

CHAPTER III
THE NEVADA LEGISLATURE AND
ITS MEMBERS

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INTRODUCTION

This chapter discusses the size and apportionment of the houses of the Legislature and the procedure for redistricting legislative districts. This chapter also contemplates legislative sessions and functional aspects of legislative membership, such as membership qualifications, elections, term limits, and vacancies in office, and the powers and responsibilities of members. Finally, this chapter describes certain financial operations of the Legislative Department.

SIZE AND APPORTIONMENT

Unlike some states, Nevada does not fix the number of its members of the Senate and Assembly in its constitution. Instead, the Nevada Constitution sets a maximum limit of seventy-five legislators from the combined total of the two houses of the Legislature. (Nev. Const. Art. 15, Sec. 6) 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.” (Nev. Const. Art. 4, Sec. 5) The actual size of the Legislature is set by statute. (Chapter 218B of NRS)

Since 1982, the Legislature has had sixty-three members, with forty-two members in the Assembly and twenty-one members in the Senate. (Ch. 532, Statutes of Nevada 1981, at 1109-1126) However, it has not always been that way. The Legislature had the maximum seventy-five members for its sessions in 1875, 1877, 1879, 1913, and 1915, during periods of population growth. (*Political History of Nevada*, at 296 (Carson City, Nev., Sec’y of State, 12th ed., 2016)) By contrast, the Legislature had only forty-five members, the fewest members in the state’s history, for its sessions in 1893 through 1899, during a period of population decline. (*Id.*)

The Nevada Constitution states that representation must be apportioned according to population and that members of the Senate and Assembly must be apportioned among the several counties of the state or among legislative districts, which may be established by law. (Nev. Const. Art. 1, Sec. 13; Art. 4, Sec. 5) 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. (*Reynolds v. Sims*, 377 U.S. 533, 557-68 (1964); *Lucas v. 44th General Assembly of Colo.*, 377 U.S. 713, 734-35 (1964); *Evenwel v. Abbott*, 578 U.S. 54, 64-74 (2016)) Membership in both houses of the Legislature is geographically apportioned throughout the state based on population, using population counts from the federal decennial census as revised by the State Demographer in accordance with state law. (NRS 218B.105 and 360.288)

REAPPORTIONMENT AND REDISTRICTING

Normally, the Legislature redistricts the state's legislative districts once every ten years following the federal decennial census conducted by the United States Census Bureau. (Nev. Const. Art. 4, Sec. 5; Art. 15, Sec. 13) After receiving the necessary redistricting data following the federal decennial census, the Legislature enacts laws to reapportion and redistrict the election districts for the members of the Legislature (Chapter 218B of NRS); the members of the United States House of Representatives from the State of Nevada (Chapter 304 of NRS); the members of the Board of Regents of the University of Nevada (Chapter 396 of NRS); and the elected members of the State Board of Education, which consists of a certain number of elected members and appointed members (Chapter 385 of NRS).

Due to the COVID-19 pandemic and subsequent delays in the operations of the decennial census in 2020, the redistricting data necessary for the 2021 redistricting was ultimately not delivered to the states until August 2021. (Nevada Legislative Counsel Bureau Research Division, *Reapportionment and Redistricting in Nevada: 2020 United States Census Data*, September 2021, www.leg.state.nv.us/Division/Research/Content/items/reapportionment-and-redistricting-in-nevada-2020-us-census-data) Therefore, the Legislature was unable to complete the redistricting during the 81st Legislative Session, which took place between February and June in 2021. (Nev. Const. Art. 4, Sec. 2) As a result, Governor Steve Sisolak called the 33rd Special Session in the beginning of November 2021 to complete redistricting and address a handful of related election topics. (*A Proclamation by Governor Steve Sisolak to Convene a Special Session of the Nevada State Legislature*, Nov. 12, 2021, www.leg.state.nv.us/Session/33rd2021Special/Docs/Proclamation.pdf)

During the 33rd Special Session, the Legislature enacted two redistricting measures. Senate Bill No. 1 revised the election districts for the members of the Legislature, the members of the United States House of Representatives from the Nevada, and the elected members of the State Board of Education. (Ch. 1, Statutes of Nevada 2021, 33rd Spec. Sess., at 1) Assembly Bill No. 1 revised the election districts for the members of the Board of Regents of the university of Nevada. (Ch. 2, Statutes of Nevada 2021, 33rd Spec. Sess., at 79)

Specifically, as relates to the redistricting of the state's legislative districts during the 33rd Special Session, the approved maps retained the size of the Legislature. (Ch. 1, Statutes of Nevada 2021, 33rd Spec. Sess., at 1) However, most of the state legislative districts' boundaries changed during the redistricting process. (*Id.*) Based on the data provided by the 2020 United States Census, the average population of the Assembly districts is 73,919 people, and the Senate districts have an average population of 147,839 people. (*2021 Nevada Redistricting: Overview Maps and Statistical Tables*, Nevada Legislative Counsel Bureau, December 2021, <https://www.leg.state.nv.us/Division/Research/Content/items/2021-nevada-redistricting-overview-maps-and-statistical-tables>) Of note, the average population for state legislative districts has

increased by 15 percent over the past decade. (Nevada Legislative Counsel Research Division, *Reapportionment and Redistricting in Nevada: 2020 United States Census Data*, September 2021, www.leg.state.nv.us/Division/Research/Content/items/reapportionment-and-redistricting-in-nevada-2020-us-census-data) The state's population was just over 3.1 million in 2020, compared to about 2.7 million in 2010 and nearly 2 million in 2000. (*Id.*)

