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## **CHAPTER II**

# **LEGISLATIVE STRUCTURE, FINANCIAL OPERATION, AND RESPONSIBILITIES**

## CHAPTER II

# LEGISLATIVE STRUCTURE, FINANCIAL OPERATION, AND RESPONSIBILITIES

The State Legislature is Nevada's foremost political institution. Not only does it enact *laws*, it also creates the machinery for carrying out those enactments. The Legislature establishes departments, boards, commissions, and bureaus, and 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, acts, civil service rules, and election laws.

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.

### 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 A 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 *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 state *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 the Nevada Supreme

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<sup>1</sup>*Nevada Constitution*, Art. 4, Sec. 1.

Court at the top of the structure). According to the *Nevada Constitution*, A . . . 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 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 A . . . 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 membersCtwo Assemblymen and one Senator. However, the smallest Nevada Legislatures consisted of 45 members. This situation occurred during the sessions of 1893-1899, 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

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<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>*Nevada Revised Statutes* 218.051 through 218.0796, inclusive. The *Nevada Revised Statutes* are hereinafter cited as NRS.

<sup>7</sup>*Nevada Constitution*, Art. 4, Sec. 5.

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 every ten years, immediately after the federal decennial census, as required by the state constitution.<sup>9</sup> Nevada legislators, during the 1991 Legislative Session, reapportioned state Senate and Assembly districts. Maps A through J in Appendix D describe the current boundaries of Nevada legislative districts. In addition, detailed maps of every district are available through the Legislative Counsel Bureau's Publications Office. Also available are 1990 census statistics by legislative districts.

The 1991 redistricting plan created 42 single-member Assembly districts with an overall range of deviation in population of 4.55 percent, which is well below the 10 percent standard for state legislative districts under existing legal guidelines for population equality. The average population for an Assembly district at the time of redistricting was 28,615. The plan includes, in Clark County, one majority (55 percent) African American population district, a 47 percent African American population plurality district, and a 40 percent Hispanic population influence district.

The Senate 1991 redistricting plan created 16 districts (11 single-member and five multi-member) with an overall range of population deviation of 2.6 percent, which includes (in Clark County) one majority (51 percent) African American population district. All Senate districts in the state, outside of Clark County, are single-member districts. Five of the eight Senate districts in Clark County are multi-member (two-member) districts. The average population of a single-member Senate district at the time of redistricting was 57,230, and approximately 114,460 people resided in an average-sized, multi-member Senate district. Because Nevada continues to be the fastest growing state in the nation, some Senate and Assembly districts now contain many more residents than at the time of redistricting. Nevertheless, the next redistricting of the Nevada Legislature will not occur until 2001, following the year 2000 federal census.

Under 1991 legislative redistricting plans, 13 Senators and 26 Assemblymen come from Clark County; four Senators and eight Assemblymen serve most of Washoe County; and four Senators and eight Assemblymen represent the remainder of the state and a portion of southern Washoe County. It is interesting to note that over half of Nevada's legislators have represented Clark County from the 1973 Legislative Session until the present.

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<sup>8</sup>*Reynolds v. Sims*, 377 U.S. 533; *Lucas v. 44th General Assembly of Colorado*, 377 U.S. 713; and related cases.

<sup>9</sup>*Nevada Constitution*, Art. 4, Sec. 5.

In contrast with previous redistricting in Nevada, only six of the 16 Senate districts are completely nested, or coterminous, within the boundaries of Assembly districts. Of the nested districts, three are in Clark County, two are in rural Nevada, and one is in Washoe County. Of the ten Senate districts that are not completely nested within Assembly districts, five are in Clark County, two are in western Nevada, and three are in Washoe County.

Of the 42 Assembly districts, 26 are nested completely within the boundaries of a Senate district (14 are in completely nested Senate districts, and 12 are in non-nested districts). Portions of the remaining 16 districts are allocated among two or more Senate districts. A list that shows the nested and non-nested Senate and Assembly districts is available from the Research Division of the Legislative Counsel Bureau.

