition on honoraria, the limitation on the use of certain State government contracts, the simultaneous employment of elected public officials in State or local government, and the misuse of an elected public official’s political office.<sup>86</sup>

Meanwhile, Rule No. 23 of the Senate Standing Rules and Rule No. 23 of the Assembly Standing Rules provide for the creation of a Committee on Ethics in each house which is charged with hearing requests for advice or complaints brought by Senators or members of the Assembly on questions of potential breaches of ethics and conflicts of interest. Except under specific circumstances, all proceedings held by the Committee on Ethics to consider the character, alleged misconduct, professional competence, or physical or mental health of any person on matters of ethics or conflicts of interest are confidential. Both standing rules further set forth the parameters under which a conflict of interest by a legislator is determined and stipulate that if a conflict of interest exists with a legislative matter, the legislator shall make a general disclosure of the conflict on the record during a committee meeting or on the floor of the Senate or Assembly, as applicable. The disclosure must be entered into the appropriate committee minutes or journal for the Senate or Assembly. The legislator is not required to make that general disclosure at length again regarding the same conflict of interest when the matter in question arises on subsequent occasions during the same session; instead, the legislator may make reference on the record to the previous disclosure.<sup>87</sup>

Rule No. 23 of the Senate Standing Rules and Rule No. 23 of the Assembly Standing Rules also set forth parameters under which an abstention in voting may be made by a legislator. To determine whether to abstain from voting upon, advocating, or opposing a matter about which a legislator has a conflict of interest, the legislator should consider whether: (1) the conflict impedes the legislator's independence of judgment; and (2) the legislator's interest is greater than the interests of an entire class of persons similarly situated.<sup>88</sup> Finally, the rules specify that if a legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he or she will abstain, the quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the legislator abstaining were not a member of the committee.<sup>89</sup>

### **Reporting of Campaign Contributions and Expenses**

Everyone who is a candidate for any State or local office at any election (primary, general, special, or *recall*) must list each campaign contribution and expense on affidavit forms designed and provided by the Secretary of State.<sup>90</sup> Such reports must be filed with the official with whom the candidate's declaration of candidacy or acceptance of candidacy was filed. A candidate may submit the report to that filing officer by certified mail, regular mail, fax machine, or electronic mail. If certified mail is used, the date of mailing is deemed the date of filing. If sent by other means, the date received by the filing officer is deemed the date of filing.

Under the law, during election years, campaign contributions and expenses reports for primary and general elections must be filed three times per election cycle:

1. Report No. 1 is due seven days prior to the primary election;
2. Report No. 2 is due seven days prior to the general election; and
3. Report No. 3 is due by January 15 following the general election.

Contributions and expenses reports are also required from elected officials in nonelection years. Those reports are referred to as "annual reports" and are due in nonelection cycle years by mid-January for those who have received contributions in excess of \$10,000 during that year.<sup>91</sup>

Chapter 294A of NRS requires that certain persons, business entities, and political organizations who make an expenditure on behalf of a candidate must report the name and address of the contributor and the date of each campaign contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of \$100.<sup>92</sup> Similarly, persons or groups of persons, including business entities, that receive or expend more than \$10,000 to advocate the passage or defeat of ballot questions must report the same information for campaign contributions in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of \$1,000.<sup>93</sup> Similar reporting and identification requirements exist for campaign expenditures.<sup>94</sup>

Persons and groups who advocate for the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum (including the initiation or circulation thereof) and receive or spend more than \$10,000 for such advocacy must also file a report of contributions and expenses in excess of \$1,000.<sup>95</sup>

*Nevada Revised Statutes* 294A.160 prohibits the expenditure of money received as a campaign contribution for a candidate's personal use. It also limits the disposition of unspent contributions. *Nevada Revised Statutes* 294A.365 requires the reporting of the manner in which the unspent contributions are disposed.

### **Financial Disclosure**

Every candidate for the Legislature is required to file financial disclosure statements with the Secretary of State. Such statements must be filed no later than the tenth day after the last day to qualify as a candidate for the office and then once a year thereafter, including the year that the term expires, on or before January 15 of each year.<sup>96</sup> The Secretary of State and the Commission on Ethics are required to retain the statements for six years.<sup>97</sup>

Under the law, statements of financial disclosure are required to contain specific information concerning the candidate's:

1. Length of residence in Nevada and the legislative district;
2. Sources of income;
3. Real estate holdings valued at \$2,500 or more (except for a personal residence);
4. Specified creditors to whom the candidate or members of the candidate's household owe \$5,000 or more;
5. Certain gifts received by the candidate with a value of \$200 or more; and
6. A list of all business entities in which the candidate or a member of the candidate's household is involved as a trustee, beneficiary, director, officer, owner, partner, or shareholder of at least 1 percent of the stock.<sup>98</sup>