Currently, there are fifteen Senate districts wholly within Clark County; two districts entirely within Washoe County; one district encompassing Carson City, Storey County, and parts of Washoe County; one district including the eastern part of the state and parts of Clark County; one district including portions of Elko, Eureka, and Washoe Counties, and all of Humboldt, Lander, and Pershing Counties; and one district including all of Churchill, Douglas, Esmeralda, Lyon, and Mineral Counties, as well as portions of Nye County. (Nevada Legislative Counsel Bureau Research Division, *2021 Nevada Redistricting: Overview Maps and Statistical Tables*, December 2021, <https://www.leg.state.nv.us/Division/Research/Content/items/2021-nevada-redistricting-overview-maps-and-statistical-tables>) The forty-two Assembly districts include thirty districts wholly within Clark County, six districts entirely within Washoe County, and six districts containing parts of Clark or Washoe Counties and the rural counties. (*Id.*)

Maps A through F in Appendix G describe the boundaries of the state's legislative districts enacted by the Legislature during the 33rd Special Session. In addition, detailed maps of every district and related statistics are available on the Legislature's Internet website at <https://www.leg.state.nv.us/Division/Research/Content/items/2021-nevada-redistricting-overview-maps-and-statistical-tables>.

MEMBERSHIP

Terms of Office and Term Limits

Members of the Assembly are elected every two years by the registered voters in their respective districts, and Senators are elected every four years by the registered voters in their respective districts. (Nev. Const. Art. 4, Secs. 3 and 4; NRS 218B.100; Chapter 293 of NRS) The terms of Senators are staggered so that, as nearly as possible, one-half of the number of Senators is elected every two years. (Nev. Const. Art. 17, Secs. 9 and 10; *State ex rel. Herr v. Laxalt*, 84 Nev. 382, 386-88, 441 P.2d 687, 690-91 (1968))

However, under certain circumstances, a Senator or Assemblymember may be elected to fill a vacancy and serve the remainder of an unexpired term in accordance with the Nevada Constitution and election laws. (Nev. Const. Art. 4, Sec. 12; NRS 293.165; *Lueck v. Teuton*, 125 Nev. 674, 682-85, 219 P.3d 895, 900-02 (2009); *Brown v. Georgetta*, 70 Nev. 500, 506-10, 275 P.2d 376, 379-80 (1954)) For more

information on vacancies, see the section in this chapter labeled “Filling Vacancies in Office.”

In 1996, Nevada’s voters approved a constitutional amendment related to term limits. The constitutional amendment limits legislators to 12 years of service in each house. (Nev. Const. Art. 4, Secs. 3 and 4) In 2008, the Nevada Supreme Court determined that the constitutional amendment applies only to periods of service commencing after November 27, 1996, the date on which the constitutional amendment became a part of the Nevada Constitution. (*Miller v. Burk*, 124 Nev. 579, 589-90, 188 P.3d 1112, 1119 (2008); *Child v. Lomax*, 124 Nev. 600, 608-11, 188 P.3d 1103, 1109-11 (2008)) Thus, term limits first impacted members of the Legislature during the 2010 election cycle.

Members of both houses of the Legislature are elected at the general election held on the first Tuesday after the first Monday in November of even-numbered years, at intervals of two or four years depending on the house in question. (Nev. Const. Art. 4, Secs. 3 and 4; Art. 15, Sec. 5; Art. 17, Secs. 9 and 10; NRS 293.12755) Their terms of office begin on the day following the general election. (Nev. Const. Art. 4, Secs. 3 and 4; *Child v. Lomax*, 124 Nev. 600, 609-11, 188 P.3d 1103, 1109-11 (2008)) However, members typically are not seated by their respective houses until the first day of the next regular session, which begins on the first Monday of February following the general election, unless a special session is convened before that regular session. (Nev. Const. Art. 4, Secs. 2, 2A, and 6; Art. 5, Sec. 9)

Qualifications for Office

A person is not eligible to be elected or appointed as a member of the Legislature unless: (1) the person is at least 21 years old at the time of election or appointment; (2) the person is a qualified elector and resident in the respective county and district for the required period; (3) the person has been an actual citizen resident of Nevada for a minimum of one year preceding the election or appointment; and (4) the person meets all other constitutional and statutory qualifications for the legislative office. (Nev. Const. Art. 2, Sec. 1; Art. 15, Sec. 3; NRS 218A.200, 218A.260, 281.040, 281.050, 293.1755, 293.176, 293.177, and 293.181; *Mengelkamp v. List*, 88 Nev. 542, 543-46, 501 P.2d 1032, 1033-34 (1972))

A person cannot be a qualified elector and cannot be elected or appointed to any public office in Nevada if: (1) the person has been convicted of treason or felony in any state or territory of the United States, unless restored to civil rights; or (2) the person has been adjudicated mentally incompetent, unless restored to legal capacity. (Nev. Const. Art. 2, Sec. 1; Art. 15, Sec. 3; NRS 281.040) Additionally, a person is disqualified from holding any public office in Nevada if the person has been convicted of: (1) embezzlement or defalcation of the public funds of this state; (2) giving or offering a bribe to procure the person’s election or appointment to public office; or (3) receiving a bribe to aid in the procurement of a public office for any other person.

