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BDR Subcommittee
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April 15, 2020

2021 Legislative Bill Draft Request – Commission’s Request to Governor

I. Background

The Commission sought a significant omnibus bill (Senate Bill 129) during the 2019 Legislative Session to revise, clarify and enhance the Nevada Ethics in Government Law set forth in NRS Chapter 281A (“Ethics Law”). The Commission engaged in significant outreach with various stakeholders, including State and local government agencies to reach consensus on the bill, including significant feedback from governmental attorneys who advise the State’s public officers and employees regarding application of the Ethics Law to their circumstances. Unfortunately, the bill did not ultimately pass. However, the bill, as amended, received unanimous support in the Senate and, after additional minor edits, received unanimous support in the Assembly Committee on Legislative Elections and Operations. The bill was then presented to the Assembly for final passage, but it was removed from the General File before the final reading and vote on the Assembly Floor on the deadline day. Accordingly, SB 129 did not receive a final vote in the Assembly. The Commission has not received any feedback regarding any specific concern with the bill.

Without the benefit of the statutory amendments proposed by SB 129, the Commission has continued to operate under the provisions that were enacted/amended through SB 84 in 2017. SB 84 addressed a multitude of administrative, procedural and substantive amendments to the Ethics Law, and SB 129 was intended to carry forward the same goals with the benefit of having applied the provisions of SB 84 for the prior 2 years, along with responding to a significant increase in the Commission’s advisory and complaint case load and various Court decisions.

For the 2021 Legislative proposal, the Executive Director recommends that the BDR Subcommittee/Commission consider several matters that have affected the Commission’s operations in the prior 3 years. First, the case load of the Commission has doubled since

Fiscal Year 2017-2018. Second, the Commission has continued to operate under statutory provisions that have been interpreted (or misinterpreted) to create various hurdles for the Commission, including issues related to Nevada's Open Meeting Law. Third, the Commission's budgetary goals in 2021 may be significantly hindered by the COVID-19 pandemic that has required State agencies to reduce budgets and become innovative in approaches to accomplishing agency objectives with fewer resources. All of these issues reflect a starting point for the Commission's BDR Subcommittee to consider past legislation, current positioning and future goals. Accordingly, the Executive Director provides the summary herein regarding past legislation and recommendations for the 2021 Legislative Session.

II. SB 84 Summary

SB 84 amended various provisions of NRS Chapter 281A, including:

1. Reorganizing and restructuring various statutes and sections within NRS Chapter 281A;
2. Revising statutory terminology and procedures to clarify distinctions between advisory requests and complaints;
3. Clarifying the scope of the Commission's jurisdiction to include certain persons who contract with public agencies to fill positions that would ordinarily be held or filled by a public officer or employee under certain circumstances, and to exclude allegations solely related to employment-based discrimination and harassment claims;
4. Streamlining the Commission's jurisdictional, investigatory and case management processes of ethics complaints, including a new review panel and approval of deferral agreements;
5. Expanding the remedies available to review panels for terms and conditions of deferral agreements and to the Commission for findings of violations;
6. Adopting consistent criteria regarding conflicts of interest throughout the statutory standards of conduct;
7. Clarifying that the cooling-off provisions which prohibit former public officers or employees from seeking, negotiating or entering into employment in the private sector includes services contemplated or provided through oral or written agreements and that any relief from the application does not relieve the public officer or employee from the prohibitions against representing or counseling private persons on issues that were under consideration by the former public agency; and
8. Revising the filing and disclosure requirements for public officers.

Most notably, SB 84 established a new structure by which ethics complaints would be processed, investigated and considered by the Commission. Specifically, the Ethics Law now requires the full Commission to make jurisdictional determinations in all ethics complaints upon a review of sufficient evidence to support the allegations. The Commission has the authority to dismiss the complaint with or without a confidential letter of instruction or letter of caution, or direct the Executive Director to investigate the matter and make a recommendation to a Panel regarding whether there is credible evidence to support just and sufficient cause for the Commission to render an opinion in the matter. Upon direction from the Commission, the Executive Director will conduct an investigation.

Senate Bill 84 replaced the 2-member investigatory panel with a 3-member review panel that has final authority to dismiss the complaint with or without a letter of instruction or caution, forward the matter to the Commission for a final opinion or approve a deferral agreement between the subject of the complaint and the Executive Director. Senate Bill 84 further expanded the remedies available to the Commission upon findings of violations to impose various forms of discipline and provide for certain administrative decisions and less formal resolutions of minor violations, including letters of instruction or caution, deferred discipline with education, corrective action, public apologies and public admonitions, censures and reprimands.

After the passage of Senate Bill 84, the Commission completely reformed all of its systems and documents related to advisory and complaint cases, including the development of new forms, templates and documents, staff recommendations, orders, pre-hearing requirements and hearing procedures. The laborious task of converting, testing and reviewing all internal documents and systems further culminated in the drafting of an entirely revised chapter of the Nevada Administrative Code, Chapter 281A, the Commission's administrative/procedural regulations. The significant changes in the law resulted in the development of new technologies to ensure secure communications with staff and commissioners and open transparency with the public. The Commission launched its new website, procured a contract to develop a customized case and document management system and online opinion database, transitioned to secured communications via State-issued email accounts, and increased its in-house technologies to include enhanced Internet and email delivery and communications with new State systems.

Through the successful implementation of SB 84, the Commission confronted several new issues: a significantly increased case load; new procedural and substantive legal issues presented through investigatory and adjudicatory processes or judicial litigation, and budgetary restrictions or limitations. Accordingly, the Commission pursued significant legislative changes in SB 129 during the 2019 Legislative Session. The legislation was aimed at increasing and clarifying due process and transparency in the Commission's processes, ensuring additional outreach and education, enhancing confidentiality protections, streamlining procedural requirements, addressing jurisdictional issues, expanding the standards of ethical conduct attributable to public officers and employees and addressing various loopholes identified while implementing the 2017 Legislation (SB 84) during the prior 2 years.

III. SB 129 Summary

In summary, SB 129 proposed the following amendments to NRS Chapter 281A, the Ethics in Government Law:

1. Requests for Advisory Opinions

Increase accessibility to the Commission for advisory opinions from state and local governmental agencies and cooperation therewith and clarify proceedings.

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2. Ethics Complaints

Significant clarifications and procedures to enhance transparency and due process for ethics complaints, including jurisdictional determinations, investigations and adjudication.

3. Ethical Standards of Conduct

Clarify scope of ethical standards that apply to public officers and employees, including cooling-off prohibitions, abuse of power/authority, misuse of government resources, disclosure and abstention obligations and prohibited contracts.

4. Open Meeting Law (“OML”) Exemption/Application

SB 129 would expand OML exemptions to protect confidentiality of advisory and complaint proceedings.

5. Jurisdiction of State Legislators

Current law limits the Commission’s jurisdiction over State legislators to conduct that constitutes core legislative functions. Additionally, only a Legislator’s own house can discipline a legislator for conduct that is afforded protection by principles of legislative privilege and immunity. SB 129 would have provided a procedural mechanism for the Commission to confidentially refer appropriate cases to the Legislature for review under its jurisdiction.

6. Administrative

SB 129 provided additional administrative amendments as follows:

- Chair’s duties may be assigned to Vice-Chair or other members of the Commission. Chair/Presiding officer may administer oaths.
- Executive Director must be licensed attorney in Nevada.
- Review Panel must prepare/serve written Panel Determinations; deadlines for deferral agreements; mediate settlements.
- Requires all public officers and employees to cooperate in Commission’s lawful investigations or proceedings and furnish information unless limited rights privileges, immunities or confidentiality apply.
- Published Commission opinions will be deemed administrative, persuasive precedent for future cases and not ad hoc rule-making.

IV. 2021 Recommendations

The Executive Director recommends that the BDR Subcommittee consider the same amendments presented in SB 129 as a starting point for its BDR recommendation for the 2021 Legislative Session. The Commission has since discussed narrowing the scope of any future bill. Given the current COVID-19 Pandemic, the Executive Director anticipates significant limitations on budgetary resources in the next biennium. Accordingly, the BDR Subcommittee may want to further focus the recommendations for future legislation in areas that could alleviate budgetary constraints, including streamlining procedures, providing

extensions to statutory deadlines, requiring additional cooperation by state and local government agencies, and other procedural efficiencies.

Specifically, SB 129 included the following proposals, and the Executive Director has emphasized various provisions as future BDR priorities with asterisks (**).

1. Requests for Advisory Opinions

- A special or local ethics committee or agency legal counsel could seek advisory opinions (currently only a public officer/employee may seek advice).
- Commission may seek additional information from state or local agency legal counsel regarding request for advisory opinion; must retain confidentiality of subject.
- **2-year statute of limitations for advice re: past conduct.
- Commission issuance of stays and dismissals upon filing of related ethics complaint.
- Clarifying scope of waivers of confidentiality to opinion, information, hearing transcript or all.
- **Distinction between issuing a decision versus a written opinion; extra time to issue written opinion.
- **Materials and hearing are confidential and exempt from Open Meeting Law. Commission may hold open hearing upon waiver of confidentiality in accordance with regulations of Commission.

2. Ethics Complaints

- Preliminary confidential investigations before jurisdictional determination.
- **Authorizing Commission to extend 45-day deadline to determine jurisdiction/investigation based upon showing of good cause.
- Authorizing Commission to dismiss complaint initiated on its own motion with a confidential letter of caution or instruction.
- **Requiring Commission to serve a “Notice of Investigation” instead of a copy of the ethics complaint on the Subject.
- **Clarifies that consistent with existing subpoena power, Subject of a complaint must participate in an investigation regardless of whether they file a written response to the allegations; exceptions if privileges apply.
- **Review Panel may grant an extension from 70-day timeline to investigate a case for good cause shown.
- **Clarifies the parties to adjudicatory proceedings after investigation include the Executive Director and Subject of the complaint who may each present/defend their cases to the Commission after the Commission issues a written notice of hearing and schedule for discovery.
- **Distinction between issuing a decision versus a written opinion; extra time to issue written opinion.
- Written opinions must state findings of fact and conclusions of law and comply with Nevada’s Administrative Procedures Act (NRS 233B).
- **Clarifies the protections for confidentiality of the identity of person who files an ethics complaint, including when they otherwise serve as witnesses.

- Confirms that evidence presented at an adjudicatory hearing will become public records after the final action, as hearings are exempt from OML.
- **Materials and hearings are exempt from OML (except final action). Clarifies that exemption exists even for final action, but the Commission will make its final decision in an open hearing in accordance with regulations of Commission.
- Eliminates distinction between an ethics violation versus a willful violation; instead Commission will evaluate seriousness/severity of a violation to determine penalties/sanctions.
 - o “Intentional” and “Knowing” *mens rea* elements remain.
 - o Safe Harbor protections for public officers and employees who rely in good faith upon legal determination of agency counsel will now receive full safe harbor from a violation, not just from a finding of willfulness.
 - o Removal statutes which authorize or mandate the Commission to move for removal of a public officer/employee for certain number of willful violations will now require finding of a violation and imposition of an penalty of \$5,000 or more for one violation and \$10,000 or more for more than one violation.

3. Ethical Standards of Conduct

- Establishes new and amends existing standards of conduct (prohibitions):
 - o Cooling Off:
 - **Confirms that prohibitions apply to current and former public officers and employees.
 - **Expands prohibition against a public officer/employee leaving public service to work for a vendor to which the officer or employee was involved in “awarding” a contract over \$25,000 during the preceding year to any contract in which the public officer or employee was involved in the awarding of such contract or material implementation, management or administration of such a contract.
 - **Authorizes public officers/employees to request information from a potential employer in a business or industry without being deemed to improperly negotiate future employment.
 - **Limits application of prohibition to seek/accept employment from regulated business or industry applicable to Executive Branch employees to management level employees.
 - o **Abuse of Power/Authority:
 - Prohibits actions by public officers/employees that a reasonable person would find gross/unconscionable abuse of official position undermining integrity or impartiality of reasonable person in public officer position;
 - Does not include allegations of bias, error or abuse of discretion within normal scope of duties.
 - o **Misuse of Government Resources:
 - Clarifies and makes consistent prohibition of public officer/employee and State Legislator from using government resources for significant personal or pecuniary interest.
 - Clarifies 2 of the 4 requirements of the limited-use exception: 1) to allow use if there is a written policy allowing such use before the conduct; and 2) defines “appearance of impropriety” as a

- perception by a reasonable person that the use is inappropriate, disproportionate, excessive or unreasonable.
- ******Disclosure/Abstention:
 - New limited exception from disclosing certain information for legally protected confidential relationships (i.e. attorney/client) – abstention mandatory in such circumstances.
 - Adds abstention requirement for matters that are materially affected by the nature of private representations of private clients within the preceding year.
- Prohibited Contracts with Government Agencies:
 - Limits scope of prohibited government contracts by public officers/employees to agencies which employ or interact with the public officer/employee.
 - Clarifies the exceptions to prohibited contracts by delineating distinction between open-competitive contracts and contracts not suited to competitive process.
- Prohibited Honoraria – exceptions:
 - Makes conforming change to capture domestic partners along with spouses where applicable.