### **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 for 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 (six terms for Assemblymen and three terms for Senators). 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>10</sup> but members are not actually 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 a citizen resident of Nevada for a minimum of one year next preceding the election.<sup>11</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>12</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) by a two-thirds vote of the elected membership.

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<sup>10</sup>*Nevada Constitution*, Art. 4, Secs. 3 and 4.

<sup>11</sup>NRS 218.010.

<sup>12</sup>*Nevada Constitution*, Art. 4, Sec. 6.

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>13</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>14</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, for a period of one year after the expiration of the term.<sup>15</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 of the same political party as the former incumbent to fill the unexpired term. If the Senator or Assemblyman 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 chairmen, on behalf of the boards, cast a proportionate number of votes according to the percent which the population of its county is of the population of the entire district. 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 selects a candidate. The appointee is then chosen by drawing lots from those candidates nominated by the separate boards.<sup>16</sup>

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<sup>13</sup>Nevada Constitution, Art. 4, Sec. 9.

<sup>14</sup>Nevada Constitution, Art. 4, Sec. 10.

<sup>15</sup>Nevada Constitution, Art. 4, Sec. 8.

<sup>16</sup>Nevada Constitution, Art. 4, Sec. 12; NRS 218.040 and 218.043.

## 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 170 committee secretaries, pages, bill clerks, and others who ensure that the session functions smoothly. Four 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 one administrative assistant 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>17</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; advise the presiding officer of each house on matters of parliamentary procedure or the house rules; and are ex officio members of the Committees on Legislative Affairs and Operations and Elections and Procedures.

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.

Although the legislative officers and employees are not part of the *Legislative Counsel Bureau*, their offices are located in the Legislative Building.

## 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.

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<sup>17</sup>NRS 218.130, *et seq.*

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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 faults in *bills*, suggest amendments, provide valuable testimony, and, in general, assist the Legislature to assess the merits of proposed legislation.

The activities of lobbyists in Nevada are controlled by the Nevada Lobbying Disclosure Act.<sup>18</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*. 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>19</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>20</sup> Moreover, both the giving of a bribe to a legislator and receiving a bribe are crimes

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<sup>18</sup>NRS 218.900 to 218.944, inclusive.

<sup>19</sup>NRS 218.544.

<sup>20</sup>NRS 198.010.



against the legislative power and are subject to severe punishments under the law.<sup>21</sup> Although lobbying activities are customarily prohibited on the *floor* of both chambers,<sup>22</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>23</sup> Generally, the Legislature is empowered to enact the laws of the state;<sup>24</sup> levy taxes on individuals, businesses, property, and sales;<sup>25</sup> appropriate the funds collected for the support of public institutions and the administration of state government;<sup>26</sup> propose amendments to the constitutions of the United States and Nevada;<sup>27</sup> and consider legislation proposed by *initiative* petitions.<sup>28</sup> In addition, the Legislature is directed to establish a state university;<sup>29</sup> a public school system;<sup>30</sup> and a statewide, uniform system of county and township government.<sup>31</sup> The Legislature also has the power to create, revise, or abolish certain county positions;<sup>32</sup> determine the

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<sup>21</sup>NRS 218.590 and 218.600.

<sup>22</sup>Senate Standing Rule 94, *Statutes of Nevada 1987*, 2333; and Assembly Standing Rule 94, *Statutes of Nevada 1997*, 3549.

<sup>23</sup>*Nevada Constitution*, Art. 4, Sec. 1.

<sup>24</sup>*Nevada Constitution*, Art. 4, Sec. 23.

<sup>25</sup>*Nevada Constitution*, Art. 9, Sec. 2; Art. 10, Sec. 1.

<sup>26</sup>*Nevada Constitution*, Art. 4, Sec. 19.

<sup>27</sup>*Nevada Constitution*, Art. 16, Sec. 1; *United States Constitution*, Art. 5.

<sup>28</sup>*Nevada Constitution*, Art. 19, Sec. 2.

<sup>29</sup>*Nevada Constitution*, Art. 11, Sec. 4.

<sup>30</sup>*Nevada Constitution*, Art. 11, Sec. 5.

<sup>31</sup>*Nevada Constitution*, Art. 4, Sec. 25.

