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ASSEMBLY BILL NO. 390—ASSEMBLYMAN  
ELLIOT ANDERSON

MARCH 20, 2017

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JOINT SPONSOR: SENATOR WOODHOUSE

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Referred to Committee on Government Affairs

SUMMARY—Makes various changes to state governmental administration. (BDR 23-102)

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to state governmental administration; authorizing a state officer or state employee to communicate with the Legislature or a Legislator; prohibiting a state agency from taking certain actions against a state officer or state employee on account of such communication; revising provisions relating to disclosures of improper governmental action; revising the salary to which a member of the Board of Regents of the University of Nevada is entitled; creating the Spending and Government Efficiency Commission for the Nevada System of Higher Education; prescribing the membership and duties of the Commission; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 **Section 1** of this bill authorizes a state officer or employee who acts in good  
2 faith to communicate or seek to communicate, personally or in his or her official  
3 capacity, with the Legislature or a Legislator on any matter. **Section 1** further  
4 prohibits a state agency which is the employer of such a state officer or employee  
5 from depriving the state officer or employee of his or her employment or taking any  
6 other reprisal or retaliatory action or other threatening or intimidating action against  
7 the state officer or employee with respect to such communication or attempted  
8 communication. **Section 1** also prohibits a state agency from taking any of those  
9 actions against one state officer or employee in an attempt to affect the behavior of



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10 another state officer or employee with respect to that person's communications or  
11 attempted communications with the Legislature or a Legislator.

12 Existing law encourages state officers and employees to disclose improper  
13 governmental action and protects the rights of a state officer or employee who  
14 makes such a disclosure. (NRS 281.611-281.671) **Section 2** of this bill provides  
15 that making a false statement or misrepresentation of facts to the Legislature or to a  
16 Legislator is an improper governmental action if the statement or misrepresentation  
17 is made by a state officer or employee or local governmental officer or employee in  
18 the performance of the officer's or employee's official duties.

19 Under existing law, each member of the Board of Regents of the University of  
20 Nevada is entitled to receive a salary of \$80 for each meeting of the Board that he  
21 or she attends. (NRS 396.070) **Section 3** of this bill provides instead that each  
22 member of the Board of Regents is entitled to receive an annual salary of \$20,000.

23 **Section 4** of this bill creates the Spending and Government Efficiency  
24 Commission for the Nevada System of Higher Education. The Commission is  
25 required to make periodic recommendations to the Governor identifying: (1) areas  
26 in which the public costs of the System may be reduced; (2) areas in which  
27 increased efficiencies in the System may be found; and (3) any means by which the  
28 System may be improved.

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

1 **Section 1.** Chapter 281 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. A state officer or state employee, acting in good faith, may*  
4 *communicate or seek to communicate, personally or in his or her*  
5 *official capacity, with the Legislature or a Legislator on any*  
6 *matter.*

7 *2. It is unlawful for a state agency which is the employer of a*  
8 *state officer or state employee who communicates or seeks to*  
9 *communicate with the Legislature or a Legislator in accordance*  
10 *with subsection 1 to:*

11 *(a) Deprive the state officer or state employee of employment*  
12 *with the state agency or to take any reprisal or retaliatory action*  
13 *against the state officer or state employee as a consequence of the*  
14 *actual or attempted communication;*

15 *(b) Threaten the state officer or state employee that the actual*  
16 *or attempted communication will result in the termination of*  
17 *employment with the state agency or in any reprisal or retaliatory*  
18 *action against the state officer or state employee; or*

19 *(c) Directly or indirectly intimidate, threaten, coerce,*  
20 *command or influence or attempt to intimidate, threaten, coerce,*  
21 *command or influence the state officer or state employee in an*  
22 *effort to interfere with or prevent such actual or attempted*  
23 *communication by the state officer or state employee.*

24 *3. It is unlawful for a state agency to:*



1 (a) Deprive or threaten to deprive a state officer or state  
2 employee of employment with the state agency;

3 (b) Take or threaten to take any reprisal or retaliatory action  
4 against a state officer or state employee; or

5 (c) Directly or indirectly intimidate, threaten, coerce,  
6 command or influence or attempt to intimidate, threaten, coerce,  
7 command or influence a state officer or state employee,

8 ↳ in an attempt to affect the behavior of another state officer or  
9 state employee who may communicate or may seek to  
10 communicate with the Legislature or a Legislator.

11 4. Any provision in a contract of employment or other  
12 agreement between a state agency and a state officer or state  
13 employee that conflicts with, or purports to waive, the provisions  
14 of this section is against public policy and is void and  
15 unenforceable.

16 5. For the purposes of this section:

17 (a) "Legislator" means any:

18 (1) Current or former member of the Senate or Assembly of  
19 the State of Nevada; or

20 (2) Other person who takes or performs any actions within  
21 the sphere of legitimate legislative activity that would be protected  
22 if taken or performed by any member of the Senate or Assembly,  
23 including, without limitation, any such actions taken or performed  
24 by any current or former officer or employee of the Legislature.