4. Open Meeting Law (“OML”) Exemption/Application

- Under current law, the Commission is exempt from OML for its proceedings regarding requests for advisory opinions, review panels and for its receipt of information and deliberations regarding ethics complaints. Final actions taken in an ethics complaint must comply with OML.
- ******This bill requests complete exemption from OML and instead provides that the Commission will take final action in an open meeting defined under its regulations, but that is not required to comply with the notice, agenda and supplemental materials requirements of OML for confidential documents and scheduling/noticing challenges for cases.
- ******OML also now requires that a public body take legal action regarding litigation in an open, public meeting under OML. This bill authorizes the Commission to delegate litigation decisions to its Chair, Executive Director or both and to allow Commission Counsel to initiate, defend, participate and appeal in legal proceedings with consent or ratification of Commission or Chair/Executive Director (if so delegated).
 - *******AB70 (2019) provided similar authority to public agencies through the OML – Accordingly, we no longer need this broad authority, but the Commission has a unique qualifier for confidential advisory opinions and ethics complaints that are still in the confidential phase of proceedings. We want express delegation authority outside of OML for these purposes.

5. Jurisdiction of State Legislators

- Current law limits the Commission’s jurisdiction over State legislators to conduct that does not constitute a core legislative function. Additionally, only a Legislator’s own house can discipline a legislator for conduct that is afforded protection by principles of legislative privilege and immunity.

- The Commission has litigated the scope of its jurisdiction when a state legislator asserts the privilege before the Commission has conducted an investigation to determine whether the privilege applies. The Nevada Supreme Court did not reach a decision on the merits.
- This Bill authorizes the Commission to conduct preliminary investigations and direct its Executive Director to refer a matter or file a complaint against a State Legislator in the Legislator's respective House Ethics Committee for conduct determined not to be within the jurisdiction of the Commission.

6. Administrative

- Chair's duties may be assigned to Vice-Chair or other members of the Commission. Chair/Presiding officer may administer oaths.
- **Executive Director must be licensed attorney in Nevada.
 - o ***This proposal received some push-back last session as unintentionally limiting scope of otherwise qualified applicants. The Committee may have misunderstood the scope of the Executive Director's legal duties for the Commission. Notably, the Legislature last year enacted the Commission for Indigent Defense and the Sentencing Commission, requiring the Executive Directors of those Commissions to be attorneys. Given resource limitations, including potential vacancies in the Investigator or Associate Counsel positions, the Executive Director must be an attorney to be able to make legal recommendations, file motions, engage in discovery, pursue settlement negotiations, and present evidence in an adjudicatory hearing, and supervise/review these legal duties in others. Such responsibility also emphasizes the Commission's budgetary requests for salary enhancements.
- **Review Panel must prepare/serve written Panel Determinations; deadlines for deferral agreements; mediate settlements.
- **Requires all public officers and employees to cooperate in Commission's lawful investigations or proceedings and furnish information unless limited rights privileges, immunities or confidentiality apply.
- Published Commission opinions will be deemed administrative, persuasive precedent for future cases and not ad hoc rule-making.

In addition to the above-designated matters, the Executive Director recommends the following proposed amendments to the Ethics Law:

- **Advisory Opinions**
 - o Authorize Commission Counsel and Executive Director to issue informal advice in reliance on former Commission precedent. Such advice may not be binding and/or may be appealed to the Commission. Such advice may protect the public officer or employee from future finding of a violation. Such advice shouldn't create new precedent for the Commission.
 - o Alternatively, authorize streamlined (conclusory) versions of advisory opinions, in particular for cases that are not subject to judicial review or for which the Commission doesn't believe warrants publication or precedent. For opinions subject to judicial review, simplify opinion to simple findings of fact and conclusions of law.

- Authorize Commission to determine certain advisory opinions as non-binding advice, not subject to judicial review.
- **Ethics Complaints**
 - Jurisdictional Recommendations – Confirm confidentiality.
 - Confidentiality of Requester: Significant staff time is spent analyzing and coordinating appropriateness of confidentiality of Requester, and if confidentiality is maintained, ensuring appropriate redactions to complaints and protection of witnesses who may otherwise inadvertently identify the Requester. This may be solved, in part, with the approach to issuing a Notice of Complaint in lieu of providing a copy of the Ethics Complaint.
 - Requiring State and local governmental agencies to cooperate and provide information, even if confidential, during the course of an ethics investigation. Internal employee disciplinary matters often parallel ethics investigations. The Commission doesn't want to be blindsided by or uninformed of evidence of an internal agency investigation that relates to ethical misconduct. There is inherent protection of such information given that the Commission's investigatory file is statutorily confidential.
 - Increase investigatory timeframe to 120 (or more) days after a written response is received by the Subject, plus opportunity to request extensions from Review Panel for good cause.
 - Extend deadline for Review Panel to render a decision from 15 days to 45 days, plus extension for good cause. This would provide Review Panel opportunity to direct additional investigation or seek legal research/advice on a given matter.
 - Confirm that proposed stipulations are exempt from OML

(Reprinted with amendments adopted on May 22, 2019)

SECOND REPRINT

S.B. 129

SENATE BILL NO. 129—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED FEBRUARY 1, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to ethics in government. (BDR 23-191)

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

CONTAINS UNFUNDED MANDATE (§ 11.5)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

AN ACT relating to ethics in government; making various changes relating to the provisions governing ethics in government; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 With certain exceptions, the Nevada Ethics in Government Law (Ethics Law)
2 governs the conduct of public officers and employees and, in certain situations,
3 former public officers and employees after the end of their period of public service
4 or employment. The Ethics Law is carried out and enforced by the Commission on
5 Ethics, which is authorized to issue opinions interpreting the statutory ethical
6 standards established by the Ethics Law and applying those standards to a given set
7 of facts and circumstances. The Ethics Law also authorizes any state agency or the
8 governing body of a county or city to establish a specialized or local ethics
9 committee to complement the functions of the Commission. (Chapter 281A of
10 NRS)

11 Under the Ethics Law, the Commission is authorized to issue advisory opinions
12 requested by current and former public officers and employees who are: (1) seeking
13 guidance on matters which directly relate to the propriety of their own past, present
14 or future conduct under the statutory ethical standards; or (2) requesting relief from
15 certain provisions of the Ethics Law that allow the Commission to grant such relief.
16 (NRS 281A.670-281A.690) The Commission is also authorized to issue opinions in
17 response to ethics complaints filed with or initiated by the Commission regarding
18 the propriety of the conduct of current and former public officers and employees
19 under the statutory ethical standards. (NRS 281A.700-281A.790)



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20 This bill amends the Ethics Law by clarifying, revising and adding to existing
21 provisions which govern: (1) the operation, powers, functions and duties of the
22 Commission, its members and staff and any specialized or local ethics committees;
23 (2) the statutory ethical standards that apply to the conduct of current and former
24 public officers and employees; and (3) the proceedings concerning requests for
25 advisory opinions and ethics complaints and the issuance of opinions and the
26 imposition of remedies and penalties by the Commission.

27 **Sections 2, 23-27 and 29-31** of this bill make various changes to existing
28 provisions of the Ethics Law which govern the operation, powers, functions and
29 duties of the Commission, its members and staff and any specialized or local ethics
30 committees. (NRS 281A.200-281A.350) Under the Ethics Law, the Commission
31 must annually elect a Chair and Vice Chair who are assigned certain powers,
32 functions and duties. (NRS 281A.210, 281A.220, 281A.240, 281A.300) **Sections 2**
33 **and 23** of this bill provide for the Chair's powers, functions and duties to be
34 assigned for a particular matter to the Vice Chair or another member of the
35 Commission under certain circumstances. **Section 30** of this bill provides for a
36 member of the Commission to administer oaths when appointed by the Chair to
37 preside over any meetings, hearings or proceedings.

38 The Ethics Law requires the Chair to appoint review panels, consisting of three
39 members of the Commission, to review ethics complaints during the investigatory
40 stage of the proceedings, and if a review panel determines that there is just and
41 sufficient cause for the Commission to render an opinion in a matter, the members
42 of the review panel generally cannot participate in any further proceedings of the
43 Commission relating to that matter. (NRS 281A.220) However, the Ethics Law
44 permits the members of the review panel to authorize the development of and
45 approve a deferral agreement in the proceedings. (NRS 281A.730) **Section 24** of
46 this bill permits one or more members of the review panel, with the consent of the
47 parties, to participate as mediators or facilitators in any settlement negotiations
48 between the parties that are conducted in the proceedings before the Commission
49 holds an adjudicatory hearing in the matter.

50 The Ethics Law requires the Commission on Ethics to appoint and prescribe the
51 duties of the Commission Counsel who is the legal adviser to the Commission and
52 who, in most cases, is directed by the Commission to act as legal counsel in any
53 litigation in which the Commission or its members or staff are parties in an official
54 capacity. (NRS 281A.250, 281A.260) **Section 27** of this bill specifies the powers
55 and duties of the Commission Counsel regarding any litigation in which the
56 Commission or its members or staff are parties in an official capacity.

57 Under the Ethics Law, a specialized or local ethics committee may: (1)
58 establish its own code of ethical standards suitable for the particular ethical
59 problems encountered in its sphere of activity; and (2) render opinions upon the
60 request of public officers and employees subject to its jurisdiction seeking an
61 interpretation of its own code of ethical standards on certain questions. However, a
62 specialized or local ethics committee may not attempt to interpret or render an
63 opinion regarding the statutory ethical standards subject to the jurisdiction of the
64 Commission, but it may refer such questions to the Commission. (NRS 281A.350)
65 **Section 31** of this bill clarifies the circumstances when such questions may be
66 referred to the Commission as a request for an advisory opinion. **Section 31** also
67 makes conforming changes to ensure consistency with the other revisions that this
68 bill makes to the Ethics Law.

69 The Ethics Law establishes statutory ethical standards that are intended to
70 enhance the people's faith in the integrity and impartiality of public officers and
71 employees by requiring appropriate separation between the roles of persons
72 who are both public servants and private citizens in order to avoid conflicts
73 between their private interests and the interests of the general public whom they



74 serve. (NRS 281A.020, 281A.400-281A.550) **Sections 5, 6, 11, 18 and 32-38** of
75 this bill make various changes to the statutory ethical standards.

76 **Sections 5 and 6** of this bill restate more clearly the existing scope of the
77 statutory ethical standards and their applicability to the conduct of current and
78 former public officers and employees. **Section 6** also codifies the existing rule of
79 construction that the standards are cumulative and supplement each other and all
80 such standards are enforceable to the extent that they apply to the given set of facts
81 and circumstances.

82 The Ethics Law prohibits public officers and employees from engaging in
83 certain unethical conduct that benefits themselves, any business entities in which
84 they have a significant pecuniary interest or any persons to whom they have a
85 commitment in a private capacity. (NRS 281A.400, 281A.420) The Ethics Law
86 defines the persons to whom public officers and employees have a "commitment in
87 a private capacity" to include: (1) the spouse or domestic partner of the public
88 officer or employee, any member of his or her household or any relative within the
89 third degree of consanguinity or affinity; (2) any person who employs the public
90 officer or employee, his or her spouse or domestic partner or any member of his or
91 her household; (3) any person with whom the public officer or employee has a
92 substantial and continuing business relationship; or (4) any person with whom the
93 public officer or employee has any other commitment, interest or relationship that
94 is substantially similar to the foregoing commitments, interests or relationships.
95 (NRS 281A.065) **Section 18** of this bill makes technical and stylistic revisions to
96 the definition of "commitment in a private capacity" that do not change its
97 substantive meaning.

98 The Ethics Law prohibits public officers and employees from using their
99 position in government to secure or grant any unwarranted privileges, preferences,
100 exemptions or advantages for themselves, any business entities in which they have
101 a significant pecuniary interest or any persons to whom they have a commitment in
102 a private capacity. (NRS 281A.400) **Section 11** of this bill adds to the statutory
103 ethical standards by prohibiting public officers and employees from using their
104 position or power in government to take any actions or compel a subordinate to
105 take any actions that a reasonable person would find, based on the given set of facts
106 and circumstances, to be a gross or unconscionable abuse of official position or
107 power that would undermine the integrity or impartiality of a reasonable person in
108 the public officer's or employee's position under the same or similar facts and
109 circumstances. However, the prohibition in **section 11** does not apply to any
110 allegations claiming only bias, error or abuse of discretion in any actions taken by
111 public officers and employees within the normal course and scope of their position
112 or power in government.

