



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of  
the Request for Opinion Concerning  
the Conduct of BOB LOUX,  
Executive Director,  
Office of Nuclear Projects,  
State of Nevada,

Request for Opinion No.: 08-57C

Subject. /

**INVESTIGATOR'S REPORT (TabA):**

**Introduction:**

On September 11, 2008, an Ethics Complaint was filed against Bob Loux (Loux), Executive Director of the Agency for Nuclear Projects (referred by the complainant as the Office for Nuclear Projects), alleging that Loux used his position to secure unauthorized pay raises for himself and his employees.

**Jurisdiction:**

As the Executive Director for the Agency for Nuclear Projects (Agency), no dispute exists that Loux is a public officer, as defined by NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to render an opinion in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issues:**

2  
3 The issues are whether Loux violated NRS 281A.400.2, when he approved unauthorized pay  
4 raises for himself and for the employees in his office in 2006, 2007 and 2008, and whether Bob  
5 Loux violated NRS 281A.420.9, when he used his position to benefit himself by using a  
6 subordinate to secure his pay raises in 2006, 2007 and 2008.  
7

8 **Request for Opinion No. 08-57C (Ethics Complaint). (Tab B):**

9  
10 On September 11, 2008, an Ethics Complaint was filed by Heidi Gansert (Gansert). The  
11 following is the summary of the allegations:

12 On dates noted in the complaint, Loux violated NRS 281A.400.2. (Exhibit 17).  
13

14 **Notice of Additional Issues and Facts. (Tab C):**

15  
16 During the course of investigation, additional facts and issues relating to alleged violations of  
17 NRS 281A.400.2 and NRS481A.400.9 were discovered by the Investigator. A Notice of  
18 Additional Issues and Facts was mailed to Loux and his legal counsel Judy Sheldrew, Esq., on  
19 October, 14, 2008. An Amended Notice of Additional Issues and Facts was mailed to them on  
20 October 15, 2008.  
21

22 **Response to Ethics Complaint and to Notice of Additional Issues and Facts. (Tab D):**

23  
24 A response to the Ethics Complaint and to the Amended Notice of Additional Issues and Facts  
25 was received on October, 27, 2008. Legal counsel Sheldrew stated that Loux did not violate any  
26 provisions of NRS281A because he had acted within his authority and responsibility, but he  
27 takes full responsibility for the mistakes that were made by his office. In addition, Sheldrew  
28

1 argued that the salary schedules relied upon by the complainant are inaccurate and do not show  
2 the actual salaries of the employees of the Agency. (Tab D, pages 23-25).

3  
4 **Investigation Summary:**

5  
6 I interviewed the following individuals and reviewed the following documents:

7  
8 **Witnesses interviewed. (Tab E):**

9  
10 Heidi Gansert, requestor of the Ethics Complaint No.08-57C, in person on September 29,  
11 2008. (Exhibit 1).

12  
13 Bob Loux, Executive Director of the Agency for Nuclear Projects, subject of the Ethics  
14 Complaint No. 08-57C, in person on October 29, 2008. (Exhibit 2).

15  
16 Cynthia Willden (Willden), State of Nevada Department of Personnel, via e-mails on  
17 October 16, 2008 and October 27, 2008. (Exhibit 3). (Copies of Employee Status  
18 Maintenance Transaction sheets [ESMT] not included but available).

19  
20 Andrew Clinger (Clinger), Director of the Department of Administration, via e-mails on  
21 September 19, 2008, October 15, 2008 and November 5, 2008 and via telephone on  
22 October 19, and November 5, 2008. (Exhibit 4).

23  
24 Cathy Sack, former employee of the Agency for the Nuclear Projects, via e-mail on  
25 October 24, 2008. (Exhibit 5).

26  
27 Shelley Blotter (Blotter), Interim Director of the Department of Personnel, via e-mails on  
28 October 29, 2008. (Exhibit 6).

1 Stephanie Day (Day), Deputy Budget Director for the Office of the Governor, via e-mail  
2 on October 29, 2008. (Exhibit 7).

