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COMMISSION ON ETHICS

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Ernest E. Adler, Esq.
Merle Berman
Lizzie R. Hatcher, Esq.
Rick R. Hsu, Esq.
James Kosinski, Esq.
Thomas R. Sheets, Esq.

2003 Legislative Package
Executive Summary

- Remove subjectivity from process of assessing civil penalties for late filing of financial disclosure statements by: 1) lowering the maximum amount of penalties; 2) declaring a statement not timely filed after 45 days late and assessing a flat penalty of \$2,000; and 3) repealing the Commission's authority to reduce penalties. The Commission would retain the authority to waive penalties for good cause.
- Change submission deadline for financial disclosure statements to April 15 and allow the acceptance of a postmark as proof of timely filing.
- Require city clerks, county clerks, and representatives of the executive and legislative branch to provide annual lists of public officers to the Commission in electronic format to assist in better enforcement of the requirement to file financial disclosure statements.
- Allow the Commission to provide compliance training on ethics in government law at low or no cost to state, county, and city governments.
- Remove or alter statutory timeframes for third party (ethics) complaints to give public officers more time to respond against complaints filed against them and to provide the Commission with more time to fully investigate complaints.
- Remove sections of statute that have been deemed facially invalid and unenforceable by Nevada District Court.

January, 2003

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ASSEMBLY WAYS AND MEANS
DATE: 2/04/03 ROOM: 3137 EXHIBIT F
SUBMITTED BY: TODD RUSSELL

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2003 Budget Issues **Executive Summary**

Base Budget Year Issue

The Commission had three issues greatly impacting its expenditures in the base budget year.

- 1) **Salaries:** Vacancy in the Executive Director position for four months. In addition to the false 'salary savings' which accrued, the previous Executive Director had a sizable payout for accrued leave. These items were removed as one-time expenditures or funds not expended in the base year, resulting in a cut of \$38,000 from the salaries category. When salaries are 'protected' in the new biennium, other categories must make up the difference.
- 2) **In-State Travel:** Due to both the events of September 11, 2001 and the vacancy in the Executive Director's position, the Commission *underspent* its in-state travel category by \$8,700 in a total budget category of \$11,300.
- 3) **Investigations:** The Commission did not have any major investigations which required extra assistance; thus, the \$10,700 budgeted was reallocated for other items in the base year.

Increased Workload

In December, 2002, the Las Vegas City Council voted to abolish its ethics code and its Ethics Commission. This will result in a projected increase of five third party opinion requests (ethics complaints), a 20 percent increase, and 36 – 60 first party advisory opinion requests, a 125 percent increase, each year. The Commission should be able to absorb the 20 percent increase within existing resources; however, the 125 percent increase will fall mainly to the Commission legal counsel. Without paralegal support, the increased advisory opinion caseload is expected to cause a backlog and delay for public officers.

Though the NCOE requested to modify its agency request to provide for the increased workload, we were not allowed to include this in our Executive Budget request. Due to budget caps imposed in the Executive Budget process, the agency was forced to choose between the items presented in the E-275 unit or having funding for contracting for outside investigative services and to replace computer equipment which will be 7 years old or older at the end of the biennium. Thus, the Commission is requesting a minor augmentation to its biennial budget request to address these issues:

	FY 2004	FY 2005
Paralegal Services	\$15,000	\$15,000
Investigations	\$10,000	\$10,000
Replacement Computer Equipment	\$ 1,880	\$ 3,235
Total Request	\$26,880	\$28,235

January, 2003

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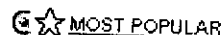
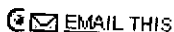
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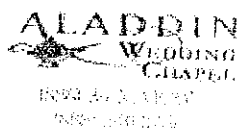
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Thursday, December 05, 2002

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ETHICS REVIEW BOARD: City disbands panel

Council votes to abolish code, leave such matters to the state

By [JAN MOLLER](#)
[REVIEW-JOURNAL](#)

A nine-year experiment in self-policing ended unceremoniously Wednesday when the Las Vegas City Council voted unanimously to abolish its ethics code and leave such matters to the state.

Sections of the code that deal with lobbying and political activities of city employees were retained because they are not duplicated in state law. But employees who leave the city will now have to wait only one year, instead of two, before they can come back and lobby their former colleagues.

Mayor Oscar Goodman echoed the words of his predecessor, Jan Jones, by calling the ethics code "a noble experiment that failed." He also lamented the "anguish and personal expense" that elected officials have had to endure when facing complaints before the city's Ethics Review Board.

Las Vegas became the first Nevada city to adopt its own ethics code in 1991, and strengthened that code two years later by creating an ethics board and allowing violations to be punished as misdemeanors.