113 The Ethics Law contains a general provision that prohibits public officers and
114 employees from using governmental time, property, equipment or other facility to
115 benefit a significant personal or pecuniary interest of the public officers and
116 employees or any persons to whom they have a commitment in a private capacity.
117 By contrast, the Ethics Law also contains a specific provision that prohibits State
118 Legislators from using governmental time, property, equipment or other facility for
119 a nongovernmental purpose or for the private benefit of the Legislators or any other
120 persons. Both of these prohibitions contain separate limited-use exceptions that
121 allow a limited use of governmental property, equipment or other facility for
122 personal purposes if the limited use meets certain requirements. (NRS 281A.400)
123 **Section 32** of this bill revises these prohibitions and limited-use exceptions in
124 several ways.

125 First, **section 32** of this bill aligns the prohibitions so they employ the same
126 prohibitive language for Legislators and other public officers and employees. As a
127 result, subject to the limited-use exceptions, **section 32** prohibits all public officers
128 and employees from using governmental time, property, equipment or other facility



129 to benefit a significant personal or pecuniary interest of the public officers and
130 employees or any persons to whom they have a commitment in a private capacity.

131 Second, with regard to the limited-use exceptions that apply to public officers
132 and employees other than Legislators, one of the existing requirements for the
133 exceptions is that the public officer or employee who is responsible for and has
134 authority to authorize the limited use for personal purposes must have established a
135 policy allowing the limited use. **Section 32** of this bill clarifies the exception by
136 providing that the limited use must be authorized by a written policy which was
137 adopted before the limited use occurs.

138 Finally, with regard to the limited-use exceptions that apply to Legislators and
139 other public officers and employees, one of the existing requirements for the
140 exceptions is that the limited use for personal purposes must not create the
141 appearance of impropriety. **Section 32** of this bill defines the term “appearance of
142 impropriety” to mean a reasonable person would find, based on the given set of
143 facts and circumstances, that the limited use for personal purposes is inappropriate,
144 disproportionate, excessive or unreasonable under that given set of facts and
145 circumstances.

146 With certain exceptions, the Ethics Law prohibits public officers and
147 employees from acting upon a matter in which their personal or private interests
148 may create potential conflicts of interests unless, at the time the matter is
149 considered, they make a disclosure that is sufficient to inform the public of their
150 potential conflicts of interests. (NRS 281A.420) **Section 34** of this bill provides
151 that, when public officers and employees make such a public disclosure, they are
152 not required to disclose any information which is confidential as a result of a bona
153 fide relationship that protects the confidentiality of the information under the terms
154 of a contract or as a matter of law, such as the attorney-client relationship, if they:
155 (1) disclose all nonconfidential information and describe the general nature of the
156 protected relationship; and (2) abstain from acting upon the matter.

157 The Ethics Law allows certain public officers to represent or counsel private
158 persons for compensation before state or local agencies in which they do not serve.
159 In addition, although the Ethics Law requires public officers to disclose such
160 private representation or counseling when it may create potential conflicts of
161 interests with their public duties, they are not required to abstain from acting on a
162 matter because of those potential conflicts of interests. (NRS 281A.410, 281A.420)
163 **Section 34** of this bill requires public officers to abstain from acting on a matter
164 under certain circumstances when such private representation or counseling results
165 in conflicts of interests with their public duties.

166 With certain exceptions, the Ethics Law prohibits public officers and
167 employees from bidding on or entering into government contracts between any
168 business entities in which they have a significant pecuniary interest and any state or
169 local agencies. The Ethics Law contains several exceptions to the contracting
170 prohibition, including an exception for certain contracts that are awarded by
171 competitive selection. The Ethics Law also allows the Commission to grant relief
172 from the strict application of the contracting prohibition in specified circumstances.
173 (NRS 281A.430) **Section 35** of this bill revises the contracting prohibition to
174 provide that, with certain exceptions, public officers and employees cannot, directly
175 or through a third party, negotiate, bid on, enter into, perform, modify or renew any
176 government contracts between: (1) the public officers and employees or any
177 business entities in which they have a significant pecuniary interest; and (2) an
178 agency in which they serve or an agency that has any connection, relation or
179 affiliation with an agency in which they serve. **Section 35** also makes conforming
180 changes to the existing exceptions and adds a new exception for certain contracts
181 that, by their nature, are not adapted to be awarded by competitive selection.

182 With certain exceptions, the Ethics Law prohibits public officers and
183 employees from accepting or receiving an honorarium to make a speech or



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184 appearance in their official capacity but allows: (1) the payment of costs incurred
185 by a public officer or employee, his or her aide or his or her spouse for
186 transportation, lodging and meals while away from the public officer's or
187 employee's residence to make such a speech or appearance; and (2) the receipt of
188 an honorarium by a spouse when it is related to the spouse's profession or
189 occupation. (NRS 281A.510) **Section 37** of this bill clarifies that the exceptions
190 which apply to a spouse also apply to a domestic partner.

191 The Ethics Law prohibits certain former public officers and employees, for a 1-
192 year "cooling-off" period after the termination of their public service or
193 employment, from soliciting or accepting private employment from any entities
194 regulated or awarded certain contracts by the agencies that employed the former
195 public officers and employees. However, the Ethics Law also allows the
196 Commission to grant relief from the strict application of the prohibition in specified
197 circumstances. (NRS 281A.550) **Section 38** of this bill provides that certain current
198 and former public officers and management-level public employees are subject to
199 the "cooling-off" period both during and after their public service or employment
200 and cannot solicit or accept private employment from such entities under similar
201 circumstances. **Section 38** also provides that the "cooling-off" period applies when
202 certain current and former public officers and employees are or were materially
203 involved in the implementation, management or administration of certain contracts
204 awarded by their employing agencies.

205 The Ethics Law requires public officers to execute and timely file with the
206 Commission written acknowledgments that they have received, read and
207 understand the statutory ethical standards and that they have a responsibility to
208 become familiar with any amendments to those standards. (NRS 281A.500)
209 **Section 11.5** of this bill requires the appropriate appointing authorities and
210 administrative officials at the state and local level to: (1) compile a list of the public
211 officers within their purview who must file the written acknowledgment of the
212 statutory ethical standards; and (2) submit the list annually to the Commission.
213 Under existing law, these same appointing authorities and administrative officials
214 must compile and submit a similar list annually to the Secretary of State concerning
215 public officers who must file financial disclosure statements with the Secretary of
216 State. (NRS 281.574)

217 The Ethics Law contains existing provisions which govern the proceedings
218 concerning requests for advisory opinions and ethics complaints and the issuance of
219 opinions and the imposition of remedies and penalties by the Commission. (NRS
220 281A.665-281A.790) **Sections 3, 4, 16, 17, 19-22, 28 and 39-62** of this bill make
221 various changes to these existing provisions.

222 Under the Ethics Law, the Commission issues opinions interpreting the
223 statutory ethical standards and applying those standards to a given set of facts and
224 circumstances. (NRS 281A.680, 281A.710) The Ethics Law also directs the
225 Legislative Counsel to prepare annotations of the Commission's published opinions
226 for inclusion in NRS. (NRS 281A.290) Under existing legal principles governing
227 administrative procedure, the published opinions of an administrative agency
228 constitute administrative precedents with persuasive value. (*Sears, Roebuck & Co.*
229 *v. All States Life Ins. Co.*, 246 F.2d 161, 169 (5th Cir. 1957); E. H. Schopler,
230 Annotation, *Applicability of Stare Decisis Doctrine to Decisions of Administrative*
231 *Agencies*, 79 A.L.R.2d 1126 §§ 4-7 (1961 & Westlaw 2019); 2 Am. Jur. 2d
232 *Administrative Law* § 360 (Westlaw 2019))

233 **Section 4** of this bill defines "published opinion" as an opinion issued by the
234 Commission that is publicly available on the Internet website of the Commission.
235 **Section 39** of this bill codifies existing legal principles by stating that the
236 Commission's published opinions constitute administrative precedents with
237 persuasive value. **Sections 29 and 39** of this bill move and recodify within the



238 Ethics Law the existing provision that directs the Legislative Counsel to prepare
239 annotations of the Commission's published opinions for inclusion in NRS.

240 The Ethics Law authorizes public officers and employees to file with the
241 Commission requests for advisory opinions to: (1) seek guidance relating to the
242 propriety of their own past, present or future conduct under the statutory ethical
243 standards; or (2) request relief from the strict application of certain provisions of
244 the Ethics Law. (NRS 281A.675) **Section 41** of this bill authorizes the supervisory
245 head or the legal counsel of a public body, agency or employer to file with the
246 Commission a request for an advisory opinion to seek guidance relating to the
247 application of the statutory ethical standards to a hypothetical or general set of facts
248 and circumstances involving one or more particular positions with the public body,
249 agency or employer. **Section 41** also allows the Commission to request additional
250 information relating to a request for an advisory opinion from the requester and
251 certain other specified persons.

252 If the requester properly files a request for an advisory opinion, the Ethics Law
253 requires the Commission to render an advisory opinion in the matter within a
254 certain time limit after receiving the request, unless the requester waives the time
255 limit. (NRS 281A.680) **Sections 28 and 42** of this bill revise the Commission's
256 jurisdiction and procedures regarding a request for an advisory opinion. Under the
257 Ethics Law, the Commission generally has jurisdiction over ethics complaints filed
258 or initiated within 2 years after the alleged violation or reasonable discovery of the
259 alleged violation. (NRS 281A.280) **Section 28** of this bill similarly provides that
260 the Commission's jurisdiction over a request for an advisory opinion extends only
261 to past conduct occurring within 2 years of the date on which the request is filed.
262 **Section 42** allows the Commission to stay or dismiss the proceedings concerning
263 the request for an advisory opinion under certain circumstances when an ethics
264 complaint is also filed or pending that involves some or all of the same issues or
265 facts and circumstances as the request for an advisory opinion. **Section 42** also
266 requires the Commission to render a decision regarding the request for an advisory
267 opinion within the existing time limit, subject to certain exceptions. However,
268 **section 42** provides the Commission with more time to prepare the written advisory
269 opinion in the matter by requiring the Commission to issue the written advisory
270 opinion within a specified time limit after the decision is rendered. **Section 42**
271 additionally allows the Commission to extend the time limit for good cause, but it
272 must set a specific and reasonable time period for such an extension.

273 Under the Ethics Law, certain materials relating to a request for an advisory
274 opinion are confidential and not public records unless the requester: (1) authorizes
275 the Commission to disclose the materials; or (2) voluntarily discloses the materials
276 to persons other than those specified in the statute. (NRS 281A.685) **Section 43** of
277 this bill clarifies that any authorization given by the requester is limited to the
278 specific materials that the requester authorizes the Commission to disclose. **Section**
279 **43** also revises the specified persons to whom the requester may voluntarily
280 disclose the materials without waiving the confidentiality of the materials.

281 With certain exceptions, the Commission is subject to the Open Meeting Law,
282 which generally requires most meetings of public bodies to be open to the public.
283 (Chapter 241 of NRS) However, under the Ethics Law, the Open Meeting Law does
284 not apply to meetings, hearings, deliberations and actions of the Commission
285 relating to requests for advisory opinions, although the requester of the advisory
286 opinion may file a request with the Commission to hold a public meeting or hearing
287 regarding the matter. (NRS 281A.690) **Section 44** of this bill provides that if the
288 Commission grants such a request for a public meeting or hearing regarding the
289 matter, the Commission must provide public notice of the meeting or hearing and
290 the meeting or hearing must be open to the public and conducted in accordance
291 with the regulations of the Commission, but the meeting or hearing is not subject to
292 specific requirements of the Open Meeting Law.