3  
4 Kelly Chouinard (Chouinard), Executive Assistant to Joshua Hicks, Chief of Staff, Office  
5 of the Governor, via e-mail on October 29, 2008. (Exhibit 8).

6  
7 Pete Ernaut (Ernaut), former Executive Director of the Office of the Governor Kenny  
8 Guinn, via telephone on November 4, 2008.

9  
10 Mark Stevens (Stevens), Assembly Fiscal Analyst, Legislative Counsel Bureau, via e-  
11 mail on November 4, 2008. (Exhibit 9).

12  
13 **Documents. (Tab F):**

14  
15 I obtained and reviewed the following documents and materials relevant to the investigation:

- 16  
17 - Payroll spread sheets of the Agency for Nuclear Projects Actual vs. Budgeted Salaries  
18 Fiscal Years 2006 through 2009. (Exhibit 10).
- 19  
20 - Transcripts of recording of Nevada Legislature's Interim Finance Committee (IFC)  
21 meeting from September 9, 2008. (Video cd available, but not attached). (Exhibit 11).
- 22  
23 - State of Nevada Budget Division Legislature Approved Payroll/Position Detail for the  
24 Agency for Nuclear Projects for 2005-2007 Biennium. (Exhibit 12).
- 25  
26 - State of Nevada Budget Division Legislature Approved Payroll/Position Detail for the  
27 Agency for Nuclear Projects for 2007-2009 Biennium. (Exhibit 13).
- 28

- 1 - State of Nevada Budget Division Governor Recommends Payroll/Position Detail for
- 2 the Agency for Nuclear Projects for 2005-2007 Biennium. (Exhibit 14).
- 3
- 4 - State of Nevada Budget Division Governor Recommends Payroll/Position Detail for
- 5 the Agency for Nuclear Projects for 2007-2009 Biennium. (Exhibit 15).
- 6
- 7 - Minutes of the Senate Committee on Finance from May 12, 1999. (Exhibit 16).
- 8
- 9 - Grant documents issued to the Agency for Nuclear Projects by Western Governor's
- 10 Association. (Not included but available).
- 11
- 12 - Relevant statutes and opinions. (Exhibit 17).
- 13
- 14 - Office of the Governor Office Policy. (Exhibit 18).

15 **Investigative findings:**

16  
17 The following are my investigative findings:

18  
19 Bob Loux is the Executive Director of the Agency; he has been employed and has held the same  
20 position with the Agency since 1985.

21  
22 On September 9, 2008, Loux attended an IFC meeting and asked the Committee to allow him to  
23 “move some money around into 01 category” because his office overspent the legislatively  
24 approved budget by a series of his errors (Exhibit 11). Loux explained that his employee Norma  
25 Conway (Conway) took catastrophic leave for an entire year. After her return, she decided to  
26 retire. Loux stated that upon Conway's departure, her duties were distributed amongst all the  
27 employees in his office. He thought it was appropriate to compensate them for the additional 15-  
28 20% extra work. Loux stated that he failed to account for the increase in fringe benefits based on

1 the salary increases causing the budget to be overspent by approximately \$72, 000, and he was  
2 taking full responsibility for these errors.

3  
4 During my interview with Loux, he alleged that there are no legislatively approved salary levels  
5 for individual employees, but only an approved budget for salaries for the Agency as a whole.  
6 (Exhibit 2, page 4, line 20). However, the documentation from the Department of Administration  
7 and from the Governor’s office refers to legislatively approved salaries for each individual  
8 position, including Loux’s salary. (Exhibit 8).

9  
10 Loux believes that his actions were justified, and he had the authority to distribute salaries from  
11 unfilled position amongst the employees in his office. In his justification, Loux referred to  
12 Assembly Bill 660 that established the “non-classified” employee status in 1999. (Exhibit 16).  
13 He relied on the testimony of Ernaut, Executive Director of the Office of the Governor at the  
14 time this bill was adopted. I spoke to Ernaut on November 4, 2008 and he stated that the  
15 intention of AB 660 was to give more discretion to the Governor on the salaries for non-  
16 classified employees. However, the Governor approves the amounts of salaries and the number  
17 of positions in the Agency for Nuclear Projects.