(Nev. Const. Art. 4, Sec. 10) A person is also disqualified from holding any public office in Nevada if the person has been impeached by the Assembly, convicted by the Senate, and the Senate's judgment provides for such disqualification. (Nev. Const. Art. 7, Secs. 1 and 2; NRS 283.240 and 283.250) The conviction of a public officer or other persons of certain criminal offenses disqualifies the public officer or other person from thereafter holding any public office in Nevada. (NRS 193.019, 197.230, 226.210, and 408.353)

Challenges to Qualifications for Office

Under certain circumstances, a person with the proper legal standing may file a preelection challenge seeking to disqualify a candidate for legislative office on the grounds that the candidate fails to meet any constitutional or statutory qualifications for the office. (NRS 281.050, 293.182, and 293.2045; *Child v. Lomax*, 124 Nev. 600, 604-06, 188 P.3d 1103, 1106-07 (2008)) Contrastingly, each house of the Legislature has plenary and exclusive jurisdiction and power concerning any matter relating to the qualifications of a member or member-elect of the Legislature, and a member or member-elect cannot be disqualified from entering upon, taking, holding, or exercising any powers or duties of the office unless disqualified by the member's own house. (Nev. Const. Art. 4, Sec. 6; NRS 293.1265; *Heller v. Legislature*, 120 Nev. 456, 466-72, 93 P.3d 746, 753-56 (2004))

Election Contests

The Nevada Constitution also vests each house of the Legislature with plenary and exclusive jurisdiction and power to determine the elections and returns of its own members. (Nev. Const. Art. 4, Sec. 6) As a result of this constitutional provision, each house of the Legislature is empowered to render a final and conclusive judgment in election contests for state legislative offices, and state courts are deprived of jurisdiction to decide those election contests. (*Id.*; *Laxalt v. Cannon*, 80 Nev. 588, 591, 397 P.2d 466, 467 (1964); *Garrard v. Gallagher*, 11 Nev. 382, 385-86 (1876); *Mason's Manual of Legislative Procedure*, Sec. 560 (Denver, Colo., Nat'l Conf. of State Legs., 2020)) Therefore, when adjudicating election contests for state legislative offices, each house has the authority to "render a judgment which is beyond the authority of any other tribunal to review." (*Barry v. United States ex rel. Cunningham*, 279 U.S. 597, 613 (1929); *Mason's Manual of Legislative Procedure*, Sec. 560 (Denver, Colo., Nat'l Conf. of State Legs., 2020))

To contest the general election for a state legislative office, a person with the proper legal standing must file a statement of contest and certain related documents with the Secretary of State within the statutorily prescribed time following the election. (NRS 293.407, 293.413, and 293.425) On the day of the organization of the Legislature, the Secretary of State must deliver the statement of contest and all related documents to the presiding officer of the house of the Legislature in which the election

contest is to be held, unless the contestant withdraws the statement of contest. (NRS 293.427; *Heller v. Legislature*, 120 Nev. 456, 462, 93 P.3d 746, 750 (2004)) The election contest must be heard and decided as prescribed by the rules of the house of the Legislature. (NRS 293.427) The house determines the remedies, if any, to award a party to the election contest, and the remedies may include the award of any costs incurred by a party in connection with the contest. (*Id.*; *Garrard v. Gallagher*, 11 Nev. 382, 385-86 (1876))

Limitations Relating to Accepting or Holding Other Offices

The Nevada Constitution provides that a person cannot hold a public office in Nevada if the person holds a lucrative office under the United States Government or any other power. (Nev. Const. Art. 4, Sec. 9; *State ex rel. Summerfield v. Clarke*, 21 Nev. 333, 335-38, 31 P. 545, 546-47 (1892)) This constitutional restriction does not apply to postmasters whose compensation does not exceed \$500 per year or commissioners of deeds. (Nev. Const. Art. 4, Sec. 9) Additionally, the Nevada Supreme Court has determined that if a legislator accepts an office under the United States Government or any other power, the legislator's acceptance of the other office acts as a constructive resignation of the legislative office and creates a vacancy in the member's seat. (*State ex rel. McMillan v. Sadler*, 25 Nev. 131, 172-74, 58 P. 284, 289 (1899))

The Nevada Constitution also provides that a legislator cannot, during the term for which the legislator has been elected, or for one year thereafter, be appointed to any civil office of profit under this state which has been created, or the salary or other emoluments of which have been increased, during the term, except for an office filled by elections by the people. (Nev. Const. Art. 4, Sec. 8) The Nevada Supreme Court has determined that this constitutional provision applies only to appointments to a civil office of profit and does not apply to a legislator's acceptance of a position of public employment. (*State ex rel. Kendall v. Cole*, 38 Nev. 215, 218-33, 148 P. 551, 551-56 (1915))

Generally speaking, a legislator cannot hold a public office in the Executive or Judicial Departments of State Government. (Nev. Const. Art. 3, Sec. 1) However, the Nevada Constitution expressly authorizes the President Pro Tempore of the Senate to act as Governor under certain circumstances. (Nev. Const. Art. 5, Sec. 17; *State ex rel. Hardin v. Sadler*, 23 Nev. 356, 357-58, 47 P. 450 (1897)) Moreover, the Nevada Supreme Court has held that legislators are not prohibited from holding positions of employment with the Nevada System of Higher Education (NSHE), and local governments, subject to certain possible exceptions. *Nevada Policy Research Institute v. Miller*, 140 Nev. Adv. Op. 69, at 326-330 (Oct. 31, 2024)

Nevada law also provides that a person cannot: (1) file nomination papers for more than one elective office at an election; or (2) hold more than one elective office at the same time. (NRS 281.055) However, this statutory prohibition does not apply to

filing nomination papers for, or holding another elective office of, a special district, including an irrigation district, local or general improvement district, soil conservation district, or fire protection district, but excluding a school district. (*Id.*)