293 In addition to rendering advisory opinions, the Commission is also authorized
294 by the Ethics Law to render opinions regarding the propriety of the conduct of
295 public officers and employees under the statutory ethical standards in response to
296 ethics complaints. (NRS 281A.710) Not later than 45 days after receiving an ethics
297 complaint, the Ethics Law requires the Commission to determine initially whether
298 it has jurisdiction over the ethics complaint and whether an investigation is
299 warranted in the matter, unless the subject of the ethics complaint waives the time
300 limit. (NRS 281A.715) **Section 48** of this bill authorizes the Executive Director,
301 during this initial period, to conduct a preliminary investigation to obtain additional
302 information concerning the allegations in the ethics complaint to assist the
303 Commission in making its initial determination. In addition, **section 48**: (1) allows
304 the Commission to extend the time limit for good cause, but it must set a specific
305 and reasonable time period for such an extension; and (2) eliminates, as
306 unnecessary, the provision authorizing the subject to waive the time limit because
307 the subject does not receive notice of the matter during this initial period, but only
308 receives notice of the matter if the Commission determines that it has jurisdiction
309 and an investigation is warranted. **Section 48** also allows the Commission to
310 dismiss an ethics complaint initiated on its own motion if it determines that the
311 evidence is not sufficient to warrant an investigation in the matter but requires the
312 Commission to issue a letter of caution or instruction in those circumstances.

313 Under the Ethics Law, if the Commission determines that it has jurisdiction
314 over an ethics complaint and an investigation is warranted, the subject of the ethics
315 complaint is served with a notice of the investigation and provided with an
316 opportunity to submit a response to that notice within a specified time limit. (NRS
317 281A.720) **Section 49** of this bill provides that the Executive Director may grant,
318 under certain circumstances, extensions of the time limit to submit the response, but
319 the Executive Director must set a specific and reasonable time period for such an
320 extension.

321 As part of the investigation, the Ethics Law permits the Executive Director to
322 secure the subject's participation, attendance as a witness or production of books
323 and papers under existing procedures. (NRS 281A.300) **Section 49** of this bill
324 clarifies that, regardless of whether the subject submits a response to the
325 investigation, the Executive Director retains the authority during the course of the
326 investigation to secure the subject's participation, attendance as a witness or
327 production of books and papers under those existing procedures.

328 Within 70 days after the Commission directs the Executive Director to
329 investigate an ethics complaint, the Ethics Law requires the Executive Director to
330 present a written recommendation to the review panel regarding the sufficiency of
331 the evidence concerning the ethics complaint, unless the subject waives the time
332 limit. (NRS 281A.725) **Section 50** of this bill allows the presiding officer of the
333 review panel to grant the Executive Director extensions of the time limit for good
334 cause, but the presiding officer must set a specific and reasonable time period for
335 such an extension.

336 Within 15 days after the Executive Director presents the written
337 recommendation to the review panel, the Ethics Law requires the review panel to
338 determine whether there is just and sufficient cause for the Commission to render
339 an opinion regarding the ethics complaint, unless the subject waives the time limit.
340 If the review panel determines that there is not just and sufficient cause, the Ethics
341 Law requires the review panel to dismiss the matter, but the review panel may issue
342 a confidential letter of caution or instruction to the subject as part of the dismissal.
343 If the review panel determines that there is just and sufficient cause but reasonably
344 believes that the conduct at issue may be appropriately addressed through
345 additional training or other corrective action, the Ethics Law authorizes the review
346 panel to approve a deferral agreement between the Executive Director and the
347 subject to defer further proceedings in the matter under the terms and conditions of



348 the deferral agreement. If the subject complies with the terms and conditions of the
349 deferral agreement, the matter must be dismissed. However, if the subject fails to
350 comply with the terms and conditions of the deferral agreement, the deferral
351 agreement may be vacated and further proceedings conducted in the matter before
352 the Commission. If the review panel does not believe that a deferral agreement is
353 appropriate or if the subject declines to enter into such a deferral agreement, the
354 Ethics Law requires the review panel to refer the matter to the Commission for
355 further proceedings. (NRS 281A.730, 281A.740)

356 **Section 51** of this bill provides that after the review panel makes its
357 determination in the matter, it must serve written notice of its determination on the
358 subject. **Sections 51 and 52** of this bill further provide that if the review panel
359 authorizes the development of a deferral agreement, the review panel must specify
360 in its written notice a time limit within which the deferral agreement must be
361 developed, but the review panel may grant extensions of the time limit for good
362 cause, so long as it sets a specific and reasonable time period for such an extension.
363 Finally, **section 51** provides that if the deferral agreement is not developed within
364 the time limit, or any extension thereof, the review panel must refer the matter to
365 the Commission for further proceedings.

366 The Ethics Law establishes various requirements regarding the adjudication of
367 ethics complaints referred to the Commission for further proceedings. (NRS
368 281A.745-281A.760) **Sections 3 and 53** of this bill clarify that the parties to the
369 proceedings are: (1) the Executive Director or his or her designee who present
370 the case to the Commission at the adjudicatory hearing in the matter; and (2) the
371 subject of the ethics complaint who has the right to written notice of the hearing, to
372 be represented by legal counsel and to hear the evidence presented to the
373 Commission and to present his or her own case. **Section 53** also requires the
374 Commission to provide the parties with a written schedule for discovery in order to
375 prepare for the hearing.

376 The Ethics Law requires the Commission to hold the hearing and render an
377 opinion in the matter within a certain time limit, unless waived by the subject, and
378 the Ethics Law requires the opinion to include findings of fact and conclusions of
379 law. (NRS 281A.745, 281A.765) **Section 53** of this bill requires the Commission to
380 render a decision in the matter within the existing time limit, unless waived by the
381 subject, but **section 53** provides the Commission with more time to prepare the
382 written opinion in the matter by requiring the Commission to issue the written
383 opinion within a specified time limit after the decision is rendered. **Section 53**
384 additionally allows the Commission to extend the time limit for good cause, but it
385 must set a specific and reasonable time period for such an extension. **Sections 53**
386 **and 57** of this bill also clarify that, in addition to including findings of fact and
387 conclusions of law, the written opinion must otherwise comply with the
388 requirements for a final decision under Nevada's Administrative Procedure Act.
389 (NRS 233B.125)

390 With certain exceptions, the Ethics Law requires, or in some cases allows, the
391 Commission to keep the identity of certain persons who file ethics complaints
392 confidential in order to protect those persons from potential harm. (NRS 281A.750)
393 **Section 54** of this bill clarifies that such confidentiality extends to all materials that,
394 if disclosed, would reveal the identity of the confidential requester. **Section 54** also
395 clarifies that the identity of the confidential requester remains protected if the
396 Executive Director does not intend to present the testimony of the confidential
397 requester as evidence in the matter. However, if the Executive Director intends to
398 present the testimony of the confidential requester as evidence in the matter,
399 **section 54** provides that the Executive Director must disclose the name of the
400 confidential requester only as a proposed witness in accordance with the schedule
401 for discovery in the matter.



402 Under the Ethics Law, the subject of an ethics complaint may submit a written
403 discovery request for a list of proposed witnesses and a copy of any materials in the
404 investigative file that the Executive Director intends to present as evidence in the
405 matter. The Ethics Law also provides that the materials in the investigative file are
406 confidential, except that any materials which the Executive Director presents as
407 evidence in the matter become public records. (NRS 281A.755) **Section 55** of this
408 bill requires any written discovery request to be submitted in accordance with the
409 schedule for discovery in the matter. **Section 55** also provides that any materials
410 which the Executive Director presents as evidence in the matter become public
411 records after the Commission takes final action concerning the ethics complaint in a
412 public meeting or hearing held under **section 56** of this bill.

413 In proceedings concerning an ethics complaint, the Ethics Law exempts from
414 the Open Meeting Law: (1) any meeting or hearing held by the Commission to
415 receive information or evidence concerning the ethics complaint; and (2) any
416 deliberations of the Commission on such information or evidence. However, the
417 Ethics Law does not exempt the Commission's actions concerning the ethics
418 complaint from the Open Meeting Law. (NRS 281A.760) **Section 56** of this bill
419 generally exempts the Commission's actions concerning the ethics complaint from
420 the Open Meeting Law. However, **section 56** requires the Commission to take final
421 action concerning the ethics complaint in a public meeting or hearing for which the
422 Commission provides public notice and which is open to the public and conducted
423 in accordance with the regulations of the Commission, but the meeting or hearing is
424 not subject to specific requirements of the Open Meeting Law.

425 The Ethics Law establishes various requirements regarding the disposition of
426 ethics complaints and the imposition of remedies and penalties. (NRS 281A.765-
427 281A.790) Under the Ethics Law, there are two types of violations: (1) willful
428 violations that require proof of specific mental elements showing that the subject of
429 an ethics complaint committed the violations intentionally and knowingly; and (2)
430 other violations that do not require proof of those specific mental elements. (NRS
431 281A.170) To determine whether violations are willful, the Ethics Law requires the
432 Commission to: (1) consider a nonexclusive list of aggravating and mitigating
433 factors, as well as any other reasonably related factors; and (2) ensure when it
434 applies those factors that the disposition of the matter bears a reasonable
435 relationship to the severity of the violations. (NRS 281A.775) For any violations,
436 whether or not willful, the Ethics Law authorizes the Commission to impose certain
437 remedies, such as training, a remedial course of action or public admonishment.
438 (NRS 281A.785) However, for willful violations, the Ethics Law also authorizes
439 more severe remedies and penalties, such as substantial civil penalties and public
440 reprimand or censure. In some cases involving willful violations, the Ethics Law
441 further requires the Commission to seek removal of certain public officers through
442 court proceedings or to submit the matter to the appropriate House of the
443 Legislature for consideration of additional remedies and penalties against certain
444 public officers, including removal through impeachment or expulsion. (NRS
445 281A.785, 281A.790)

446 **Sections 22, 59, 61 and 62** of this bill eliminate the category of willful
447 violations and revise and clarify some of the existing remedies and penalties under
448 the Ethics Law. First, **section 22** of this bill defines the term "violation" to provide
449 that all violations of the Ethics Law require proof of specific mental elements
450 showing that the subject of an ethics complaint committed the violations
451 intentionally and knowingly. If the Commission determines that such violations
452 have been proven, **sections 59, 61 and 62** of this bill require the Commission to
453 determine which of the less or more severe remedies and penalties to impose
454 against the subject for those violations by: (1) considering the existing nonexclusive
455 list of aggravating and mitigating factors, as well as any other reasonably related
456 factors; and (2) ensuring when it applies those factors that the disposition of the



457 matter bears a reasonable relationship to the severity of the violations. **Section 62**
458 of this bill also clarifies that in determining whether the subject has committed one
459 or more violations, each separate act or event that constitutes a violation must be
460 treated as a separate violation that is cumulative to all other violations, whenever
461 committed, without regard to the sequence of the violations or whether the
462 violations are established in the same or separate proceedings. **Section 62**
463 additionally revises the types of violations that authorize or require the Commission
464 to pursue judicial removal proceedings or to refer the matter to the appropriate
465 House of the Legislature or the appropriate public employer for possible
466 disciplinary action. Finally, as part of the existing remedies and penalties, the
467 Commission may express its official disapproval, reproof or condemnation of
468 violations by using public admonishment, reprimand or censure depending on the
469 degree of willfulness or severity of the violations. (NRS 281A.785) **Section 61** of
470 this bill eliminates public admonishment and censure as potential sanctions but
471 retains public reprimand as the Commission's means for officially rebuking
472 violations.

473 The Ethics Law prohibits any person from preventing, interfering with or
474 attempting to prevent or interfere with investigations or proceedings or the
475 discovery of violations under the Ethics Law and authorizes the Commission to
476 impose civil penalties and, under certain circumstances, assess against such a
477 person certain attorney's fees and costs incurred by others as a result of the act.
478 (NRS 281A.790) **Sections 28 and 62** of this bill: (1) deem the person's act to be a
479 violation of the Ethics Law; (2) specify that the Commission has jurisdiction to
480 investigate and take appropriate action regarding the violation in any proceeding
481 commenced within 2 years after the violation or reasonable discovery thereof; and
482 (3) require the Commission, before taking appropriate action, to provide the person
483 with a written notice of the charges and an opportunity for a hearing in accordance
484 with the regulations of the Commission. **Section 62** also authorizes the
485 Commission, under certain circumstances, to assess against the person certain
486 attorney's fees and costs incurred by the Commission as a result of the violation.

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

1 **Section 1.** Chapter 281A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 11.5,
3 inclusive, of this act.