<sup>32</sup>*Nevada Constitution*, Art. 4, Sec. 32.

compensation of legislative officers and employees,<sup>33</sup> certain state officials,<sup>34</sup> Supreme and District Court judges,<sup>35</sup> and specified county officers;<sup>36</sup> decide the winner of a tied election for a district or state office or the office of U.S. Senator or Representative;<sup>37</sup> impeach the Governor, other state official, or any judge, except a justice of the peace,<sup>38</sup> and pardon, reprieve, or compel the enforcement of a sentence for the conviction for treason.<sup>39</sup> The Legislature also provides oversight of the executive and judicial branches of government through the *budget*<sup>40</sup> and *audit*<sup>41</sup> processes and reviews the regulations developed by state agencies.<sup>42</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 almost 2,000 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>43</sup> At other times, the Governor may, for a specific purpose, call the Legislature into special session,<sup>44</sup> but such action is rarely taken.

During the session, legislators have several responsibilities. They shepherd the measures they introduce through the legislative process by providing testimony at

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<sup>33</sup>*Nevada Constitution*, Art. 4, Secs. 28 and 33.

<sup>34</sup>*Nevada Constitution*, Art. 15, Sec. 9.

<sup>35</sup>*Nevada Constitution*, Art. 6, Sec. 15.

<sup>36</sup>*Nevada Constitution*, Art. 4, Sec. 32.

<sup>37</sup>*Nevada Constitution*, Art. 5, Sec. 4.

<sup>38</sup>*Nevada Constitution*, Art. 7, Secs. 1 and 2.

<sup>39</sup>*Nevada Constitution*, Art. 5, Sec. 13.

<sup>40</sup>NRS 353.230.

<sup>41</sup>NRS 218.767, *et seq.*

<sup>42</sup>NRS 233B.066, *et seq.*

<sup>43</sup>*Nevada Constitution*, Art. 4, Sec. 2.

<sup>44</sup>*Nevada Constitution*, Art. 5, Sec. 9.

*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 assigned to at least one committee and usually more. As committee members, legislators listen to and question witnesses about the provisions of a measure,<sup>45</sup> participate in subcommittees created to focus on a specific bill or issue,<sup>46</sup> and vote on whether the bill or resolution should be considered by the full house.

At times, all legislators may be required to participate in a Committee of the Whole.<sup>47</sup> Such a committee is formed only once or twice during a session. Much more common are the *Conference Committees*, formed to resolve differences between amendments proposed by each house to the same bill.<sup>48</sup> Occasionally, legislators may be assigned to a joint committee of the two houses.<sup>49</sup>

Legislators are also required to attend the daily meetings of their respective houses,<sup>50</sup> commonly referred to as *Abeing on the floor*.<sup>@</sup>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 requested information. Legislators are also asked to speak to various groups and attend numerous community functions.

When the session ends, however, the legislator's job does not. Legislators continue to make speeches, work with 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

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<sup>45</sup>Senate Standing Rule 43, *Statutes of Nevada 1973*, 1868; Assembly Standing Rule 49, *Statutes of Nevada 1997*, 3546.

<sup>46</sup>Senate Standing Rule 53, *Statutes of Nevada 1995*, 2830; Assembly Standing Rule 43, *Statutes of Nevada 1997*, 3544.

<sup>47</sup>Senate Standing Rule 46, *Statutes of Nevada 1977*, 1651; Assembly Standing Rule 1, *Statutes of Nevada 1997*, 3538.

<sup>48</sup>Joint Rule 1, *Statutes of Nevada 1979*, 1964.

<sup>49</sup>Joint Rule 7, *Statutes of Nevada 1993*, 2903.

<sup>50</sup>Senate Standing Rule 12, *Statutes of Nevada 1973*, 1866; Assembly Standing Rule 10, *Statutes of Nevada 1975*, 1857.