Resignations From Office

In Nevada, a public officer “has the absolute right of resignation at will.” (*State ex rel. Nourse v. Clarke*, 3 Nev. 566, 574 (1868)) However, a public office cannot be declared vacant due to resignation unless: (1) the public officer complies with the statutory procedures for carrying out the resignation; and (2) the public officer’s resignation becomes final and effective. (*State ex rel. Ryan v. Murphy*, 30 Nev. 409, 419-27, 97 P. 391, 392-95 (1908); *State ex rel. Williams v. Beck*, 24 Nev. 92, 97-98, 49 P. 1035, 1036-37 (1897)) To resign from office, the legislator must deliver the resignation to the Governor. (NRS 218A.250) Additionally, a legislator who has received a certificate of election or appointment to office may resign from office, regardless of whether the legislator has begun the legislator’s official duties or has taken the requisite oath of office. (*Id.*)

In most cases, a public officer’s resignation becomes final and effective immediately once the resignation is delivered in accordance with the statutory procedures. (*State ex rel. Nourse v. Clarke*, 3 Nev. 566, 574 (1867)) However, if the public officer provides in the resignation that it will take effect at a specified future date or that it is conditional and will not take effect except upon certain contingencies, the resignation does not become final and effective until the specified future date or the occurrence of the contingencies. (*Ryan v. Murphy*, 30 Nev. 409, 419-27, 97 P. 391, 392-95 (1908); *State ex rel. Williams v. Beck*, 24 Nev. 92, 97-98, 49 P. 1035, 1036-37 (1897)) Under those circumstances, if the public officer timely withdraws the resignation before the specified future date or the happening of the contingencies, the public officer remains in office as if the public officer had never written or delivered the resignation. (*Ryan v. Murphy*, 30 Nev. 409, 419-27, 97 P. 391, 392-95 (1908); *State ex rel. Williams v. Beck*, 24 Nev. 92, 97-98, 49 P. 1035, 1036-37 (1897))

Filling Vacancies in Office

When the Nevada Constitution was ratified by the voters in 1864, it required vacancies in state legislative offices to be filled by election. (Nev. Const. Art. 4, Sec. 12 (1864)) Today, there is a different procedure used to fill these vacancies due to the adoption of constitutional amendments proposed by the Legislature and approved by the voters. The Nevada Constitution currently requires legislative vacancies to be filled by election under certain circumstances and by appointment under certain other circumstances. (Nev. Const. Art. 4, Sec. 12; *Grant v. Payne*, 60 Nev. 250, 252-58, 107 P.2d 307, 308-11 (1940), *superseded in part by constitutional amendments approved by the voters in 1944*)

Today, a legislative vacancy is required to be filled by appointment if the vacancy occurs during a regular or special session, or at any other time when the vacancy does not meet the requirements to be filled by election. (Nev. Const. Art. 4, Sec. 12; NRS 218A.260) A legislative vacancy is required to be filled by election if: (1) a 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; and (2) under the election laws in effect at the time, one or more qualified persons are properly designated or nominated as candidates for the legislative office and comply with all other statutory requirements for placement on the ballot before the expiration of the statutory deadline for making changes to the ballot for that election. (Nev. Const. Art. 4, Sec. 12; NRS 293.165; *Lueck v. Teuton*, 125 Nev. 674, 682-85, 219 P.3d 895, 900-02 (2009); *Brown v. Georgetta*, 70 Nev. 500, 506-10, 275 P.2d 376, 379-80 (1954))

If a legislative vacancy is required to be filled by appointment, the appropriate board or boards of county commissioners, as applicable, must appoint a person who: (1) meets the qualifications for the office; (2) is nominated or timely files an application to fill the vacancy, as applicable; (3) is a member of the same political party as the former legislator; and (4) has actually, as opposed to constructively, resided in the legislative district for at least 30 days immediately preceding the date on which the person is nominated or the date established for the close of filing of applications to fill the vacancy, as applicable. (NRS 218A.260 and 218A.262) The specific procedures used to fill the legislative vacancy vary depending on: (1) whether the former legislator was elected or appointed from a legislative district wholly within one county or from a legislative district comprising more than one county; and (2) whether the former legislator was a member of the same political party as the Majority or Minority Leader of the former legislator's house or was not a member of either such political party. (*Id.*)

If the former legislator was elected or appointed from a legislative district wholly within one county and was a member of the same political party as the Majority or Minority Leader of the house, the Majority or Minority Leader, as applicable, must submit to the board of county commissioners a list of one or more qualified nominees to fill the vacancy. (*Id.*) After receipt of the list of qualified nominees, the board must appoint a qualified nominee from the list or reject every qualified nominee. If the board rejects all of the qualified nominees, the board must request a new list of qualified nominees from the same Majority or Minority Leader, as applicable, who must then submit a new list of one or more qualified nominees to fill the vacancy. After receipt of the new list of qualified nominees, the board must fill the vacancy by appointing a qualified nominee from the new list. (*Id.*)

If the former legislator was elected or appointed from a legislative district wholly within one county but was not a member of the same political party as either the Majority or Minority Leader of the house, the board of county commissioners must establish a process by which persons may file applications with the board to fill the

vacancy and a specific date for the close of filing of the applications. After the closing date, the board must fill the vacancy by appointing a qualified applicant. (*Id.*)

If the former legislator was elected or appointed from a legislative district comprising more than one county and was a member of the same political party as the Majority or Minority Leader of the house, the Majority or Minority Leader, as applicable, must submit to the board of county commissioners of each county within, or partly within, the district, a list of one or more qualified nominees to fill the vacancy. (*Id.*) After receipt of the list of qualified nominees, each board must first meet separately and select a qualified nominee from the list or reject every qualified nominee. The boards then must hold a joint meeting chaired by the person who is the chair of the board of the county with the largest population in the legislative district. At the joint meeting, the chair of each board, on behalf of that board, must 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 total population of the entire legislative district, as determined by the last decennial census or special census conducted by the United States Census Bureau. If a qualified nominee from the list receives a plurality of these votes, the qualified nominee is appointed to fill the vacancy. If the rejection of each qualified nominee from the list receives a plurality of these votes, the boards must request a new list of qualified nominees from the same Majority or Minority Leader, as applicable, who must then submit a new list of one or more qualified nominees to fill the vacancy. After receipt of the new list of qualified nominees, the boards must repeat the foregoing process, except that the boards must fill the vacancy by appointing a qualified nominee from the new list. (*Id.*)