4 **Sec. 2. "Chair" means:**

5 1. *The Chair of the Commission; or*

6 2. *The Vice Chair or another member of the Commission*
7 *serving in the capacity of the Chair pursuant to NRS 281A.210.*

8 **Sec. 3. "Party" means, for the purposes of the adjudication**
9 **and disposition of proceedings concerning an ethics complaint**
10 **pursuant to this chapter:**

11 1. *The Executive Director or his or her designee; and*

12 2. *The public officer or employee who is the subject of the*
13 *ethics complaint.*

14 **Sec. 4. "Published opinion" means an opinion issued by the**
15 **Commission that is publicly available on the Internet website of**
16 **the Commission.**



1 **Sec. 5.** *“Statutory ethical standards” means the statutory*
2 *ethical standards set forth in the provisions of this chapter.*

3 **Sec. 6. 1.** *The provisions of this chapter establish statutory*
4 *ethical standards to govern the conduct of:*

5 (a) *Public officers and employees; and*

6 (b) *Former public officers and employees in situations where*
7 *the statutory ethical standards apply to the conduct of former*
8 *public officers and employees after the end of any period of public*
9 *service or employment.*

10 **2.** *The statutory ethical standards are cumulative and*
11 *supplement each other, and the application of any one of the*
12 *statutory ethical standards to a given set of facts and*
13 *circumstances does not bar the application of any other of the*
14 *statutory ethical standards that also apply to the given set of facts*
15 *and circumstances.*

16 **Sec. 7.** (Deleted by amendment.)

17 **Sec. 8.** (Deleted by amendment.)

18 **Sec. 9.** (Deleted by amendment.)

19 **Sec. 10.** (Deleted by amendment.)

20 **Sec. 11. 1.** *A public officer or employee shall not use the*
21 *public officer’s or employee’s position or power in government to*
22 *take any actions or compel a subordinate to take any actions that a*
23 *reasonable person would find, based on the given set of facts and*
24 *circumstances, to be a gross or unconscionable abuse of official*
25 *position or power that would undermine the integrity or*
26 *impartiality of a reasonable person in the public officer’s or*
27 *employee’s position under the same or similar facts and*
28 *circumstances.*

29 **2.** *The provisions of this section must not be interpreted to*
30 *apply to any allegations claiming only bias, error or abuse of*
31 *discretion in any findings, decisions, policy-making or other*
32 *actions taken by a public officer or employee within the normal*
33 *course and scope of his or her position or power in government.*

34 **Sec. 11.5.** *A list of each public officer who is required to file*
35 *an acknowledgment of the statutory ethical standards in*
36 *accordance with NRS 281A.500 must be submitted electronically*
37 *to the Commission, in a form prescribed by the Commission, on or*
38 *before December 1 of each year by:*

39 **1.** *For an appointed public officer, the appointing authority*
40 *of the public officer, including, without limitation:*

41 (a) *The manager of each local agency for a public officer of a*
42 *local agency;*

43 (b) *The Director of the Legislative Counsel Bureau for a*
44 *public officer of the Legislative Department of the State*
45 *Government; and*



1 (c) *The Director of the Department of Administration, or his*
2 *or her designee, for a public officer of the Executive Department*
3 *of the State Government; and*

4 2. *For an elected public officer of:*

5 (a) *The county and other political subdivisions within the*
6 *county except cities, the county clerk;*

7 (b) *The city, the city clerk;*

8 (c) *The Legislative Department of the State Government, the*
9 *Director of the Legislative Counsel Bureau; and*

10 (d) *The Executive Department of the State Government, the*
11 *Director of the Department of Administration, or his or her*
12 *designee.*

13 **Sec. 12.** (Deleted by amendment.)

14 **Sec. 13.** (Deleted by amendment.)

15 **Sec. 14.** (Deleted by amendment.)

16 **Sec. 15.** NRS 281A.030 is hereby amended to read as follows:

17 281A.030 As used in this chapter, unless the context otherwise
18 requires, the words and terms defined in NRS 281A.032 to
19 281A.170, inclusive, *and sections 2 to 5, inclusive, of this act* have
20 the meanings ascribed to them in those sections.

21 **Sec. 16.** NRS 281A.032 is hereby amended to read as follows:

22 281A.032 "Adjudicatory hearing" means a hearing held by the
23 Commission pursuant to NRS 281A.745 to receive evidence *and*
24 *render a decision* concerning an ethics complaint . ~~and render an~~
25 ~~opinion in the matter.~~

26 **Sec. 17.** NRS 281A.033 is hereby amended to read as follows:

27 281A.033 "Advisory opinion" means an advisory opinion
28 ~~rendered~~ *issued* by the Commission pursuant to NRS 281A.670 to
29 281A.690, inclusive.

30 **Sec. 18.** NRS 281A.065 is hereby amended to read as follows:

31 281A.065 "Commitment in a private capacity " ~~;~~ *with respect*
32 ~~to the interests of another person,~~ means a *private* commitment,
33 interest or relationship of a public officer or employee to : ~~a~~
34 ~~person;~~

35 1. ~~Who is the~~ *The* spouse or domestic partner of the public
36 officer or employee;

37 2. ~~Who is a~~ *A* member of the household of the public officer
38 or employee;

39 3. ~~Who is related to~~ *A relative of* the public officer or
40 employee, or ~~to~~ the spouse or domestic partner of the public
41 officer or employee, by blood, adoption, marriage or domestic
42 partnership within the third degree of consanguinity or affinity;

43 4. ~~Who employs~~ *The employer of* the public officer or
44 employee, the spouse or domestic partner of the public officer



1 or employee or a member of the household of the public officer or
2 employee;

3 5. ~~[With]~~ *A person with* whom the public officer or employee
4 has a substantial and continuing business relationship; or

5 6. ~~[With]~~ *A person with* whom the public officer or employee
6 has any other *private* commitment, interest or relationship that is
7 substantially similar to a *private* commitment, interest or
8 relationship described in subsections 1 to 5, inclusive.

9 **Sec. 19.** NRS 281A.088 is hereby amended to read as follows:

10 281A.088 “Ethics complaint” means ~~[a request for an opinion]~~
11 *an ethics complaint* which is filed with the Commission or initiated
12 by the Commission on its own motion pursuant to NRS 281A.710
13 regarding the propriety of the conduct of a public officer or
14 employee under the statutory ethical standards . ~~[set forth in this~~
15 ~~chapter.]~~

16 **Sec. 20.** NRS 281A.135 is hereby amended to read as follows:

17 281A.135 1. “Opinion” means an opinion ~~[rendered]~~ *issued*
18 by the Commission in accordance with the provisions of this
19 chapter.

20 2. The term includes, without limitation, the disposition of an
21 ethics complaint by stipulation, agreed settlement, consent order or
22 default as authorized by NRS 233B.121.

23 **Sec. 21.** NRS 281A.161 is hereby amended to read as follows:

24 281A.161 “Request for an advisory opinion” means a request
25 for an advisory opinion which is filed with the Commission
26 pursuant to NRS 281A.675 . ~~[by a public officer or employee who~~
27 ~~is:~~

28 ~~—1. Seeking guidance on matters which directly relate to the~~
29 ~~propriety of his or her own past, present or future conduct as a~~
30 ~~public officer or employee under the statutory ethical standards set~~
31 ~~forth in this chapter; or~~

32 ~~—2. Requesting relief pursuant to NRS 281A.410, 281A.430 or~~
33 ~~281A.550.]~~

34 **Sec. 22.** NRS 281A.170 is hereby amended to read as follows:

35 281A.170 ~~[“Willful violation”]~~ *“Violation”* means a violation
36 where the public officer or employee:

37 1. Acted intentionally and knowingly; or

38 2. Was in a situation where this chapter imposed a duty to act
39 and the public officer or employee intentionally and knowingly
40 failed to act in the manner required by this chapter . ~~;~~

41 ~~↳ unless the Commission determines, after applying the factors set~~
42 ~~forth in NRS 281A.775, that the public officer’s or employee’s act~~
43 ~~or failure to act has not resulted in a sanctionable violation of this~~
44 ~~chapter.]~~



1 **Sec. 23.** NRS 281A.210 is hereby amended to read as follows:
2 281A.210 1. The Commission shall ~~+~~

3 ~~—(a) At~~, at its first meeting and annually thereafter, elect a
4 Chair and Vice Chair from among its members.

5 ~~+(b) Meet~~

6 2. *If the Chair is prohibited from acting on a particular*
7 *matter or is otherwise unable to act on a particular matter, the*
8 *Vice Chair shall exercise the powers and functions and perform*
9 *the duties of the Chair concerning that particular matter. If the*
10 *Chair and Vice Chair are prohibited from acting on a particular*
11 *matter or are otherwise unable to act on a particular matter,*
12 *another member of the Commission who is designated in*
13 *accordance with the regulations of the Commission shall exercise*
14 *the powers and functions and perform the duties of the Chair*
15 *concerning that particular matter.*

16 3. *The Commission shall meet* regularly at least once in each
17 calendar quarter, unless there are no ethics complaints or requests
18 for advisory opinions pursuant to this chapter, and at other times
19 upon the call of the Chair.

20 ~~2+~~ 4. Members of the Commission are entitled to receive a
21 salary of not more than \$80 per day, as fixed by the Commission,
22 while engaged in the business of the Commission.

23 ~~3+~~ 5. While engaged in the business of the Commission, each
24 member and employee of the Commission is entitled to receive the
25 per diem allowance and travel expenses provided for state officers
26 and employees generally.

27 ~~4+~~ 6. The Commission may, within the limits of legislative
28 appropriation, maintain such facilities as are required to carry out its
29 functions.

30 **Sec. 24.** NRS 281A.220 is hereby amended to read as follows:
31 281A.220 1. The Chair shall appoint one or more review

32 panels of three members of the Commission on a rotating basis to
33 perform the functions assigned to such review panels pursuant to
34 this chapter.

35 2. The Chair and Vice Chair of the Commission may not serve
36 together on a review panel.

37 3. Not more than two members of a review panel may be
38 members of the same political party.

39 4. If a review panel determines that there is just and sufficient
40 cause for the Commission to render *a decision and issue* an opinion
41 in a matter, the members of the review panel shall not participate in
42 any further proceedings of the Commission relating to that matter ~~+~~
43 , *except that:*

44 (a) *One or more members of the review panel may, with the*
45 *consent of the parties, participate as mediators or facilitators in*



1 *any settlement negotiations between the parties that are conducted*
2 *before an adjudicatory hearing in the matter.*

3 (b) *The members of the review panel may authorize the*
4 *development of or approve a deferral agreement pursuant to*
5 *NRS 281A.730.*

6 **Sec. 25.** (Deleted by amendment.)

7 **Sec. 26.** NRS 281A.240 is hereby amended to read as follows:

8 281A.240 1. In addition to any other duties imposed upon the
9 Executive Director, the Executive Director shall:

10 (a) Maintain complete and accurate records of all transactions
11 and proceedings of the Commission.

12 (b) Receive ethics complaints and requests for advisory opinions
13 pursuant to this chapter.

14 (c) Gather information and conduct investigations regarding
15 ethics complaints and requests for advisory opinions pursuant to this
16 chapter.

17 (d) ~~Submit~~ *Present* recommendations to the review panel
18 regarding whether there is just and sufficient cause for the
19 Commission to render *a decision and issue* an opinion in a matter.

20 (e) Recommend to the Commission any regulations or
21 legislation that the Executive Director considers desirable or
22 necessary to improve the operation of the Commission and maintain
23 high standards of ethical conduct in government.

24 (f) Upon the request of any public officer or the employer of a
25 public employee, conduct training on the requirements of this
26 chapter, the rules and regulations adopted by the Commission and
27 ~~previous~~ *the published* opinions of the Commission. In any such
28 training, the Executive Director shall emphasize that the Executive
29 Director is not a member of the Commission and that only the
30 Commission may issue opinions concerning the application of the
31 statutory ethical standards to any given set of facts and
32 circumstances. The Commission may charge a reasonable fee to
33 cover the costs of training provided by the Executive Director
34 pursuant to this subsection.

35 (g) Perform such other duties, not inconsistent with law, as may
36 be required by the Commission.

37 2. The Executive Director shall, within the limits of legislative
38 appropriation, employ such persons as are necessary to carry out any
39 of the Executive Director's duties relating to:

40 (a) The administration of the affairs of the Commission; and

41 (b) The investigation of matters under the jurisdiction of the
42 Commission.

43 3. If the Executive Director is prohibited from acting on a
44 particular matter or is otherwise unable to act on a particular matter,
45 the Chair ~~of the Commission~~ shall designate a qualified person to



1 perform the duties of the Executive Director with regard to that
2 particular matter.

3 **Sec. 27.** NRS 281A.260 is hereby amended to read as follows:

4 281A.260 1. The Commission Counsel is the legal adviser to
5 the Commission. For each *written* opinion of the Commission,
6 the Commission Counsel shall prepare, at the direction of the
7 Commission ~~§~~ *or as required pursuant to this chapter*, the
8 appropriate findings of fact and conclusions as to *the* relevant
9 *statutory ethical* standards and the propriety of particular conduct.
10 The Commission Counsel shall not issue written opinions
11 concerning the applicability of the statutory ethical standards to a
12 given set of facts and circumstances except as directed by the
13 Commission.

14 2. The Commission may rely upon the legal advice of the
15 Commission Counsel in conducting its daily operations.