A legislator who fails to file the statement of financial disclosure in a timely manner is subject to a civil penalty and payment of court costs and attorney's fees.<sup>99</sup>

## **FINANCIAL OPERATION OF THE LEGISLATURE**

### **Legislative Fund**

During each legislative session, the Legislature appropriates monies from the State General Fund to pay for the cost of the session and the activities of the Legislative Counsel Bureau. These *appropriations* are deposited in the Legislative Fund.<sup>100</sup> The expenses paid from the Legislative Fund include legislator and staff salaries,

travel expenses of both legislators and staff, and operating and capital costs of the Legislature and the Legislative Counsel Bureau.

### **Legislator Compensation and Allowances**

Legislators are paid a salary for the first 60 days of a regular session and for up to 20 days of a special session. Under NRS 218A.630, the minimum daily salary for legislators is \$130. For legislators elected on or after November 8, 2006, the compensation of the office of the Senator or Assembly member is increased by an amount equal to the cumulative percentage increase in the salaries of the classified employees of the State during the immediately preceding term of that office.<sup>101</sup>

Legislators receive additional payments for their travel and per diem during a legislative session. The per diem, which is intended to cover the legislator's lodging, meals, and incidental expenses, is equal to the federal rate for the Carson City area, which is currently \$154. This per diem amount is paid each day that the Legislature is in session. Costs associated with travel during a session (moving expenses, housing and furniture rental, and travel related to legislative business) are reimbursed, subject to an overall limit of \$10,000 during a regular session and \$1,200 during a special session.<sup>102</sup>

For travel to and from Carson City for the legislative session and for a pre-session orientation conference, each legislator is entitled to per diem plus reimbursement of actual travel expenses. Each legislator whose permanent residence is more than 50 miles from Carson City, and who enters into a lease or other agreement for housing during session, is also entitled to a supplemental housing allowance during the session. This allowance is equal to the fair market rent for a one bedroom unit in Carson City, as published by the U.S. Department of Housing and Urban Development. The Fiscal Year 2010 rate for the Carson City area is \$736 per month.<sup>103</sup>

In addition to these amounts, each legislator is entitled to a communications allowance of \$2,800 and a postage allowance of \$60.<sup>104</sup> Legislators who are chairs of standing committees or hold leadership positions are entitled to an additional \$900 allowance.<sup>105</sup> Each member also is entitled to a certain number of business cards, stationery, and envelopes from the State Printing Office of the Legislative Counsel Bureau.<sup>106</sup> The *Speaker of the Assembly* and the Lieutenant Governor receive an additional \$2 per day during the time of their actual attendance as *presiding officer*.<sup>107</sup>

When the Legislature is not in session, each Senator and Assembly member is entitled to receive a salary and the per diem allowance and travel expenses provided by law for each day of attendance at a conference, meeting, seminar, or other gathering at which the legislator officially represents the State of Nevada or its Legislature. The salary varies depending on the activity, but does not exceed the amount provided by law.<sup>108</sup>

## **Legislators' Retirement**

Members of the Nevada Legislature may choose to participate in the Legislators' Retirement System. During a regular session, 15 percent of each legislator's gross compensation is withheld as a contribution to the retirement plan. The State's contribution is made from the Legislative Fund based on the recommendation of a consulting actuary. The minimum requirement for retirement with monthly benefits is ten years of accredited service at the age of 60 years. A lapse in service as a legislator is not just cause for forfeiture of any retirement rights accrued prior to such lapse.

A legislator entering into retirement receives a monthly retirement allowance of \$25 for each year of service up to 30 years, with fractions of years prorated. This allowance is subject to the same cost-of-living increase received by the retirees and beneficiaries of the Public Employees' Retirement System.

The Legislators' Retirement System permits survivor benefits for a legislator's dependents; allows several conversion options to be exercised by a legislator at the time of retirement; permits purchase of previous creditable service performed in the Legislature, if such service was performed prior to the creation of the system; allows purchase of up to five years of out-of-state service performed with any federal, state, county, or municipal public system, if that service is no longer creditable in the other system; and provides for coordination with other retirement systems. All of the provisions relating to legislative retirement are specified in the Legislators' Retirement Law.<sup>109</sup>

## **Compensation of Employees**

The Secretary of the Senate and the Chief Clerk of the Assembly determine compensation rates for employees of their respective houses during legislative sessions. Please contact them for further information.