If the former legislator was elected or appointed from a legislative district comprising more than one county but was not a member of the same political party as either the Majority or Minority Leader of the house, the board of county commissioners of each county within or partly within the district must establish a process by which persons may file applications with that board to fill the vacancy, and the board of county commissioners of the county with the largest population in the district must, after considering any recommendations made by the other boards within a reasonable time after the vacancy, establish a specific date that is the same for all of the boards for the close of filing of applications to fill the vacancy. (*Id.*) After the closing date, each board must first meet separately and select a qualified applicant to fill the vacancy. The boards then must hold a joint meeting chaired by the person who is the chair of the board of the county with the largest population in the legislative district. At the joint meeting, the chair of each board, on behalf of that board, must 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 total population of the entire legislative district, as determined by the last decennial census or special census conducted by the United States Census Bureau. If a qualified applicant receives a plurality of these votes, the qualified applicant is appointed to fill the vacancy. If qualified applicant does not receive a plurality of these votes, each board then must

select a qualified applicant as its candidate, and the person appointed to fill the vacancy must be chosen by drawing lots among the candidates so selected. (*Id.*)

Recall From Office

The Nevada Constitution provides that certain public officers, including legislators, are subject to recall from office through a recall process initiated by the required number of registered voters seeking to bring about a recall election. (Nev. Const. Art. 2, Sec. 9; *Strickland v. Waymire*, 126 Nev. 230, 233-42, 235 P.3d 605, 608-13 (2010)) However, the Nevada Supreme Court has determined that the constitutional recall provisions do not apply to judicial officers who are subject to removal from office by the Nevada Commission on Judicial Discipline or by the Legislature under other constitutional provisions. (Nev. Const. Art. 6, Sec. 21; Art. 7, Secs. 1-3; *Ramsey v. City of N. Las Vegas*, 133 Nev. 96, 99-106, 392 P.3d 614, 617-22 (2017))

The Nevada Constitution provides that the Legislature may enact laws that “aid the operation” of the constitutional recall provisions, and the Legislature has enacted statutory provisions to aid the operation of the recall process. (Nev. Const. Art. 2, Sec. 9; Chapter 306 of NRS) Therefore, any persons seeking to bring about a recall election must comply with all constitutional and statutory provisions governing the recall process. (*Citizens for Honest & Responsible Gov’t v. Sec’y of State*, 116 Nev. 939, 947-51, 11 P.3d 121, 126-28 (2000); *Fiannaca v. Gill*, 78 Nev. 337, 339-45, 372 P.2d 683, 684-87 (1962))

Under the recall process, a recall petition cannot be circulated or filed against a public officer until the public officer has held the office for 6 months, except that a recall petition may be filed against a legislator at any time after 10 days from the beginning of the first session after the legislator’s election. (Nev. Const. Art. 2, Sec. 9) A public officer who is appointed to serve the remainder of the unexpired term of an elective office is subject to recall in the same manner as provided for a public officer elected to that office and, for purposes of the recall process, is deemed to have been elected to that office at the same election at which the former elected officeholder or candidate was elected before the vacancy in that office. (NRS 306.020)

To bring about a recall election, the persons circulating the recall petition must obtain the signatures of not less than 25 percent of the registered voters who voted in the district or other jurisdiction represented by the officeholder at the election at which the officeholder was elected. (Nev. Const. Art. 2, Sec. 9; NRS 306.020; *Strickland v. Waymire*, 126 Nev. 230, 233-42, 235 P.3d 605, 608-13 (2010)) However, before the recall petition is circulated, a notice of intent to circulate the petition must be filed with the filing officer with whom the officeholder filed the declaration of candidacy. (NRS 306.015) The notice of intent must be signed by three registered voters who voted in the district or other jurisdiction represented by the officeholder at the election at which the officeholder was elected and reside in that district or other jurisdiction on

the date that the notice of intent is filed with the filing officer. (*Id.*) The notice of intent cannot be filed during the period the circulation or filing of the recall petition is prohibited under the Nevada Constitution. (NAC 306.005)

The recall petition that is circulated for signatures must meet various requirements, including setting forth the reasons why the recall is demanded, in not more than 200 words, which must appear on each signature page of the petition. (Nev. Const. Art. 2, Sec. 9; NRS 306.020 and 306.030; NAC 293.182) The recall petition may be circulated for signatures for not more than 90 days after the date that the notice of intent is filed with the filing officer. (NRS 306.015) If the persons who filed the notice of intent comply with the requirements for circulating and submitting the recall petition for signature verification, the filing officer must submit the petition to the appropriate county clerks for signature verification. (NRS 306.015, 306.016, and 306.035)

Before signature verification is completed, any persons who signed the recall petition may have their names removed from the petition by submitting a request to the appropriate county clerk. (NRS 306.015) After signature verification is completed, if election officials determine that the recall petition contains enough valid signatures to bring about a recall election, any persons who signed the recall petition may have their names stricken from the petition by submitting a request to the filing officer within the statutorily prescribed period. (NRS 306.040) However, the filing officer cannot issue the call for the recall election, and the recall election cannot be held, if the filing officer receives so many requests to strike names from the recall petition such that the recall petition no longer contains enough valid signatures. (*Id.*)