16 3. *Except as otherwise provided in this section or directed by*
17 *the Commission, in litigation concerning any judicial action or*
18 *proceeding in which the Commission or any member or employee*
19 *of the Commission is a party in an official capacity or participates*
20 *or intervenes in an official capacity, the Commission Counsel*
21 *shall represent and act as legal counsel to the Commission or any*
22 *member or employee of the Commission in the action or*
23 *proceeding.*

24 4. *The provisions of subsection 3 do not apply to litigation*
25 *concerning any judicial action or proceeding in which the*
26 *Commission:*

27 (a) *Requests that the Attorney General appoint a deputy to act*
28 *in the place of the Commission Counsel; or*

29 (b) *Employs outside legal counsel.*

30 5. If the Commission Counsel is prohibited from acting on a
31 particular matter or is otherwise unable to act on a particular matter,
32 the Commission may:

33 (a) Request that the Attorney General appoint a deputy to act in
34 the place of the Commission Counsel; or

35 (b) Employ outside legal counsel.

36 **Sec. 28.** NRS 281A.280 is hereby amended to read as follows:

37 281A.280 1. Except as otherwise provided in this section, the
38 Commission has jurisdiction to ~~investigate~~ :

39 (a) *Gather information and issue an advisory opinion in any*
40 *proceeding commenced by a request for an advisory opinion that*
41 *is filed with the Commission, except that the Commission does not*
42 *have jurisdiction to issue an advisory opinion on matters which*
43 *directly relate to the propriety of past conduct occurring more than*
44 *2 years before the date on which the request for an advisory*
45 *opinion is filed with the Commission.*



1 (b) *Investigate* and take appropriate action regarding an alleged
2 violation of this chapter by a ~~public officer or employee~~ *current* or
3 former public officer or employee in any proceeding commenced by
4 an ethics complaint, which is filed with the Commission or initiated
5 by the Commission on its own motion, within 2 years after the
6 alleged violation or reasonable discovery of the alleged violation.

7 (c) *Investigate and take appropriate action regarding an*
8 *alleged violation of subsection 3 of NRS 281A.790 by a current or*
9 *former public officer or employee or any other person in any*
10 *proceeding commenced by a written notice of the charges, which*
11 *is initiated by the Commission on its own motion, within 2 years*
12 *after the alleged violation or reasonable discovery of the alleged*
13 *violation.*

14 2. The Commission does not have jurisdiction regarding
15 alleged conduct by a ~~public officer or employee~~ *current* or former
16 public officer or employee for which:

17 (a) A complaint may be filed or, if the applicable limitations
18 period has expired, could have been filed with the United States
19 Equal Employment Opportunity Commission or the Nevada Equal
20 Rights Commission; or

21 (b) A complaint or employment-related grievance may be filed
22 or, if the applicable limitations period has expired, could have been
23 filed with another appropriate agency with jurisdiction to redress
24 alleged discrimination or harassment, including, without limitation,
25 a state or local employee-management relations board or similar
26 state or local agency,

27 ↪ but any bar on the Commission's jurisdiction imposed by this
28 subsection applies only to the extent that it pertains to the alleged
29 discrimination or harassment, and this subsection does not deprive
30 the Commission of jurisdiction regarding the alleged conduct if such
31 conduct is sanctionable separately or concurrently under the
32 provisions of this chapter, irrespective of the alleged discrimination
33 or harassment.

34 3. For the purposes of this section, a proceeding is commenced
35 ~~by~~ *by an ethics complaint:*

36 (a) On the date on which ~~an~~ *the* ethics complaint is filed in the
37 proper form with the Commission in accordance with the
38 regulations of the Commission; or

39 (b) If the ethics complaint is initiated by the Commission on its
40 own motion, on the date on which the Commission serves the
41 ~~public officer or employee~~ *current* or former public officer or
42 employee with *a written* notice of the *investigation of the* ethics
43 complaint in accordance with the regulations of the Commission.

44 **Sec. 29.** NRS 281A.290 is hereby amended to read as follows:
45 281A.290 The Commission shall:



1 1. Adopt procedural regulations that are necessary and proper
2 to carry out the provisions of this chapter, including, without
3 limitation:

4 (a) To facilitate the receipt of inquiries by the Commission;

5 (b) For the filing of an ethics complaint or a request for an
6 advisory opinion with the Commission;

7 (c) For the withdrawal of an ethics complaint or a request for an
8 advisory opinion by the person who filed the ethics complaint or
9 request;

10 (d) To facilitate the prompt rendition *of decisions and the*
11 *issuance* of opinions by the Commission; and

12 (e) For proceedings concerning an ethics complaint, to facilitate
13 written discovery requests submitted pursuant to NRS 281A.750
14 and 281A.755 and the disclosure of evidence in the manner required
15 by those sections, including, without limitation, the disclosure of
16 evidence obtained by or on behalf of the Executive Director during
17 the course of the investigation that affirmatively and substantively
18 disproves any alleged violation of this chapter that is related to the
19 ethics complaint and has been referred to the Commission for an
20 adjudicatory hearing.

21 2. Prescribe, by regulation, forms and procedures for the
22 submission of ~~{statements of acknowledgment}~~ *acknowledgments*
23 *of the statutory ethical standards* filed by public officers pursuant
24 to NRS 281A.500, maintain files of such ~~{statements}~~
25 *acknowledgments* and make the ~~{statements}~~ *acknowledgments*
26 available for public inspection.

27 3. Cause the making of such investigations as are reasonable
28 and necessary for the rendition *of decisions and the issuance* of
29 ~~{its}~~ opinions pursuant to this chapter.

30 4. Inform the Attorney General or district attorney of all cases
31 of noncompliance with the requirements of this chapter.

32 5. Recommend to the Legislature such further legislation as the
33 Commission considers desirable or necessary to promote and
34 maintain high standards of ethical conduct in government.

35 6. Publish a manual for the use of public officers and
36 employees that explains the requirements of this chapter.

37 ~~{The Legislative Counsel shall prepare annotations to this chapter~~
38 ~~for inclusion in the Nevada Revised Statutes based on the published~~
39 ~~opinions of the Commission.}~~

40 **Sec. 30.** NRS 281A.300 is hereby amended to read as follows:

41 281A.300 1. The Chair ~~{and Vice Chair}~~ *or a member* of the
42 Commission *appointed by the Chair to preside over any meetings,*
43 *hearings and proceedings* may administer oaths.



1 2. The Commission, upon majority vote, may issue a subpoena
2 to compel the attendance of a witness and the production of any
3 books and papers for any hearing before the Commission.

4 3. Upon the request of the Executive Director, the Chair ~~for, in~~
5 ~~the Chair's absence, the Vice Chair,~~ may issue a subpoena to
6 compel the participation of a potential witness and the production of
7 any books and papers during the course of any investigation.

8 4. Upon the request of the Executive Director or the public
9 officer or employee who is the subject of an ethics complaint, the
10 Chair ~~for, in the Chair's absence, the Vice Chair,~~ may issue a
11 subpoena to compel the attendance of a witness and the production
12 of any books and papers for any hearing before the Commission. A
13 public officer or employee who requests the issuance of a subpoena
14 pursuant to this subsection must serve the subpoena in the manner
15 provided in the Nevada Rules of Civil Procedure for service of
16 subpoenas in a civil action and must pay the costs of such service.

17 5. Before ~~issuing~~ *the Chair issues* a subpoena *directed* to ~~the~~
18 *the* public officer or employee who is the subject of an ethics
19 complaint to compel his or her participation in any investigation, his
20 or her attendance as a witness or his or her production of any books
21 and papers, the Executive Director shall submit a written request to
22 the public officer or employee requesting:

23 (a) The voluntary participation of the public officer or employee
24 in the investigation;

25 (b) The voluntary attendance of the public officer or employee
26 as a witness; or

27 (c) The voluntary production by the public officer or employee
28 of any books and papers relating to the ethics complaint.

29 6. Each written request submitted by the Executive Director
30 pursuant to subsection 5 must specify the time and place for the
31 voluntary participation of the public officer or employee in the
32 investigation, attendance of the public officer or employee as a
33 witness or production of any books and papers, and designate with
34 certainty the books and papers requested, if any.

35 7. If the public officer or employee fails or refuses to respond
36 to the Executive Director's written request pursuant to subsection 5
37 to voluntarily participate or attend at the time and place specified or
38 produce the books and papers requested by the Executive Director
39 within 5 business days after receipt of the written request, the Chair
40 ~~for, in the Chair's absence, the Vice Chair,~~ may issue the subpoena.
41 Failure of the public officer or employee to comply with the written
42 request of the Executive Director shall be deemed a waiver by the
43 public officer or employee of the time limits set forth in NRS
44 281A.700 to 281A.790, inclusive, that apply to proceedings
45 concerning the ethics complaint.



1 8. If any witness fails or refuses to participate, attend, testify or
2 produce any books and papers as required by the subpoena, the
3 Chair ~~for, in the Chair's absence, the Vice Chair,~~ may report to the
4 district court by petition, setting forth that:

5 (a) Due notice has been given of the time and place of the
6 participation or attendance of the witness or the production of the
7 books and papers;

8 (b) The witness has been subpoenaed pursuant to this section;
9 and

10 (c) The witness has failed or refused to participate, attend,
11 testify or produce the books and papers as required by the subpoena,
12 or has failed or refused to answer questions propounded to the
13 witness,

14 and asking for an order of the court compelling the witness to
15 participate, attend, testify or produce the books and papers as
16 required by the subpoena.

17 9. Upon such a petition, the court shall enter an order directing
18 the witness to appear before the court at a time and place to be fixed
19 by the court in its order, the time to be not more than 10 days after
20 the date of the order, and then and there show cause why the witness
21 has not participated, attended, testified or produced the books or
22 papers as required by the subpoena. A certified copy of the order
23 must be served upon the witness.

24 10. If ~~it appears to~~, *at the hearing to show cause*, the court
25 *finds* that the subpoena was regularly issued pursuant to this section
26 ~~it~~ *and that the witness has not proven a reason recognized by law*
27 *for the failure to comply with its provisions*, the court shall enter an
28 order that the witness comply with the subpoena, at the time and
29 place fixed in the order, and participate, attend, testify or produce
30 the required books and papers. Upon failure to obey the order, the
31 witness must be dealt with as for contempt of court.

32 **Sec. 31.** NRS 281A.350 is hereby amended to read as follows:

33 281A.350 1. Any state agency or the governing body of a
34 county or an incorporated city may establish a specialized or local
35 ethics committee to complement the functions of the Commission.
36 A specialized or local ethics committee may:

37 (a) Establish a code of ethical standards suitable for the
38 particular ethical problems encountered in its sphere of activity. The
39 standards may not be less restrictive than the statutory ethical
40 standards.

41 (b) Render *a decision and issue* an opinion upon the request of
42 any public officer or employee of its own organization or level
43 seeking an interpretation of its *code of* ethical standards on
44 questions directly related to the propriety of the public officer's or
45 employee's own future official conduct ~~or~~, *but the committee*



1 *may* refer the request to the Commission ~~[]~~ *if the response to the*
2 *request requires the Commission to interpret the statutory ethical*
3 *standards and apply those standards to the given set of facts and*
4 *circumstances. If the request is referred to the Commission, it*
5 *shall be deemed to be a request for an advisory opinion filed by the*
6 *public officer or employee with the Commission pursuant to NRS*
7 *281A.675. Any public officer or employee subject to the jurisdiction*

8 of the committee shall direct the public officer's or employee's
9 ~~[inquiry]~~ *request* to that committee *first* instead of the Commission.

10 (c) Require the filing of financial disclosure statements by
11 public officers on forms prescribed by the committee or the city
12 clerk if the form has been:

13 (1) Submitted, at least 60 days before its anticipated
14 distribution, to the Secretary of State for review; and

15 (2) Upon review, approved by the Secretary of State. The
16 Secretary of State shall not approve the form unless the form
17 contains all the information required to be included in a financial
18 disclosure statement pursuant to NRS 281.571.

19 2. The Secretary of State is not responsible for the costs of
20 producing or distributing a form for filing a financial disclosure
21 statement pursuant to the provisions of subsection 1.

22 3. A specialized or local ethics committee shall not attempt to
23 interpret *the statutory ethical standards* or render *a decision and*
24 *issue* an opinion regarding the statutory ethical standards.