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>51</sup> Temporary committees originate in concurrent resolutions<sup>52</sup> passed in one session and are usually 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 jobs and must fulfill their responsibilities to their employers. Although Nevada prides itself on having a citizen Legislature, it demands a tremendous 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>53</sup> Subpoenas served on legislators and the Lieutenant Governor by administrative bodies are ineffective during legislative sessions.<sup>54</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>55</sup> In addition, legislative service

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<sup>51</sup>For example, see: Legislative Commission (NRS 218.620); Interim Finance Committee (NRS 218.620); or Committees on Health Care (NRS 439B.200), High-Level Radioactive Waste (NRS 459.0085), or Public Lands (NRS 218.5363).

<sup>52</sup>Joint Rule 7, *Statutes of Nevada 1993*, 2903.

<sup>53</sup>*Nevada Constitution*, Art. 4, Sec. 11.

<sup>54</sup>NRS 218.045.

<sup>55</sup>NRS 218.044.

cannot be considered as a break in service by an administrator of a private pension plan.<sup>56</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>57</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

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<sup>56</sup>NRS 218.0441.

<sup>57</sup>*Nevada Constitution*, Art. 4, Sec. 20.

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>58</sup> The Legislature must exercise its powers through *general laws* of uniform operation.<sup>59</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>60</sup> It must establish a uniform system of county and township government throughout the state.<sup>61</sup> It may not abolish any county without the approval of the electors residing within the county's jurisdiction.<sup>62</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 *United States Constitution* and, hence, are doubly safeguarded from legislative encroachment.<sup>63</sup> The *Nevada Constitution* also sets a state debt limitation of 2 percent, exclusive of interest, of the assessed valuation of the state<sup>64</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>65</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

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<sup>58</sup>*Ibid.*

<sup>59</sup>*Nevada Constitution*, Art. 4, Sec. 21.

<sup>60</sup>*Nevada Constitution*, Art. 4, Sec. 24 and Art. 10, Sec. 1.

<sup>61</sup>*Nevada Constitution*, Art. 4, Sec. 25.

<sup>62</sup>*Nevada Constitution*, Art. 4, Sec. 36.

<sup>63</sup>*Nevada Constitution*, Art. 1, Secs. 1 through 20.

<sup>64</sup>*Nevada Constitution*, Art. 9, Sec. 3.

<sup>65</sup>*Nevada Constitution*, Art. 9, Sec. 4.

the consent of the Congress, lay any impost or duties on imports or exports.<sup>66</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 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>67</sup>

Outside of these and a few other minor restrictions mentioned in the state 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>68</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>69</sup>

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<sup>66</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>67</sup>*Nevada Constitution*, Art. 10, Secs. 1, 2 and 5.

<sup>68</sup>NRS 218.542 and 218.544.

<sup>69</sup>NRS 218.550.

It is a crime 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>70</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 of which he is a member.<sup>71</sup> It is also unlawful for any member of the Legislature to be interested, directly or indirectly, as a principal, in any kind of contract so paid.<sup>72</sup> Finally, it is unlawful for any member of the Legislature to be interested in any contract made by the Legislature of which he is a member, or to be a purchaser or interested in any purchase or sale made by the Legislature of which he is a member.<sup>73</sup>

Despite the general prohibitions stated above, the 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; he has not taken part in developing the contract plans or specifications; and he will not be personally involved in opening, considering, or accepting any bids for the sale or contract. In addition, any member of the Legislature may, if he is 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 University and Community College System of Nevada, 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>74</sup>

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<sup>70</sup>NRS 218.560 and 218.570.

<sup>71</sup>NRS 218.605.

<sup>72</sup>Id.

<sup>73</sup>Id.

<sup>74</sup>Id.



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 office.<sup>75</sup>

The general statutory rule that applies to all public officers and employees (including legislators) stipulates that a public officer or employee shall not bid on or enter into a contract between any governmental agency and any private business in which he has a significant pecuniary interest.<sup>76</sup> A public officer or employee may bid on or enter into a contract with a governmental agency, however, if the contracting process is controlled by rules of open competitive bidding; the sources of supply are limited; he has not taken part in developing the contract plans or specifications; and he will not be personally involved in opening, considering, or accepting offers.<sup>77</sup>

As mentioned earlier under the section entitled *ALobbyists*,<sup>@</sup> 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>78</sup> Any legislator asking for or receiving a bribe is liable to the same penalty.<sup>79</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>80</sup>

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<sup>75</sup>*Id.*

<sup>76</sup>NRS 281.505.