If election officials determine that the recall petition contains enough valid signatures to bring about a recall election, an action to challenge the legal sufficiency of the petition, including the validity of the signatures, may be brought by filing a complaint in the district court within the statutorily prescribed period. (NRS 306.040; NAC 306.040) In such an action, if the district court determines that the recall petition is not legally sufficient, it must order the filing officer to cease all proceedings regarding the petition. (NRS 306.040) However, if the district court determines that the recall petition is legally sufficient, it must order the filing officer to issue the call for the recall election. (*Id.*)

If, during the recall process, the officeholder resigns from office before the filing officer issues the call for the recall election, the filing officer must cease all proceedings regarding the recall petition, and the vacancy in office must be filled in the manner provided by law. (Nev. Const. Art. 2, Sec. 9; NRS 306.045) However, if the officeholder resigns from office after the filing officer issues the call for the recall election, the election must be conducted. (*Id.*)

If the recall election is conducted, the sample ballots must include the reasons why the recall is demanded, as set forth in the recall petition. (Nev. Const. Art. 2,

Sec. 9; NRS 306.060) The sample ballots must also include the officeholder's justification of the officeholder's course in office, in not more than 200 words, if furnished by the officeholder. (NRS 306.060) For purposes of the recall election, other persons may be nominated as candidates for the office at the election by filing a nominating petition with the signatures of the required number of registered voters and complying with the requirements for becoming a candidate at the election. (Nev. Const. Art. 2, Sec. 9; NRS 306.110; NAC 293.182 and 306.045)

If other candidates are not nominated for the recall election, the ballots must include the name of the officeholder, the office that held by the officeholder, and the words "For Recall" and "Against Recall." (NRS 306.070) If the voters recall the officeholder, the vacancy in office must be filled in the manner provided by law. (NRS 306.080) If other candidates are nominated for the recall election, the ballots must include the name of the officeholder, the office that held by the officeholder, and the names of the other candidates, but the words "For Recall" and "Against Recall" must be omitted from the ballots. (NRS 306.070) The person who receives the highest number of votes at the recall election is elected for the remainder of the unexpired term, whether that person is the officeholder or another candidate on the ballot. (Nev. Const. Art. 2, Sec. 9)

If a recall petition is filed and the recall election is conducted, but the officeholder is not recalled at the election, other recall petitions may not be filed against the same officeholder during the term for which the officeholder was elected, unless the persons seeking to file the subsequent recall petition first pay the state and each affected local government, as applicable, the total amount expended from each public treasury as expenses for the preceding recall election. (*Id.*)

FINANCIAL OPERATIONS

Legislative Fund

During each regular session, the Legislature appropriates money from the State General Fund to pay for the expenses of the regular session and the operations of the Legislative Department during the next biennium. (Nev. Const. Art. 4, Secs. 1, 2, and 19) *See, e.g.,* Ch. 1, Statutes of Nevada 2023, at 1; Legislative Counsel Bureau Fiscal Analysis Division, *Nevada Legislative Appropriations Report: Eighty-Second Legislature, Thirty-Fourth (2023) Special Session, Thirty-Fifth (2023) Special Session*, November 2023, www.leg.state.nv.us/Division/fiscal/Appropriation%20Reports/2023AppropriationsReport/2023_82nd_AmendedAppropriationsReport.pdf) When necessary to defray the costs of a special session, the Legislature also appropriates money from the State General Fund to pay for the expenses of the special session. (Nev. Const. Art. 4, Secs. 1, 2A, and 19; Art. 5, Sec. 9) These appropriations are deposited in the Legislative Fund. (NRS 218A.150) The expenses paid from the Legislative Fund include expenses for legislator and staff salaries, per diem allowances, and travel expenses; the costs of operating, maintaining, and improving

the Legislative Building and all other legislative buildings, facilities, and grounds; expenses for operations during the legislative interim; and all other necessary expenses of the Legislative Department. (*Id.*)

Legislator Compensation

The Nevada Constitution contains several requirements and restrictions regarding the payment of a salary or compensation to legislators. During sessions, legislators are entitled to be paid a salary or compensation for their services in an amount established by law and paid out of the state treasury, but legislators cannot be paid their salary or compensation for more than 60 days during a regular session or more than 20 days during a special session, regardless of the length of the session. (Nev. Const. Art. 4, Secs. 28 and 33) When legislators receive the salary or compensation for their services, they are being compensated for the performance of all duties connected with their legislative offices, and they cannot receive, in addition to their salary or compensation, any personal fees or perquisites for the performance of any duties connected with their legislative offices or any additional duties imposed on them by law. (Nev. Const. Art. 17, Sec. 5; *Crosman v. Nightingill*, 1 Nev. 323, 324-26 (1865)) However, legislators may receive allowances, advances, or reimbursements for expenses incurred in the performance of any duties connected with their legislative offices or any additional duties imposed on them by law. (*State ex rel. Coffin v. Atherton*, 19 Nev. 332, 346-47, 10 P. 901, 910 (1886); *Christopherson v. Reeves*, 184 N.W. 1015, 1015-19 (S.D. 1921); *State ex rel. Douglas v. Beermann*, 347 N.W.2d 297, 301-05 (Neb. 1984))