25 4. Each request for an opinion submitted *by a public officer or*
26 *employee* to a specialized or local ethics committee, each hearing
27 held *by the committee* to obtain information on which to ~~[base]~~
28 *render a decision and issue* an opinion, all deliberations *by the*
29 *committee* relating to ~~[an]~~ *the decision and* opinion, each ~~[opinion]~~
30 *decision* rendered *and opinion issued* by ~~[a]~~ *the* committee and any
31 motion relating to the *decision and* opinion are confidential unless:

32 (a) The ~~[public officer or employee]~~ *requester* acts in
33 contravention of the *decision or* opinion; or

34 (b) The requester discloses the ~~[content]~~ *contents* of the
35 *decision or* opinion.

36 **Sec. 32.** NRS 281A.400 is hereby amended to read as follows:

37 281A.400 ~~[A code of ethical standards is hereby established to~~
38 ~~govern the conduct of public officers and employees:]~~

39 1. A public officer or employee shall not seek or accept any
40 gift, service, favor, employment, engagement, emolument or
41 economic opportunity, for the public officer or employee or any
42 person to whom the public officer or employee has a commitment in
43 a private capacity, which would tend improperly to influence a
44 reasonable person in the public officer's or employee's position to



1 depart from the faithful and impartial discharge of the public
2 officer's or employee's public duties.

3 2. A public officer or employee shall not use the public
4 officer's or employee's position in government to secure or grant
5 **any** unwarranted privileges, preferences, exemptions or advantages
6 for the public officer or employee, any business entity in which the
7 public officer or employee has a significant pecuniary interest or
8 any person to whom the public officer or employee has a
9 commitment in a private capacity. As used in this subsection,
10 "unwarranted" means without justification or adequate reason.

11 3. A public officer or employee shall not participate as an agent
12 of government in the negotiation or execution of a contract between
13 the government and the public officer or employee, any business
14 entity in which the public officer or employee has a significant
15 pecuniary interest or any person to whom the public officer or
16 employee has a commitment in a private capacity.

17 4. A public officer or employee shall not accept any salary,
18 retainer, augmentation, expense allowance or other compensation
19 from any private source, for the public officer or employee or any
20 person to whom the public officer or employee has a commitment in
21 a private capacity, for the performance of the public officer's or
22 employee's duties as a public officer or employee.

23 5. If a public officer or employee acquires, through the public
24 officer's or employee's public duties or relationships, any
25 information which by law or practice is not at the time available to
26 people generally, the public officer or employee shall not use the
27 information to further a significant pecuniary interest of the public
28 officer or employee or any other person or business entity.

29 6. A public officer or employee shall not suppress any
30 governmental report or other official document because it might
31 tend to affect unfavorably a significant pecuniary interest of the
32 public officer or employee or any person to whom the public officer
33 or employee has a commitment in a private capacity.

34 7. Except for State Legislators who are subject to the
35 restrictions set forth in subsection 8, a public officer or employee
36 shall not use governmental time, property, equipment or other
37 facility to benefit a significant personal or pecuniary interest of the
38 public officer or employee or any person to whom the public officer
39 or employee has a commitment in a private capacity. This
40 subsection does not prohibit:

41 (a) A limited use of governmental property, equipment or other
42 facility for personal purposes if:

43 (1) ~~[The]~~ *At the time that the use occurs, the use is:*

44 *(I) Authorized by a written policy which was adopted*
45 *before the use occurs by the* public officer or employee who is



1 responsible for and has authority to authorize the use of such
2 property, equipment or other facility ~~has established a policy~~
3 ~~allowing the use or the use is necessary~~; or

4 (II) *Necessary* as a result of emergency circumstances ~~is~~
5 *, whether or not the use is authorized by such a written policy;*

6 (2) The use does not interfere with the performance of the
7 public officer's or employee's public duties;

8 (3) The cost or value related to the use is nominal; and

9 (4) The use does not create the appearance of impropriety;

10 (b) The use of mailing lists, computer data or other information
11 lawfully obtained from a governmental agency which is available to
12 members of the general public for nongovernmental purposes; or

13 (c) The use of telephones or other means of communication if
14 there is not a special charge for that use.

15 ↪ If a governmental agency incurs a cost as a result of a use that is
16 authorized pursuant to this subsection or would ordinarily charge a
17 member of the general public for the use, the public officer or
18 employee shall promptly reimburse the cost or pay the charge to the
19 governmental agency.

20 8. A State Legislator shall not:

21 (a) Use governmental time, property, equipment or other facility
22 ~~for a nongovernmental purpose or for the private~~ to benefit *a*
23 *significant personal or pecuniary interest* of the State Legislator or
24 any ~~other~~ person ~~is~~ *to whom the State Legislator has a*
25 *commitment in a private capacity.* This paragraph does not prohibit:

26 (1) A limited use of ~~state~~ *governmental* property ~~and~~
27 ~~resources~~, *equipment or other facility* for personal purposes if:

28 (I) The use does not interfere with the performance of the
29 State Legislator's public duties;

30 (II) The cost or value related to the use is nominal; and

31 (III) The use does not create the appearance of
32 impropriety;

33 (2) The use of mailing lists, computer data or other
34 information lawfully obtained from a governmental agency which is
35 available to members of the general public for nongovernmental
36 purposes; or

37 (3) The use of telephones or other means of communication
38 if there is not a special charge for that use.

39 (b) Require or authorize a legislative employee, while on duty,
40 to perform personal services or assist in a private activity, except:

41 (1) In unusual and infrequent situations where the *legislative*
42 employee's service is reasonably necessary to permit the State
43 Legislator or legislative employee to perform that person's official
44 duties; or



1 (2) Where such service has otherwise been established as
2 legislative policy.

3 9. A public officer or employee shall not attempt to benefit a
4 significant personal or pecuniary interest of the public officer or
5 employee or any person to whom the public officer or employee has
6 a commitment in a private capacity through the influence of a
7 subordinate.

8 10. A public officer or employee shall not seek other
9 employment or contracts for the public officer or employee or any
10 person to whom the public officer or employee has a commitment in
11 a private capacity through the use of the public officer's or
12 employee's official position.

13 *11. As used in this section, "appearance of impropriety"*
14 *means a reasonable person would find, based on the given set of*
15 *facts and circumstances, that a public officer's or employee's*
16 *limited use of governmental property, equipment or other facility*
17 *for personal purposes is inappropriate, disproportionate, excessive*
18 *or unreasonable under that given set of facts and circumstances.*

19 **Sec. 33.** NRS 281A.410 is hereby amended to read as follows:

20 281A.410 ~~In addition to the requirements of the code of~~
21 ~~ethical standards and the other provisions of this chapter:]~~

22 1. If a public officer or employee serves in a state agency of the
23 Executive Department or an agency of any county, city or other
24 political subdivision, the public officer or employee:

25 (a) Shall not accept compensation from any private person to
26 represent or counsel the private person on any issue pending before
27 the agency in which that public officer or employee serves, if the
28 agency makes decisions; and

29 (b) If the public officer or employee leaves the service of the
30 agency, shall not, for 1 year after leaving the service of the agency,
31 represent or counsel for compensation a private person upon any
32 issue which was under consideration by the agency during the
33 public officer's or employee's service. As used in this paragraph,
34 "issue" includes a case, proceeding, application, contract or
35 determination, but does not include the proposal or consideration of
36 legislative measures or administrative regulations.

37 2. Except as otherwise provided in subsection 3, a State
38 Legislator or a member of a local legislative body, or a public
39 officer or employee whose public service requires less than half of
40 his or her time, may represent or counsel a private person before an
41 agency in which he or she does not serve.

42 3. A member of a local legislative body shall not represent or
43 counsel a private person for compensation before another local
44 agency if the territorial jurisdiction of the other local agency
45 includes any part of the county in which the member serves. The



1 Commission may relieve the member from the strict application of
2 the provisions of this subsection if:

3 (a) The member files a request for an advisory opinion from the
4 Commission pursuant to NRS 281A.675; and

5 (b) The Commission determines that such relief is not contrary
6 to:

7 (1) The best interests of the public;

8 (2) The continued ethical integrity of each local agency
9 affected by the matter; and

10 (3) The provisions of this chapter.

11 4. For the purposes of subsection 3, the request for an advisory
12 opinion, *the decision rendered*, the advisory opinion and all
13 meetings, hearings and proceedings of the Commission in such a
14 matter are governed by the provisions of NRS 281A.670 to
15 281A.690, inclusive.

16 5. Unless permitted by this section, a public officer or
17 employee shall not represent or counsel a private person for
18 compensation before any state agency of the Executive or
19 Legislative Department.

20 **Sec. 34.** NRS 281A.420 is hereby amended to read as follows:

21 281A.420 1. Except as otherwise provided in this section, a
22 public officer or employee shall not approve, disapprove, vote,
23 abstain from voting or otherwise act upon a matter:

24 (a) Regarding which the public officer or employee has accepted
25 a gift or loan;

26 (b) In which the public officer or employee has a significant
27 pecuniary interest;

28 (c) Which would reasonably be affected by the public officer's
29 or employee's commitment in a private capacity to the interests of
30 another person; or

31 (d) Which would reasonably be related to the nature of any
32 representation or counseling that the public officer or employee
33 provided to a private person for compensation before another
34 agency within the immediately preceding year, provided such
35 representation or counseling is permitted by NRS 281A.410,

36 ➤ without disclosing information concerning the gift or loan, the
37 significant pecuniary interest, the commitment in a private capacity
38 to the interests of the other person or the nature of the representation
39 or counseling of the private person that is sufficient to inform the
40 public of the potential effect of the action or abstention upon the
41 person who provided the gift or loan, upon the public officer's or
42 employee's significant pecuniary interest, upon the person to whom
43 the public officer or employee has a commitment in a private
44 capacity or upon the private person who was represented or
45 counseled by the public officer or employee. Such a disclosure must



1 be made at the time the matter is considered. If the public officer or
2 employee is a member of a body which makes decisions, the public
3 officer or employee shall make the disclosure in public to the chair
4 and other members of the body. If the public officer or employee is
5 not a member of such a body and holds an appointive office, the
6 public officer or employee shall make the disclosure to the
7 supervisory head of the public officer's or employee's organization
8 or, if the public officer holds an elective office, to the general public
9 in the area from which the public officer is elected.

10 2. The provisions of subsection 1 do not require ~~[(a)]~~ :

11 *(a) A public officer to disclose:*

12 ~~[(a)]~~ *(1) Any campaign contributions that the public officer*
13 *reported in a timely manner pursuant to NRS 294A.120 or*
14 *294A.125; or*

15 ~~[(b)]~~ *(2) Any contributions to a legal defense fund that the*
16 *public officer reported in a timely manner pursuant to*
17 *NRS 294A.286.*

18 *(b) A public officer or employee to disclose any information*
19 *which is confidential as a result of a bona fide relationship that*
20 *protects the confidentiality of the information under the terms of a*
21 *contract or as a matter of law, including, without limitation, the*
22 *attorney-client relationship, if the public officer or employee:*

23 *(1) In the disclosure made pursuant to subsection 1,*
24 *discloses all nonconfidential information that is required to be*
25 *disclosed and describes the general nature of the relationship that*
26 *protects the confidential information from being disclosed; and*

27 *(2) Abstains from advocating the passage or failure of and*
28 *from approving, disapproving, voting or otherwise acting upon the*
29 *matter, regardless of whether the public officer or employee would*
30 *be required to abstain pursuant to subsection 3.*

31 3. Except as otherwise provided in this section, in addition to
32 the requirements of subsection 1, a public officer shall not vote upon
33 or advocate the passage or failure of, but may otherwise participate
34 in the consideration of, a matter with respect to which the
35 independence of judgment of a reasonable person in the public
36 officer's situation would be materially affected by:

37 (a) The public officer's acceptance of a gift or loan;

38 (b) The public officer's significant pecuniary interest; ~~[(c)]~~

39 (c) The public officer's commitment in a private capacity to the
40 interests of another person ~~[(d)]~~; or

41 *(d) The public officer's representation or counseling of a*
42 *private person for compensation before another agency within the*
43 *immediately preceding year, provided such representation or*
44 *counseling is permitted by NRS 281A.410.*

45 4. In interpreting and applying the provisions of subsection 3:



1 (a) It must be presumed that the independence of judgment of a
2 reasonable person in the public officer's situation would not be
3 materially affected by the public officer's acceptance of a gift or
4 loan, significant pecuniary interest , ~~or~~ commitment in a private
5 capacity to the interests of another person *or representation or*
6 *counseling of a private person for compensation as permitted by*
7 *NRS 281A.410* where the resulting benefit or detriment accruing to
8 the public officer, or if the public officer has a commitment in a
9 private capacity to the interests of another person ~~or~~ *or has*
10 *represented or counseled a private person for compensation as*
11 *permitted by NRS 281A.410*, accruing to the other person, is not
12 greater than that accruing to any other member of any general
13 business, profession, occupation or group that is affected by the
14 matter. The presumption set forth in this paragraph does not affect
15 the applicability of the requirements set forth in subsection 1
16 relating to the duty of the public officer to make a proper disclosure
17 at the time the matter is considered and in the manner required by
18 subsection 1.