18  
19 Furthermore, during my telephonic conversation with Clinger, the Executive Director of  
20 Department of Administration, I discussed the allegations that the salary schedules relied upon  
21 by the Commission and by the complainant are incorrect. Clinger stated that although it may  
22 appear that the actual salaries as presented in Loux’s response (Tab D) are correct, Loux failed to  
23 account for the employee/employer paid retirement benefits or in Loux’s case, the employer paid  
24 retirement benefits. Clinger further explained in his e-mail on November 5, 2008 when he  
25 offered an example of how the employee/employer paid and the employer paid retirement  
26 benefits are calculated. (Exhibit 4).

1 In addition, I received an e-mail from Stevens, Assembly Fiscal Analyst for LCB who offered  
2 further explanation (Exhibit 9). Stevens stated that “the salary levels of each position within the  
3 Office of Nuclear Projects can be set at any level by the Governor, not the Executive Director, as  
4 long as the total amount approved within the salary category is not exceeded.” (Exhibit 9, page 2  
5 under “Scenario 2”).

6  
7 Moreover, Loux’s argument that he did not use a subordinate to secure pay raises for himself is  
8 disputed by the testimony of Willden, Records Manager of the Department of Personnel. During  
9 our conversation on October 27, 2008 Willden indicated that the Department of Personnel would  
10 reject the ESMT forms submitted by the Agency without an employee’s signature in addition to  
11 Loux’s.

12  
13 Finally, it is undisputable that the Agency for the Nuclear Projects overspent the legislatively  
14 approved budget due to an increase of salaries authorized by Loux. Therefore, Loux and his  
15 employees received benefits above the amounts approved by the Governor or the Legislature.

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17 **Investigative conclusion:**

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19 The evidence supports the claim that Bob Loux violated NRS 281A.400.2 when on the dates as  
20 noted below, he granted unauthorized salary increases to himself and to the employees in his  
21 office and violated NRS 281A.400.9 when on the same dates Loux used his position to benefit  
22 his financial interest by using a subordinate Cathy Sack to secure salary raises for himself in  
23 2006, 2007 and 2008.

24  
25  
26 My conclusions are that Bob Loux:

- 27  
28 **1. In fiscal year 2006:**

1           Granted unauthorized salary approval to himself.

2  
3           **2.** In fiscal year 2006:

4           Granted unauthorized salary approval to his employees.

5  
6           **3.** In fiscal year 2006:

7           Used a subordinate Cathy Sack to secure salary raise for himself.

8  
9           **4.** In fiscal year 2007.

10          Granted unauthorized salary approval to himself.

11  
12          **5.** In fiscal year 2007:

13          Granted unauthorized salary approval to his employees.

14  
15          **6.** In fiscal year 2007:

16          Used a subordinate Cathy Sack to secure salary raise for himself.

17  
18          **7.** In fiscal year 2008:

19          Granted unauthorized salary approval to himself.

20  
21          **8.** In fiscal year 2008:

22          Granted unauthorized salary approval to his employees.

23  
24          **9.** In fiscal year 2008:

25          Used a subordinate Cathy Sack to secure salary raise for himself.

1 Therefore, on the allegations in Ethics Complaint No. 08-57C, I conclude that Bob Loux violated  
2 NRS 281A.400.2, and NRS 281A.420.9.

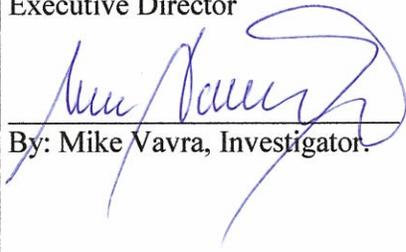
3  
4 In fiscal year 2006.

5 In fiscal year 2007.

6 In fiscal year 2008.

7  
8  
9 Dated this 5 day of NOVEMBER, 2008.

10  
11 NEVADA COMMISSION ON ETHICS  
12 Patricia D. Cafferata, Esq.  
13 Executive Director

14   
15 By: Mike Vavra, Investigator.