The Nevada Constitution provides that money may not be drawn from the state treasury to pay the salary or compensation of any legislators unless the amount of the salary or compensation has been established by a law in force before the election or appointment of the legislators. (Nev. Const. Art. 4, Secs. 28 and 33; *State ex rel. King v. Hallock*, 16 Nev. 152, 153-54 (1881)) When the amount of the salary or compensation has been properly established by such a law, the amount cannot be increased or diminished for those legislators during the term for which they have been elected. (Nev. Const. Art. 4, Secs. 28 and 33; Art. 15, Sec. 9; Art. 17, Sec. 5; *Crosman v. Nightingill*, 1 Nev. 323, 324-26 (1865); *King v. Hallock*, 16 Nev. 152, 153-54 (1881))

In carrying out these constitutional provisions, the Legislature has enacted a statutory formula for establishing the amount of the salary or compensation to be paid to legislators during each legislative session, subject to certain adjustments on the first day of each legislator's term of office. (NRS 218A.630) When the statutory formula was enacted in 2005, each legislator serving in office at that time was entitled to be paid a baseline compensation in the amount of \$130 for each day of service during a session, with the payments not to exceed the constitutional limit on the maximum number of days that a salary or compensation may be paid to legislators during the session. (Ch. 329, Statutes of Nevada 2005, Sec. 7, at 1184, as amended by Ch. 532, Statutes of Nevada 2007, Sec. 8, at 3308) Under the statutory formula, for legislative terms of office that began on the day after the general election in 2006, the amount of

the baseline compensation for the office was increased on the first day of the term by an amount equal to the cumulative percentage increase in the salaries of the classified employees of this State from November 2, 2004, to November 7, 2006. (*Id.*) For legislative terms of office beginning after November 7, 2006, the amount of the immediately preceding baseline compensation for the office must be increased on the first day of the term by an amount equal to the cumulative percentage increase in the salaries of the classified employees of this State during the immediately preceding term of that office. (NRS 218A.630) Therefore, the amount of the baseline compensation paid to a legislator during a session will depend on the beginning date of the legislator's current term of office.

In addition to being paid compensation during a session, legislators are entitled to be paid compensation, with certain limitations, for each day or portion of a day during which they attend meetings as members of interim committees or certain other bodies or attend a pre-session orientation conference, a training session conducted for new legislators, or any conference, meeting, seminar, or other gathering for which they officially represent the State of Nevada or its Legislature. (NRS 218A.635, 218E.160, 218E.200, 218E.325, 218E.400, 218E.420, 218E.445, 218E.515, 218E.560, 218E.755, 232B.210, 239C.150, 385.610, 389.510, 427A.036, and 442.133) The daily rate paid to legislators as compensation for the attendance equals the daily rate paid as compensation to a majority of the members of the Legislature during the preceding regular session. (*Id.*) If legislators attend multiple meetings, sessions, conferences, seminars, or other gatherings during a single day, they are entitled to be paid the daily rate as compensation only once for that day, regardless of the number of meetings, sessions, conferences, seminars, or other gatherings that they attend during that day. (NRS 218A.640)

Legislator Allowances and Expenses

For a regular or special session, the Nevada Constitution provides that the Legislature may make an appropriation for the payment of the actual expenses that each legislator incurs, not exceeding the sum of \$60 per legislator, for postage, express charges, newspapers, and stationery. (Nev. Const. Art. 4, Sec. 33) The Nevada Constitution also mandates that the Speaker of the Assembly, and the Lieutenant Governor as the President of the Senate, must be paid an additional allowance of \$2 per diem during the time of their actual attendance as presiding officers. (*Id.*)

In addition to the payment of these constitutional allowances and expenses for a regular or special session, the Legislature has provided by law for the payment of other allowances and expenses related a regular or special session. (NRS 218A.645, 218A.665, and 218A.670) For attendance at a regular or special session, a pre-session orientation conference, a training session conducted for new legislators, and certain committee meetings, legislators are entitled to receive per diem allowances and reimbursements for travel expenses incurred in the performance of legislative business, with certain limitations. (NRS 218A.645) The per diem allowances, which

are intended to cover lodging, meals, and incidental expenses incurred by legislators when traveling for legislative business, cannot exceed the maximum rate established for the Carson City area for employees of the federal government by the United States General Services Administration under federal law. (NRS 218A.645; 5 U.S.C. §§ 5701 et seq.)

For a regular session, legislators are entitled to receive a supplemental allowance which, in the aggregate, must not exceed a total of \$10,000 for the payment of the following expenses related to the regular session: (1) expenses for moving to and from the Carson City area; (2) expenses for travel to and from their homes or their temporary residences in the Carson City area, for travel to and from certain committee meetings, and for individual travel within this State related to legislative business; (3) expenses for renting furniture for temporary residences in the Carson City area, with certain limitations; and (4) expenses for maintaining temporary residences in the Carson City area under a lease or other agreement for occupancy, with certain limitations, but only if the legislator's home is more than 50 miles from Carson City. (NRS 218A.645) If legislators are entitled to payments for expenses for maintaining temporary residences in the Carson City area, the amount cannot exceed the fair market rent for a one-bedroom unit in Carson City, as published by the United States Department of Housing and Urban Development, prorated for the number of days of the month that the legislators actually maintain such temporary residences, but excluding any days before the first day of the regular session or after the day of the adjournment sine die of the regular session. (*Id.*) For Fiscal Year 2025, the published rate for the fair market rent in the Carson City area is \$1,148 per month. (*FY 2025 Schedule of Metropolitan & Non-Metropolitan Fair Market Rents*, U.S. Department of Housing and Urban Development, www.huduser.gov/portal/datasets/fmr/fmr2025/FY2025_FMR_Schedule.pdf)