Goodman said having ethics panels at the state and local level created problems for elected officials who had to face the same charges in two different venues.

"We're dragging through two processes when one process would be able to resolve it," Goodman said.

Councilman Michael McDonald, for example, faced hearings before the state Ethics Commission and the city's Ethics Review Board after he was accused of improperly lobbying to get his boss out of a bad investment. The hearings produced different results, as the state board ruled that McDonald's conduct was unethical but not willful while the city's ethics board found that his conduct was intentional and referred the matter to District Court for prosecution.

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But the double-jeopardy issue was addressed in 2001, when the City Council amended its ethics code to prohibit a complaint from being heard if a similar complaint already had been made with the state Ethics Commission.

Since 2000, every member of the current council except Lawrence Weekly and Gary Reese has been named in at least one complaint before the city board. All the complaints were dismissed except the one against McDonald and a complaint against Michael Mack, who was found guilty of having a conflict of interest.

The mayor was the only council member to speak publicly on the issue before the 6-0 vote, which occurred without Councilwoman Lynette Boggs McDonald.

Although attorneys and others have criticized the city's ethics board for failing to provide enough due process, two observers said leaving all ethics matters up to the state is a bad idea.

Craig Walton, a professor of ethics and public policy at the University of Nevada, Las Vegas, said it was a poor move both politically and on a policy level.

"The idea of eliminating a local ethics channel with no public discussion is bad politics," Walton said. "It's poor policy because it's predicated on the false belief or claim that Carson City can do all that needs to get done for us. That's just kind of opposite to our experience."

Walton said that while the state Ethics Commission has improved in recent years, it still lacks enough resources to be truly effective.

"They don't even have an educational budget to get the idea of ethics in government out to all the government employees," he said.

Robert Rose, a retiree who has authored numerous ethics complaints against Las Vegas and Clark County officials, told the council that he once had to travel to Sparks for a hearing only to be informed that his witnesses would not be allowed to testify.

"If you think you can rely exclusively on opinions from the state, you are making a mistake," Rose said.

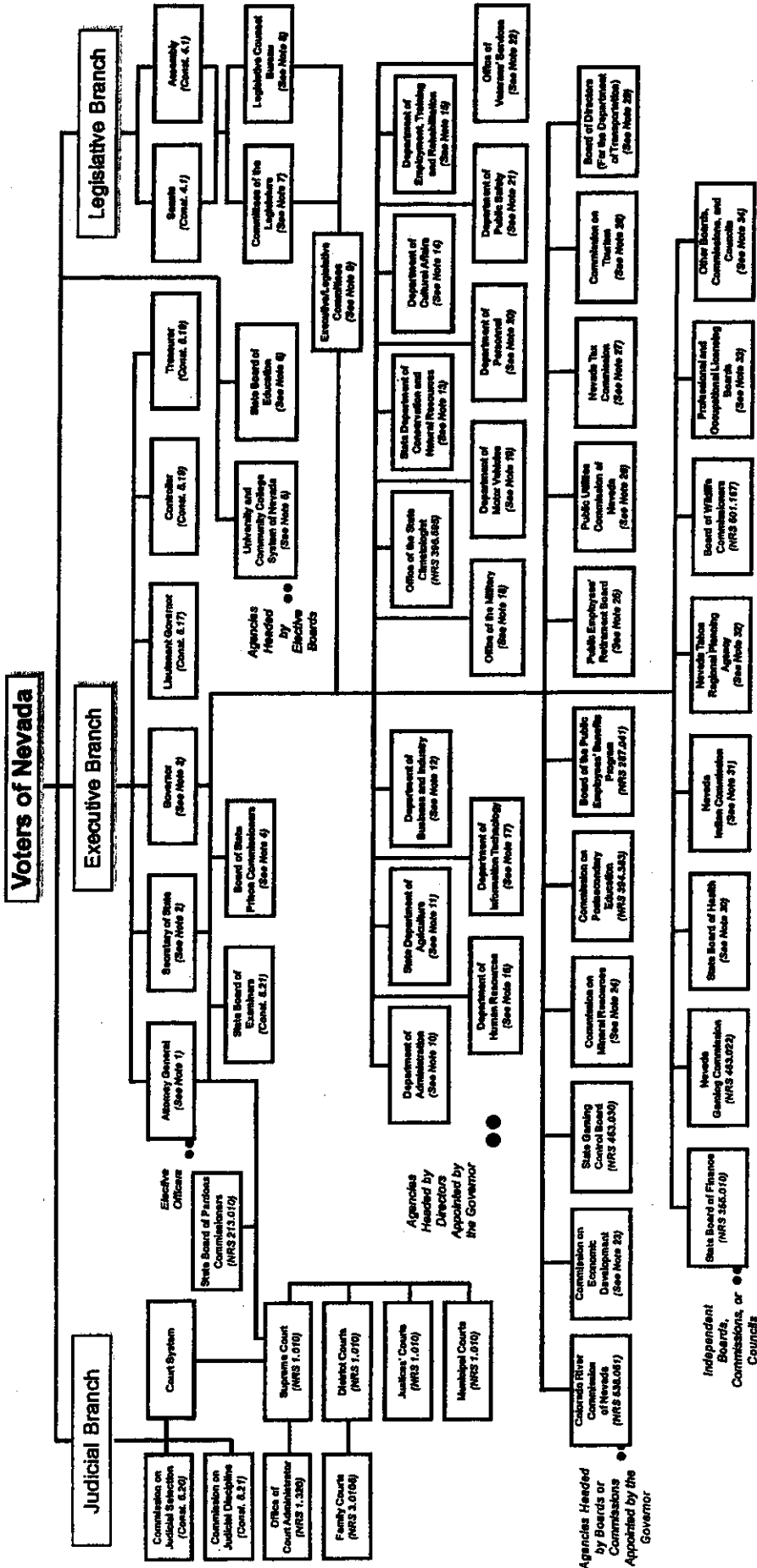
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Nevada State Government