<sup>77</sup>*Id.*

<sup>78</sup>NRS 218.590.

<sup>79</sup>NRS 218.600.

<sup>80</sup>*Nevada Constitution*, Art. 4, Sec. 7.

## Ethics and Conflict of Interest

The NRS expands upon what constitutes legislators' and other public officers' breaches of ethics and conflicts of interest in the Nevada Ethics in Government Law.<sup>81</sup> This law contains a code of ethical standards for a public officer relative to accepting gifts, preferences, advantages, or honoraria; negotiating or executing contracts in which the public officer has a significant pecuniary interest; accepting compensation from private sources for the performance of public duties; using information acquired through public duties to further the pecuniary interests of himself or other persons or business; suppressing any governmental report that might tend to affect unfavorably the officers' pecuniary interests; and using government time, property, or equipment for the private benefit of the public officer.<sup>82</sup>

In addition to the general requirements of the code of ethical standards, the Nevada Ethics in Government Law requires the disclosure of any significant pecuniary interest in matters under consideration. The law further specifies that a member of the legislative branch shall not vote upon or advocate the passage or failure of, but may otherwise participate in, the consideration of a matter with respect to which the independence of judgment of a reasonable person in the same position would be materially affected by: (1) acceptance of a gift or loan; (2) pecuniary interest; or (3) commitment in a private capacity to the interest of others.<sup>83</sup>

The Standing Rules of both houses also address legislators' ethics. A Committee on Ethics is established under Assembly Rule 23. This rule states, in part, that, "A legislator who determines that he has a conflict of interest may vote upon, advocate or oppose any measure as to which a potential conflict exists if he makes a general disclosure of such conflict." Senate Rule 44 of the 69th Session provides that the Senate Committee on Legislative Affairs and Operations shall, among other things, hear complaints and questions regarding alleged breaches of ethics and conflicts of interest.

## 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 report the total amount of all campaign contributions and expenses on affidavit forms designed and provided by the Secretary of State.<sup>84</sup> Such

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<sup>81</sup>NRS 281.411 to 281.581, inclusive.

<sup>82</sup>NRS 281.481 and 281.553.

<sup>83</sup>NRS 281.501.

<sup>84</sup>NRS 294A.120 and 294A.200.

reports must be filed with the official with whom the candidate's declaration of candidacy was filed. A candidate may mail the report to that official by certified mail; if certified mail is used, the date of mailing is deemed the date of filing.

Under the law, campaign contributions and expense reports for primary and general elections must be filed not later than:

(a) Seven days before the primary election, for the period from 30 days before the regular session of the Legislature after the last election for that office up to 12 days before the primary election;

(b) Seven days before the general election, whether or not the candidate won the primary election, for the period from 12 days before the primary election up to 12 days before the general election; and

(c) The 15th day of the second month after the general election, for the remaining period up to 30 days before the next regular session of the Legislature.<sup>85</sup>

Subsection 6 of NRS 294A.120 requires separate identification of each campaign contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of \$100. Similar reporting and identification requirements for expenditures in excess of \$100 by every person who advocates the election or defeat of a candidate are found in subsection 1 of NRS 294A.210.

*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.180 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 and the Commission on Ethics. 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 March 31.<sup>86</sup> The Secretary of State and the Commission on Ethics are required to retain the statements for six years.<sup>87</sup>

Under the law, statements of financial disclosure are required to contain specified information concerning the candidate's: length of residence in Nevada and the legislative district; sources of income; real estate holdings valued at \$2,500 or more

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<sup>85</sup>NRS 294A.120.

<sup>86</sup>NRS 281.561.

<sup>87</sup>NRS 281.573.