Additionally, for a regular session, legislators are entitled to receive an allowance of not more than \$2,800 for the payment of expenses incurred in the performance of legislative business, and legislators who are chairs of standing committees or hold certain leadership positions are entitled to an additional allowance of not more than \$900 for the payment of certain communication charges. (NRS 218A.645 and 218A.665) However, any expenses incurred by legislators during a regular session from tolls and charges for the use of a landline telephone service provided by the Legislative Counsel Bureau must be paid from the Legislative Fund. (*Id.*) For a regular session, legislators are also entitled to a certain number of business cards, sheets of official letterhead, and envelopes printed by the State Printing Office within the Legislative Counsel Bureau at the expense of the Legislative Fund. (NRS 218A.670 and 344.050) Finally, for a regular session, legislators may request advances of money for travel expenses. (NRS 218A.650)

For a special session, legislators are entitled to receive a supplemental allowance which, in the aggregate, must not exceed a total of \$1,200 for the payment of expenses related to the special session for travel to and from their homes or their temporary

residences in the Carson City area, for travel to and from certain committee meetings, and for individual travel within this State related to legislative business. (NRS 218A.645) Additionally, for a special session, legislators are entitled to receive an allowance of not more than \$300 for the payment of expenses incurred in the performance of legislative business, and legislators who are chairs of standing committees or hold certain leadership positions are entitled to an additional allowance of not more than \$64 for the payment of certain communication charges. (NRS 218A.645 and 218A.665) However, any expenses incurred by legislators during a special session from tolls and charges for the use of a landline telephone service provided by the Legislative Counsel Bureau must be paid from the Legislative Fund. (*Id.*)

During the legislative interim, legislators are entitled to receive per diem allowances and reimbursements for travel expenses, with certain limitations, for each day or portion of a day during which they attend meetings as members of interim committees or certain other bodies or attend a pre-session orientation conference, a training session conducted for new legislators, or any conference, meeting, seminar, or other gathering at which they officially represent the State of Nevada or its Legislature. (NRS 218A.635, 218E.160, 218E.200, 218E.325, 218E.400, 218E.420, 218E.445, 218E.515, 218E.560, 218E.755, 232B.210, 239C.150, 385.610, 389.510, 427A.036, and 442.133) In addition, during the legislative interim, legislators are entitled to receive an additional allowance for travel within this State, with certain limitations, to participate in meetings of interim committees on which they do not serve as members or meetings with any agencies, officers, or employees of federal, state, or local government or any other public entities regarding issues relating to this State. (NRS 218A.660) The allowance applies only to trips whose one-way distance is 50 miles or more or whose round-trip distance is 100 miles or more. The maximum amount of the allowance is \$3,000 for the legislative interim. However, the allowance is not payable to a legislator for any travel that occurs during the legislative interim at any time after the date on which a legislator has filed a declaration of candidacy for an elective office and remains a candidate for that office. (*Id.*) Finally, during the legislative interim, legislators may request advances of money for travel expenses. (NRS 218F.230)

Legislators' Retirement System

With certain exceptions, legislators are required to be participating members of the Legislators' Retirement System, unless they comply with the requirements for opting out of the participation. (NRS 218C.320 and 218C.330) If any legislators are public employees who are on a leave of absence from their public employment to serve in the Legislature, they may remain contributing members of the Public Employees' Retirement System (PERS) during the leave of absence from their public employment, instead of accruing service credit under the Legislators' Retirement System, if they

comply with the requirements for remaining contributing members of PERS. (NRS 286.385)

When legislators are participating members of the Legislators' Retirement System, the Legislative Counsel Bureau must: (1) deduct an amount equal to 15 percent of their gross compensation earned as legislators as their employee contribution to the retirement system; and (2) pay a corresponding employer contribution to the retirement system from the Legislative Fund in an amount based on the recommendation of a consulting actuary. (NRS 218C.390) For legislators who take office on or after July 1, 1975, service credit under the retirement system begins on the day after their election or appointment to office and ends on the day of the election of their successors, unless their service in office ends sooner because of death, resignation, or removal from office. (NRS 218C.350) Under certain circumstances, legislators may purchase service credit in the retirement system by paying the full actuarial costs and complying with all other requirements to purchase the service credit. (NRS 218C.370 and 218C.380)

For legislators who have an effective date of membership in the retirement system before July 1, 2015, the minimum service requirement to be eligible for retirement is 10 years of accredited service, which must be calculated by including any purchased service credit. (NRS 218C.450) For legislators who have an effective date of membership in the retirement system on or after July 1, 2015, the minimum service requirement to be eligible for retirement is 10 years of service, which must be calculated by excluding any purchased service credit unless the legislator has a family medical emergency that meets the requirements for including such purchased service credit in the calculation. A lapse in service as a legislator does not operate to forfeit any retirement rights accrued by the legislator before the lapse. (*Id.*)

If legislators are eligible for retirement and elect to retire at the age of 60 years or older, they are entitled to a full monthly retirement allowance in the amount of \$25 for each year of service up to 30 years, prorated for fractions of a year, subject to any applicable limitations imposed by federal law for governmental plans. (NRS 218C.340, 218C.450, 218C.500, 218C.520, 218C.530, and 218C.560) However, if legislators are eligible for retirement and elect to retire at any age less than 60 years old, they are entitled to a monthly retirement allowance that is actuarially reduced in amount. (NRS 218C.450)

The Legislators' Retirement System includes provisions for the payment of monthly retirement allowances under certain circumstances to surviving spouses, dependents, or other designated beneficiaries. (NRS 218C.570 to 218C.584, inclusive) Any retired legislators or beneficiaries receiving monthly retirement allowances under the Legislators' Retirement System are entitled to receive cost-of-living increases in their monthly retirement allowances in the same amount provided to retirees and beneficiaries under PERS. (NRS 218C.510)