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Prepared by:
Research Division
Legislative Council Bureau



Nevada Commission on Ethics

Budget Account 1343

Todd Russell, Esq., Chairman
Stacy Jennings, MPA, Executive Director

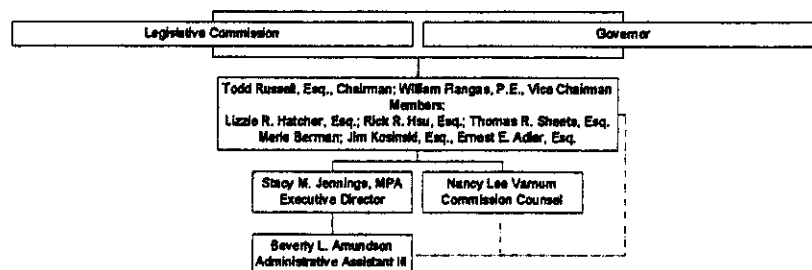
Commission Jurisdiction

- Interprets and provides guidance on the provisions of Nevada Revised Statutes 281.411 through 281.581 (Ethics in Government Law)
- Administers NRS 294A.345 and 294A.346, which prohibit impeding the success of a campaign
- Accepts financial disclosure statements of public officers

Opinions & Complaints

- Advisory opinions about past, present, or future conduct of public officers (first-party request)
- Ethics complaints about conduct of public officers (third-party request)
- Campaign practices complaints (third-party request)

Nevada Commission on Ethics



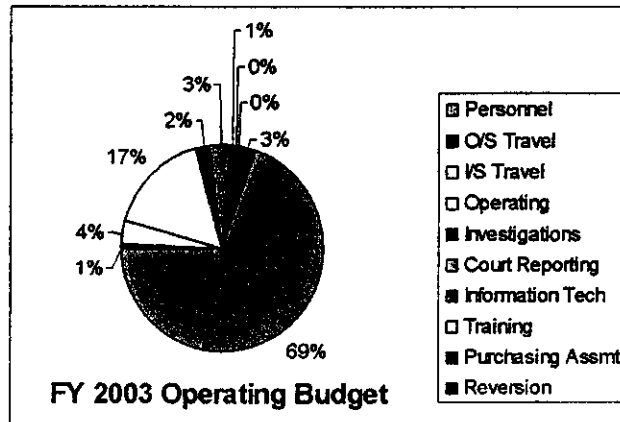
Workload Projections

	Actual FY 2002	Projected FY 2003	Projected FY 2004	Projected FY 2005
Opinion Requests Filed	30	78	125	125
Opinion Requests Under Jurisdiction	20	48	85	85
Panel Dismissals	12	18	20	20
Opinions Issued	8	30	65	70

Workload Projections

	Actual FY 2002	Projected FY 2003	Projected FY 2004	Projected FY 2005
First-party Advisory Opinions	4	20	55	55
Third-party Ethics Complaints	8	25	30	30
Campaign Practices Complaints	0	3	0	5
Educational Programs Held	0	16	25	15