25 (b) "Legislature" means:

26 (1) The Legislature or either House;

27 (2) Any committee of either House;

28 (3) Any joint committee of both Houses; or

29 (4) Any other committee, subcommittee, commission,  
30 agency or entity created or authorized by the Legislature to  
31 perform legislative functions at the direction of the Legislature,  
32 including, without limitation, the Legislative Commission, the  
33 Legislative Counsel Bureau or any other agency or entity of the  
34 Legislative Department of State Government.

35 (c) "State agency" means an agency, bureau, board,  
36 commission, department, division, officer, employee or agent or  
37 any other unit of the Executive Department, including, without  
38 limitation, the Nevada System of Higher Education and the Board  
39 of Regents of the University of Nevada.

40 **Sec. 2.** NRS 281.611 is hereby amended to read as follows:

41 281.611 As used in NRS 281.611 to 281.671, inclusive, unless  
42 the context otherwise requires:

43 1. "Improper governmental action" means any action taken by  
44 a state officer or employee or local governmental officer or  
45 employee in the performance of the officer's or employee's official



1 duties, whether or not the action is within the scope of employment  
2 of the officer or employee, which is:

3 (a) In violation of any state law or regulation;

4 (b) If the officer or employee is a local governmental officer or  
5 employee, in violation of an ordinance of the local government;

6 (c) An abuse of authority;

7 (d) Of substantial and specific danger to the public health or  
8 safety; ~~for~~

9 (e) A gross waste of public money ~~H~~; or

10 (f) *A false statement or misrepresentation of facts to the*  
11 *Legislature or a legislator.*

12 2. *“Legislator” means any:*

13 (a) *Current or former member of the Senate or Assembly of*  
14 *the State of Nevada; or*

15 (b) *Other person who takes or performs any actions within the*  
16 *sphere of legitimate legislative activity that would be protected if*  
17 *taken or performed by any member of the Senate or Assembly,*  
18 *including, without limitation, any such actions taken or performed*  
19 *by any current or former officer or employee of the Legislature.*

20 3. *“Legislature” means:*

21 (a) *The Legislature or either House;*

22 (b) *Any committee of either House;*

23 (c) *Any joint committee of both Houses; or*

24 (d) *Any other committee, subcommittee, commission, agency*  
25 *or entity created or authorized by the Legislature to perform*  
26 *legislative functions at the direction of the Legislature, including,*  
27 *without limitation, the Legislative Commission, the Legislative*  
28 *Counsel Bureau or any other agency or entity of the Legislative*  
29 *Department of State Government.*

30 4. *“Local government” means a county in this State, an*  
31 *incorporated city in this State and Carson City.*

32 ~~3~~ 5. *“Local governmental employee” means any person who*  
33 *performs public duties under the direction and control of a local*  
34 *governmental officer for compensation paid by or through a local*  
35 *government.*

36 ~~4~~ 6. *“Local governmental officer” means a person elected or*  
37 *appointed to a position with a local government that involves the*  
38 *exercise of a local governmental power, trust or duty, including:*

39 (a) *Actions taken in an official capacity which involve a*  
40 *substantial and material exercise of administrative discretion in the*  
41 *formulation of local governmental policy;*

42 (b) *The expenditure of money of a local government; and*

43 (c) *The enforcement of laws and regulations of the State or a*  
44 *local government.*

45 ~~5~~ 7. *“Reprisal or retaliatory action” includes:*



- 1 (a) The denial of adequate personnel to perform duties;
- 2 (b) Frequent replacement of members of the staff;
- 3 (c) Frequent and undesirable changes in the location of an
- 4 office;
- 5 (d) The refusal to assign meaningful work;
- 6 (e) The issuance of letters of reprimand or evaluations of poor
- 7 performance;
- 8 (f) A demotion;
- 9 (g) A reduction in pay;
- 10 (h) The denial of a promotion;
- 11 (i) A suspension;
- 12 (j) A dismissal;
- 13 (k) A transfer;
- 14 (l) Frequent changes in working hours or workdays; or
- 15 (m) If the employee is licensed or certified by an occupational
- 16 licensing board, the filing with that board, by or on behalf of the
- 17 employer, of a complaint concerning the employee,
- 18 ➤ if such action is taken, in whole or in part, because the state
- 19 officer or employee or local governmental officer or employee
- 20 disclosed information concerning improper governmental action.

21 ~~16.1~~ **8. "State" includes, without limitation, the Nevada**

22 **System of Higher Education and the Board of Regents of the**

23 **University of Nevada.**

24 **9.** "State employee" means any person who performs public

25 duties under the direction and control of a state officer for

26 compensation paid by or through the State.

27 ~~17.1~~ **10.** "State officer" means a person elected or appointed to

28 a position with the State which involves the exercise of a state

29 power, trust or duty, including:

- 30 (a) Actions taken in an official capacity which involve a
- 31 substantial and material exercise of administrative discretion in the
- 32 formulation of state policy;
- 33 (b) The expenditure of state money; and
- 34 (c) The enforcement of laws and regulations of the State.