ENDNOTES FOR CHAPTER II

- <sup>1</sup> *Nevada Constitution*, Art. 4, Sec. 1.
- <sup>2</sup> *Nevada Constitution*, Art. 3, Sec. 1.
- <sup>3</sup> William J. Keefe and Morris S. Ogul, *The American Legislative Process: Congress and The States*, Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1964, p. 2.
- <sup>4</sup> *Nevada Constitution*, Art. 15, Sec. 6.
- <sup>5</sup> *Nevada Constitution*, Art. 4, Sec. 5.
- <sup>6</sup> Chapter 218B of *Nevada Revised Statutes*. The *Nevada Revised Statutes* are hereinafter cited as NRS.
- <sup>7</sup> *Nevada Constitution*, Art. 4, Sec. 5.
- <sup>8</sup> *Reynolds v. Sims*, 377 U.S. 533 (1964); *Lucas v. 44th General Assembly of Colorado*, 377 U.S. 713 (1964); and related cases.
- <sup>9</sup> *Nevada Constitution*, Art. 4, Sec. 5.
- <sup>10</sup> *Nevada Constitution*, Art. 4, Secs. 3 and 4.
- <sup>11</sup> *Secretary of State v. Burk*, 124 Nev. 579, 188 P.3d 1112. *Child v. Lomax*, 124 Nev. 600, 188 P.3d 1103.
- <sup>12</sup> *Nevada Constitution*, Art. 4, Secs. 3 and 4; *Child v. Lomax*, 124 Nev. Adv. Op. 57 (2008).
- <sup>13</sup> NRS 218A.200, 281.050, 293.177, and 293.181.
- <sup>14</sup> *Nevada Constitution*, Art. 4, Sec. 6.
- <sup>15</sup> *Nevada Constitution*, Art. 4, Sec. 9.
- <sup>16</sup> *Nevada Constitution*, Art. 4, Sec. 10.
- <sup>17</sup> *Nevada Constitution*, Art. 4, Sec. 8.
- <sup>18</sup> *Nevada Constitution*, Art. 4, Sec. 12; NRS 218A.250 and 218A.260.
- <sup>19</sup> *Id.*
- <sup>20</sup> NRS 218A.510, *et seq.*
- <sup>21</sup> Chapter 218H of NRS.
- <sup>22</sup> NRS 218A.915.
- <sup>23</sup> NRS 198.010.
- <sup>24</sup> NRS 218E.085.
- <sup>25</sup> NRS 218A.960 and 218A.965.
- <sup>26</sup> Senate Standing Rule No. 94, Assembly Standing Rule No. 94, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>27</sup> *Nevada Constitution*, Art. 4, Sec. 1.
- <sup>28</sup> *Nevada Constitution*, Art. 4, Sec. 23.
- <sup>29</sup> *Nevada Constitution*, Art. 9, Sec. 2; Art. 10, Sec. 1.
- <sup>30</sup> *Nevada Constitution*, Art. 4, Sec. 19.
- <sup>31</sup> *Nevada Constitution*, Art. 16, Sec. 1; *United States Constitution*, Art. 5.
- <sup>32</sup> *Nevada Constitution*, Art. 19, Sec. 2.
- <sup>33</sup> *Nevada Constitution*, Art. 11, Sec. 4.
- <sup>34</sup> *Nevada Constitution*, Art. 11, Sec. 5.
- <sup>35</sup> *Nevada Constitution*, Art. 4, Sec. 25.
- <sup>36</sup> *Nevada Constitution*, Art. 4, Sec. 32.
- <sup>37</sup> *Nevada Constitution*, Art. 4, Secs. 28 and 33.
- <sup>38</sup> *Nevada Constitution*, Art. 15, Sec. 9.
- <sup>39</sup> *Nevada Constitution*, Art. 6, Sec. 15.
- <sup>40</sup> *Nevada Constitution*, Art. 4, Sec. 32.
- <sup>41</sup> *Nevada Constitution*, Art. 5, Sec. 4; NRS 293.400.