Commission Budget



Fiscal Year 2003

■ Personnel	221,002	69%
■ O/S Travel	2,612	1%
■ I/S Travel	11,279	4%
■ Operating	53,237	17%
■ Investigations	7,213	2%
■ Court Reporting	10,528	3%
■ Information Tech	2,126	1%
■ Training	1,120	0%
■ Purchasing Assmt	316	0%
■ Reversion	<u>9,570</u>	3%
	\$319,003	

FY 2004-2005

Maintenance Adjustments

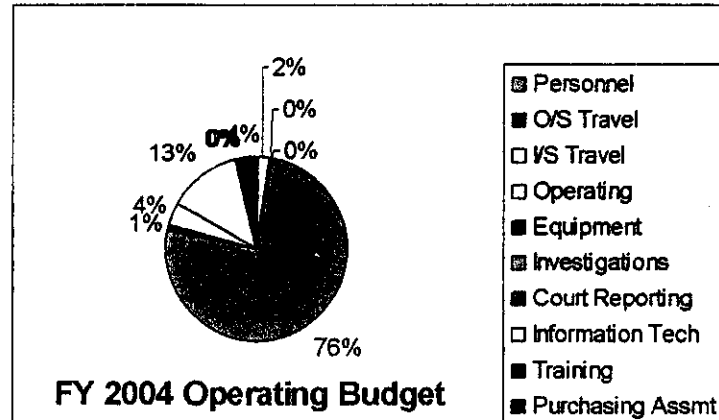
- M-100: new DOIT charges for Internet web site
- M-300: fringe benefits

FY 2004-2005

Enhancement: E-275

- Restore funding from base year to fund:
 - Monthly Commission meetings
 - COGEL conference
 - In-state travel
 - Court reporting services
 - Computer training
- Fund installation of security system in NCOE office

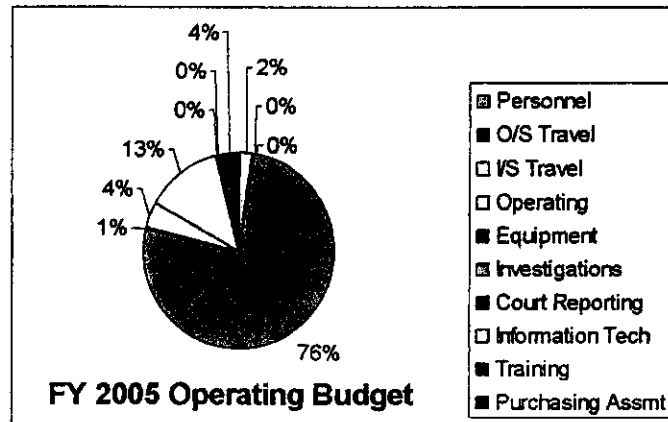
FY 2004 Executive Budget



Fiscal Year 2004

■ Personnel	261,218	76%
■ O/S Travel	3,714	1%
■ I/S Travel	13,878	4%
■ Operating	45,256	13%
■ Equipment	1,137	0%
■ Investigations	0	0%
■ Court Reporting	13,361	4%
■ Information Tech	6,721	2%
■ Training	1,704	0%
■ Purchasing Assmt	<u>273</u>	0%
	\$347,262	

FY 2005 Executive Budget



Fiscal Year 2005

■ Personnel	261,443	76%
■ O/S Travel	2,556	1%
■ I/S Travel	13,878	4%
■ Operating	45,031	13%
■ Equipment	1,137	0%
■ Investigations	0	0%
■ Court Reporting	13,361	4%
■ Information Tech	7,048	2%
■ Training	1,704	0%
■ Purchasing Assmt	<u>273</u>	0%
	\$346,431	

Additional Budget Items for Legislative Consideration

- | | |
|------------------------------------|------------------------------------|
| ■ FY 2004 = \$26,880 | ■ FY 2005 = \$28,235 |
| ■ Paralegal Services
\$15,000 | ■ Paralegal Services
\$15,000 |
| ■ Investigations
\$10,000 | ■ Investigations
\$10,000 |
| ■ Replacement
Equipment \$1,880 | ■ Replacement
Equipment \$3,235 |

Administrative Location of NCOE Budget

- The Executive Budget proposes to move the NCOE budget from the Governor's office to the Attorney General's office.
- The Commission believes it should remain independent, either as a separate unit in the Governor's office or as a stand-alone budget.

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Proposed Legislation

(BDR 23-500)

- Civil penalties for late filing of financial disclosure statements
- Submission of financial disclosure statements
- Development of public officer database



Proposed Legislation

(BDR 23-500)

- Compliance training on ethics in government laws
- Remove provisions declared facially invalid by Nevada District Court

Nevada Commission on Ethics



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