(except for a personal residence); specified creditors to whom the candidate, or members of the candidate's household, owe more than \$5,000; certain gifts received by the candidate with a value of \$200 or more; and 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>88</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>89</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>90</sup> The expenses paid from the Legislative Fund include legislator and staff salaries, travel expenses of both legislators and staff, and operating 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 up to 20 days for a special session. The daily salary for each is currently \$130. Thus, for a regular session, a legislator may receive a maximum salary of \$7,800; for a special session, the maximum salary is \$2,600.<sup>91</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 greater of \$44 or the federal rate for the Carson City area, which is currently \$80. This per diem amount is paid each day that the Legislature is in session. The actual travel costs of legislators are reimbursed, subject to an overall limit of \$6,800 during a regular session, and \$1,000 during a special session. For travel to and from Carson City for the legislative session, and for a

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<sup>88</sup>NRS 281.571.

<sup>89</sup>NRS 281.581.

<sup>90</sup>NRS 218.085.

<sup>91</sup>*Nevada Constitution*, Art. 4, Sec. 33; and NRS 218.210.

presession orientation conference, each legislator is entitled to one day's per diem, plus reimbursement of actual travel expenses. In addition to these amounts, each legislator is entitled to a communications allowance of \$2,800 and a postage allowance of \$60.<sup>92</sup> Legislators who are chairmen of *standing committees* or hold leadership positions are entitled to an additional \$900 allowance.<sup>93</sup> Each member also is entitled to a certain number of business cards, stationery, and envelopes from the State Printing Division of the Department of Administration.<sup>94</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>95</sup>

When the Legislature is not in session, each Senator and Assemblyman 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 \$130 per day.<sup>96</sup>

### **Legislators= Retirement**

Members of the Nevada Legislature must participate in the Legislators= Retirement System. During a regular session, 15 percent of each legislator's salary 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

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<sup>92</sup>*Nevada Constitution*, Art. 4, Sec. 33; and NRS 218.220.

<sup>93</sup>*Nevada Constitution*, Art. 4, Sec. 33; and NRS 218.221.

<sup>94</sup>NRS 218.225.

<sup>95</sup>*Nevada Constitution*, Art. 4, Sec. 33.

<sup>96</sup>NRS 286.113, 218.223, 218.680, 218.682, and 218.6825.

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 **ALegislators= Retirement Law.**<sup>97</sup>

## **Compensation of Officers and Employees**

During the 1999 Legislative Session, the officers and employees of the Legislature are paid the following:

<b>Senate</b>	<b>Daily</b>
Assistant Director of Bill Services.....	\$ 74
Assistant Secretary .....	109
Assistant Sergeant at Arms .....	82
Bill Clerk.....	60
Committee Manager .....	101
Committee Secretary.....	88
Deputy Sergeant at Arms .....	88
Director of Bill Services.....	80
Director of Clerical Services.....	103
Executive Assistant .....	101
Finance Secretary.....	99
Front Desk Assistant .....	101
History Clerk .....	101
Journal Clerk.....	101
Media Clerk.....	101
Recording Clerk.....	101
Secretary .....	80
Senior Committee Secretary.....	96
Senior Page .....	75
Sergeant at Arms.....	103
Typist.....	68

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<sup>97</sup>NRS 218.2371 to 218.2395, inclusive.

## LEGISLATIVE MANUAL

<b>Assembly</b>	<b>Daily</b>
Assistant Chief Clerk.....	\$ 109
Assistant Sergeant at Arms .....	82
Assistant Supervisor of Bill Clerks .....	74
Bill Clerk.....	60
Committee Manager .....	101
Committee Secretary.....	88
Deputy Sergeant at Arms .....	88
Document Clerk.....	101
Executive Assistant .....	101
History Clerk .....	101
Journal Clerk.....	101
Media Clerk.....	101
Page .....	60
Recording Clerk.....	101
Secretary .....	80
Senior Committee Secretary.....	96
Senior Page .....	75
Sergeant at Arms.....	103
Supervisor of Bill Clerks .....	80
Supervisor of Secretarial Staff .....	103
Typist.....	68
Ways and Means Secretary .....	99

During periods of adjournment to a specified day, employees of the Legislature whose services are required must perform duties as assigned and are entitled to be paid the amount specified above for each day of service.<sup>98</sup>

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<sup>98</sup>NRS 218.230.