35 **Sec. 3.** NRS 396.070 is hereby amended to read as follows:

36 396.070 1. Each member of the Board of Regents is entitled

37 to receive ~~1a) an annual~~ salary of ~~1\$80 for each meeting of the~~

38 ~~Board that he or she attends.1~~ **\$20,000.**

39 2. Each member of the Board of Regents is entitled to receive

40 in attending meetings of the Board, or while on Board of Regents'

41 business within the State:

- 42 (a) A per diem expense allowance not to exceed the greater of:
- 43 (1) The rate of \$60; or
- 44 (2) The maximum rate established by the Federal
- 45 Government for the locality in which the travel is performed.



1 (b) The travel allowance provided for state officers and  
2 employees generally.

3 3. If an account is established for a member of the Board of  
4 Regents to pay for hosting expenditures of the member:

5 (a) The annual expenditures from the account may not exceed  
6 \$2,500.

7 (b) The account may be used only to pay for activities that are  
8 directly related to the duties of the member of the Board of Regents,  
9 including reasonable expenses for meals, beverages and small gifts.  
10 The account must not be used to pay for expenses associated with  
11 attending a sporting event or a political fundraising event.

12 (c) The member of the Board of Regents must submit a monthly  
13 report of expenditures from the account to the Chancellor of the  
14 System. The report must include, without limitation, the amount of  
15 money expended from the account, the specific purpose and activity  
16 for which the money was expended and, if applicable, the person for  
17 whom the money was expended.

18 (d) The Chancellor of the System shall compile the monthly  
19 reports into an annual report on or before January 30 of each year.  
20 The monthly reports and annual reports are public records and must  
21 be made available for public inspection.

22 4. As used in this section, "hosting expenditures" means  
23 reasonable expenses by or on behalf of a member of the Board of  
24 Regents who is conducting business activities necessary to provide a  
25 benefit to the System by establishing goodwill, promoting programs  
26 of the System or otherwise advancing the mission of the System.

27 **Sec. 4.** 1. There is hereby created the Spending and  
28 Government Efficiency Commission for the Nevada System of  
29 Higher Education. The Commission consists of 12 members  
30 appointed as follows:

31 (a) Six members appointed by the Governor;

32 (b) Two members appointed by the Governor from a list of six  
33 recommendations provided by the Senate Majority Leader;

34 (c) Two members appointed by the Governor from a list of six  
35 recommendations provided by the Speaker of the Assembly;

36 (d) One member appointed by the Governor from a list of three  
37 recommendations provided by the Senate Minority Leader; and

38 (e) One member appointed by the Governor from a list of three  
39 recommendations provided by the Assembly Minority Leader.

40 ➔ To the extent practicable, in appointing members to the  
41 Commission, the Governor shall ensure that the membership reflects  
42 the ethnic, gender and geographic diversity of this State.

43 2. The Governor shall appoint the Chair of the Commission  
44 from among its members.



1 3. The members of the Commission must be persons with  
2 expertise and experience in the operation of a business. A member  
3 may not have a personal or professional conflict of interest that  
4 would prevent the member from fully and objectively discharging  
5 his or her duties. A member may not derive any financial benefit  
6 from the work of the Commission, other than the general benefit  
7 received by all residents of this State from increased efficiency in  
8 the Nevada System of Higher Education.

9 4. Members of the Commission serve at the pleasure of the  
10 Governor.

11 5. Members of the Commission serve without salary or  
12 compensation for their travel or per diem expenses.

13 6. A majority of the members of the Commission constitutes a  
14 quorum for the transaction of business, and a majority of those  
15 members present at any meeting is sufficient for any official action  
16 taken by the Commission.

17 7. The Commission shall comply with the provisions of chapter  
18 241 of NRS and all meetings must be conducted in accordance with  
19 that chapter.

20 8. The Department of Education shall provide administrative  
21 support to the Commission.

22 9. The Commission may appoint committees or subcommittees  
23 of its members to study the Nevada System of Higher Education and  
24 any means by which the Nevada System of Higher Education may  
25 be improved.

26 10. The Commission shall, not less frequently than every 90  
27 days, meet and:

28 (a) Submit recommendations to the Governor identifying:

29 (1) Areas in which the public costs of the Nevada System of  
30 Higher Education may be reduced;

31 (2) Areas in which increased efficiencies in the Nevada  
32 System of Higher Education may be found; and

33 (3) Means by which the Nevada System of Higher Education  
34 may be improved; or

35 (b) If the Commission does not have any recommendations,  
36 submit to the Governor a status report regarding the activities of the  
37 Commission for the period from the date on which the Commission  
38 last submitted to the Governor a status report or recommendations to  
39 the date on which the status report is submitted.

40 11. The Commission shall, on or before February 1, 2019,  
41 prepare and submit a final report to the Governor and the Director of  
42 the Legislative Counsel Bureau for transmittal to the 80th Session of  
43 the Nevada Legislature concerning its findings and  
44 recommendations.



- 1     **Sec. 5.** 1. This act becomes effective on July 1, 2017.  
2     2. Section 4 of this act expires by limitation on June 30, 2019.

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