- <sup>42</sup> *Nevada Constitution*, Art. 7, Secs. 1 and 2.
- <sup>43</sup> *Nevada Constitution*, Art. 5, Sec. 13.
- <sup>44</sup> NRS 353.230.
- <sup>45</sup> NRS 218G.010, *et seq.*
- <sup>46</sup> Chapter 233B of NRS.
- <sup>47</sup> *Nevada Constitution*, Art. 4, Sec. 2.
- <sup>48</sup> *Nevada Constitution*, Art. 5, Sec. 9.
- <sup>49</sup> Senate Standing Rule No. 43, Assembly Standing Rule No. 49, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>50</sup> Senate Standing Rule No. 53, Assembly Standing Rule No. 43, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>51</sup> Senate Standing Rule No. 46, Assembly Standing Rule No. 44.5, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>52</sup> Joint Rule No. 1, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>53</sup> Joint Rule No. 7, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>54</sup> Senate Standing Rule No. 12, Assembly Standing Rule No. 10, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>55</sup> For example, see: Legislative Commission (NRS 218E.150); Interim Finance Committee (NRS 218E.400); or Committees on Health Care (NRS 439B.200), High-Level Radioactive Waste (NRS 459.0085), or Public Lands (NRS 218E.510).
- <sup>56</sup> Joint Rule No. 7, *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>57</sup> *Nevada Constitution*, Art. 4, Sec. 11.
- <sup>58</sup> NRS 218A.440.
- <sup>59</sup> NRS 218A.300.
- <sup>60</sup> NRS 218A.310.
- <sup>61</sup> *Nevada Constitution*, Art. 4, Sec. 20.
- <sup>62</sup> *Id.*
- <sup>63</sup> *Nevada Constitution*, Art. 4, Sec. 21.
- <sup>64</sup> *Nevada Constitution*, Art. 4, Sec. 24 and Art. 10, Sec. 1.
- <sup>65</sup> *Nevada Constitution*, Art. 4, Sec. 25.
- <sup>66</sup> *Nevada Constitution*, Art. 4, Sec. 36.
- <sup>67</sup> *Nevada Constitution*, Art. 1, Secs. 1 through 20.
- <sup>68</sup> *Nevada Constitution*, Art. 9, Sec. 3.
- <sup>69</sup> *Nevada Constitution*, Art. 9, Sec. 4.
- <sup>70</sup> *U.S. Constitution*, Art. 1, Secs. 8 and 10; and various amendments to the *U.S. Constitution*, particularly the Fifth and Fourteenth Amendments.
- <sup>71</sup> *Nevada Constitution*, Art. 10, Secs. 1, 2, and 5.
- <sup>72</sup> NRS 218A.905 and 218A.915.
- <sup>73</sup> NRS 218E.095.
- <sup>74</sup> NRS 218E.085.
- <sup>75</sup> NRS 218A.950 and 218A.955.
- <sup>76</sup> NRS 218A.970.
- <sup>77</sup> *Id.*
- <sup>78</sup> *Id.*
- <sup>79</sup> NRS 281A.430.
- <sup>80</sup> NRS 218A.970.

- <sup>81</sup> Id.
- <sup>82</sup> NRS 218A.960.
- <sup>83</sup> NRS 218A.965.
- <sup>84</sup> *Nevada Constitution*, Art. 4, Sec. 7.
- <sup>85</sup> NRS 294A.100, 294A.160, 294A.190, and 294A.300.
- <sup>86</sup> NRS 218A.965, 218A.970, 281A.400, 281A.430, 281A.510, 281A.620, and the Hatch Act (5 U.S.C. §§ 1501-1508).
- <sup>87</sup> Senate Standing Rule No. 23, Assembly Standing Rule No. 23 (subsections 1,6, 8, 9, and 10), *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>88</sup> Senate Standing Rule No. 23, Assembly Standing Rule No. 23 (subsection 11), *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>89</sup> Standing Rule No. 23, Assembly Standing Rule No. 23 (subsection 13), *Standing Rules of the Senate and Assembly*, Nevada Legislature, 75th Session, 2009.
- <sup>90</sup> NRS 294A.120 and 294A.200.
- <sup>91</sup> NRS 294A.125.
- <sup>92</sup> NRS 294A.140.
- <sup>93</sup> NRS 294A.150.
- <sup>94</sup> NRS 294A.210 and 294A.220.
- <sup>95</sup> NRS 294A.283.
- <sup>96</sup> NRS 281A.610.
- <sup>97</sup> NRS 281A.630.
- <sup>98</sup> NRS 281A.620.
- <sup>99</sup> NRS 281A.660.
- <sup>100</sup> NRS 218A.150.
- <sup>101</sup> *Nevada Constitution*, Art. 4, Sec. 33; and NRS 218A.630.
- <sup>102</sup> NRS 218A.645.
- <sup>103</sup> Id.
- <sup>104</sup> *Nevada Constitution*, Art. 4, Sec. 33; and NRS 218A.645.
- <sup>105</sup> *Nevada Constitution*, Art. 4, Sec. 33; and NRS 218A.665.
- <sup>106</sup> NRS 218A.670.
- <sup>107</sup> *Nevada Constitution*, Art. 4, Sec. 33.
- <sup>108</sup> NRS 218A.635.
- <sup>109</sup> Chapter 218C of NRS.