19 (b) The Commission must give appropriate weight and proper
20 deference to the public policy of this State which favors the right of
21 a public officer to perform the duties for which the public officer
22 was elected or appointed and to vote or otherwise act upon a matter,
23 provided the public officer makes a proper disclosure at the time the
24 matter is considered and in the manner required by subsection 1.
25 Because abstention by a public officer disrupts the normal course of
26 representative government and deprives the public and the public
27 officer's constituents of a voice in governmental affairs, the
28 provisions of this section are intended to require abstention only in
29 clear cases where the independence of judgment of a reasonable
30 person in the public officer's situation would be materially affected
31 by the public officer's acceptance of a gift or loan, significant
32 pecuniary interest , ~~or~~ commitment in a private capacity to the
33 interests of another person ~~or~~ *or representation or counseling of a*
34 *private person for compensation as permitted by NRS 281A.410*.

35 5. Except as otherwise provided in NRS 241.0355, if a public
36 officer declares to the body or committee in which the vote is to be
37 taken that the public officer will abstain from voting because of the
38 requirements of this section, the necessary quorum to act upon and
39 the number of votes necessary to act upon the matter, as fixed by
40 any statute, ordinance or rule, is reduced as though the member
41 abstaining were not a member of the body or committee.

42 6. The provisions of this section do not, under any
43 circumstances:

44 (a) Prohibit a member of a local legislative body from
45 requesting or introducing a legislative measure; or



1 (b) Require a member of a local legislative body to take any
2 particular action before or while requesting or introducing a
3 legislative measure.

4 7. The provisions of this section do not, under any
5 circumstances, apply to State Legislators or allow the Commission
6 to exercise jurisdiction or authority over State Legislators. The
7 responsibility of a State Legislator to make disclosures concerning
8 ~~gifts, loans, interests or commitments~~ *a matter* and the
9 responsibility of a State Legislator to abstain from voting upon or
10 advocating the passage or failure of a matter are governed by the
11 Standing Rules of the Legislative Department of *the* State
12 Government which are adopted, administered and enforced
13 exclusively by the appropriate bodies of the Legislative Department
14 of *the* State Government pursuant to Section 6 of Article 4 of the
15 Nevada Constitution.

16 8. As used in this section, “public officer” and “public
17 employee” do not include a State Legislator.

18 **Sec. 35.** NRS 281A.430 is hereby amended to read as follows:
19 281A.430 1. ~~Except~~ *Notwithstanding the provisions of*
20 *NRS 281.221 and 281.230, and except* as otherwise provided in this
21 section and NRS 218A.970 and 332.800, a public officer or
22 employee shall not , *directly or through a third party, perform any*
23 *existing contract, negotiate,* bid on or enter into ~~an~~ *any contract or*
24 *modify or renew any contract if:*

25 (a) *The contract is* between an agency ~~and any~~ *in which the*
26 *public officer or employee serves and:*

27 (1) *The public officer or employee; or*

28 (2) *Any* business entity in which the public officer or
29 employee has a significant pecuniary interest ~~it~~ *;* *or*

30 (b) *The contract is between an agency that has any*
31 *connection, relation or affiliation with an agency in which the*
32 *public officer or employee serves and:*

33 (1) *The public officer or employee; or*

34 (2) *Any business entity in which the public officer or*
35 *employee has a significant pecuniary interest.*

36 2. ~~[A member of any board, commission or similar body who~~
37 ~~is engaged in the profession, occupation or business regulated by~~
38 ~~such board, commission or body may, in the ordinary course of his~~
39 ~~or her business, bid on or enter into a contract with an agency,~~
40 ~~except the board, commission or body on which he or she is a~~
41 ~~member, if the member has not taken part in developing the contract~~
42 ~~plans or specifications and the member will not be personally~~
43 ~~involved in opening, considering or accepting offers.] *Except as*~~
44 ~~otherwise provided in subsections 3 to 6, inclusive, a public officer~~
45 ~~or employee may perform an existing contract, negotiate, bid on or~~



1 *enter into a contract or modify or renew a contract with an agency*
2 *in which the public officer or employee serves, or a related agency*
3 *as described in paragraph (b) of subsection 1, if:*

4 *(a) The contract is subject to competitive selection and, at the*
5 *time the contract is negotiated, bid on, entered into, modified or*
6 *renewed:*

7 *(1) The contracting process is controlled by the rules of*
8 *open competitive bidding or the rules of open competitive bidding*
9 *are not used as a result of the applicability of NRS 332.112 or*
10 *332.148;*

11 *(2) The sources of supply are limited or no other person*
12 *expresses an interest in the contract;*

13 *(3) The public officer or employee has not taken part in*
14 *developing the contract plans or specifications; and*

15 *(4) The public officer or employee is not personally*
16 *involved in opening, considering or accepting offers.*

17 *(b) The contract, by its nature, is not adapted to be awarded by*
18 *competitive selection and, at the time the contract is negotiated,*
19 *bid on, entered into, modified or renewed:*

20 *(1) The public officer or employee has not taken part in*
21 *developing the contract plans or specifications and is not*
22 *personally involved in opening, considering or accepting offers;*
23 *and*

24 *(2) The contract is not exclusive to the public officer or*
25 *employee and is the type of contract that is available to all persons*
26 *with the requisite qualifications.*

27 3. A full- or part-time faculty member or employee of the
28 Nevada System of Higher Education may *perform an existing*
29 *contract, negotiate,* bid on or enter into a contract *or modify or*
30 *renew a contract* with an agency, or may benefit financially or
31 otherwise from a contract between an agency and a private entity, if
32 the contract complies with the policies established by the Board of
33 Regents of the University of Nevada pursuant to NRS 396.255.

34 4. ~~Except as otherwise provided in subsection 2, 3 or 5, a~~
35 ~~public officer or employee may bid on or enter into a contract with~~
36 ~~an agency if:~~

37 ~~—(a) The contracting process is controlled by the rules of open~~
38 ~~competitive bidding or the rules of open competitive bidding are not~~
39 ~~employed as a result of the applicability of NRS 332.112 or~~
40 ~~332.148;~~

41 ~~—(b) The sources of supply are limited;~~

42 ~~—(c) The public officer or employee has not taken part in~~
43 ~~developing the contract plans or specifications; and~~

44 ~~—(d) The public officer or employee will not be personally~~
45 ~~involved in opening, considering or accepting offers.~~



1 → If a public officer who is authorized to *perform an existing*
2 *contract, negotiate*, bid on or enter into a contract *or modify or*
3 *renew a contract* with an agency pursuant to this ~~subsection~~
4 *section* is a member of the governing body of the agency, the public
5 officer, pursuant to the requirements of NRS 281A.420, shall
6 disclose the public officer's interest in the contract and shall not
7 vote on or advocate the approval of the contract.

8 5. A member of a local legislative body shall not, either
9 individually or through any business entity in which the member has
10 a significant pecuniary interest, sell goods or services to the local
11 agency governed by his or her local legislative body unless:

12 (a) The member, or the business entity in which the member has
13 a significant pecuniary interest, offers the sole source of supply of
14 the goods or services within the territorial jurisdiction of the local
15 agency governed by his or her local legislative body;

16 (b) The local legislative body includes in the public notice and
17 agenda for the meeting at which it will consider the purchase of
18 such goods or services a clear and conspicuous statement that it is
19 considering purchasing such goods or services from one of its
20 members, or from a business entity in which the member has a
21 significant pecuniary interest;

22 (c) At the meeting, the member discloses his or her significant
23 pecuniary interest in the purchase of such goods or services and
24 does not vote upon or advocate the approval of the matter pursuant
25 to the requirements of NRS 281A.420; and

26 (d) The local legislative body approves the purchase of such
27 goods or services in accordance with all other applicable provisions
28 of law.

29 6. The Commission may relieve a public officer or employee
30 from the strict application of the provisions of this section if:

31 (a) The public officer or employee files a request for an advisory
32 opinion from the Commission pursuant to NRS 281A.675; and

33 (b) The Commission determines that such relief is not contrary
34 to:

35 (1) The best interests of the public;

36 (2) The continued ethical integrity of each agency affected
37 by the matter; and

38 (3) The provisions of this chapter.

39 7. For the purposes of subsection 6, the request for an advisory
40 opinion, *the decision rendered*, the advisory opinion and all
41 meetings, hearings and proceedings of the Commission in such a
42 matter are governed by the provisions of NRS 281A.670 to
43 281A.690, inclusive.



1 **Sec. 36.** NRS 281A.500 is hereby amended to read as follows:
2 281A.500 1. On or before the date on which a public officer
3 swears or affirms the oath of office, the public officer must be
4 informed of the statutory ethical standards and the duty to file an
5 acknowledgment of the statutory ethical standards in accordance
6 with this section by:

7 (a) For an appointed public officer, the appointing authority of
8 the public officer; and

9 (b) For an elected public officer of:

10 (1) The county and other political subdivisions within the
11 county except cities, the county clerk;

12 (2) The city, the city clerk;

13 (3) The Legislative Department of the State Government, the
14 Director of the Legislative Counsel Bureau; and

15 (4) The Executive Department of the State Government, the
16 Director of the Department of Administration, or his or her
17 designee.

18 2. Within 30 days after a public employee begins employment:

19 (a) The Director of the Department of Administration, or his or
20 her designee, shall provide each new public employee of a state
21 agency with the information prepared by the Commission
22 concerning the statutory ethical standards; and

23 (b) The manager of each local agency, or his or her designee,
24 shall provide each new public employee of the local agency with the
25 information prepared by the Commission concerning the statutory
26 ethical standards.

27 3. Each public officer shall acknowledge that the public
28 officer:

29 (a) Has received, read and understands the statutory ethical
30 standards; and

31 (b) Has a responsibility to inform himself or herself of any
32 amendments to the statutory ethical standards as soon as reasonably
33 practicable after each session of the Legislature.

34 4. The acknowledgment must be executed on a form prescribed
35 by the Commission and must be filed with the Commission:

36 (a) If the public officer is elected to office at the general
37 election, on or before January 15 of the year following the public
38 officer's election.

39 (b) If the public officer is elected to office at an election other
40 than the general election or is appointed to office, on or before the
41 30th day following the date on which the public officer swears or
42 affirms the oath of office.

43 5. Except as otherwise provided in this subsection, a public
44 officer shall execute and file the acknowledgment once for each
45 term of office. If the public officer serves at the pleasure of the



1 appointing authority and does not have a definite term of office,
2 the public officer, in addition to executing and filing the
3 acknowledgment after the public officer swears or affirms the oath
4 of office in accordance with subsection 4, shall execute and file the
5 acknowledgment on or before January 15 of each even-numbered
6 year while the public officer holds that office.

7 6. For the purposes of this section, the acknowledgment is
8 timely filed if, on or before the last day for filing, the
9 acknowledgment is filed in one of the following ways:

10 (a) Delivered in person to the principal office of the
11 Commission in Carson City.

12 (b) Mailed to the Commission by first-class mail, or other class
13 of mail that is at least as expeditious, postage prepaid. Filing by mail
14 is complete upon timely depositing the acknowledgment with the
15 United States Postal Service.

16 (c) Dispatched to a third-party commercial carrier for delivery to
17 the Commission within 3 calendar days. Filing by third-party
18 commercial carrier is complete upon timely depositing the
19 acknowledgment with the third-party commercial carrier.

20 (d) Transmitted to the Commission by facsimile machine or
21 other electronic means authorized by the Commission. Filing by
22 facsimile machine or other electronic means is complete upon
23 receipt of the transmission by the Commission.

24 7. If a public officer is serving in a public office and executes
25 and files the acknowledgment for that office as required by the
26 applicable provisions of this section, the public officer shall be
27 deemed to have satisfied the requirements of this section for any
28 other office held concurrently by him or her.

29 8. The form for making the acknowledgment must contain:

30 (a) The address of the Internet website of the Commission where
31 a public officer may view the statutory ethical standards and print a
32 copy of the standards; and

33 (b) The telephone number and mailing address of the
34 Commission where a public officer may make a request to obtain a
35 printed copy of the statutory ethical standards from the Commission.

36 9. Whenever the Commission, or any public officer or
37 employee as part of the public officer's or employee's official
38 duties, provides a public officer with a printed copy of the form for
39 making the acknowledgment, a printed copy of the statutory ethical
40 standards must be included with the form.

41 10. The Commission shall retain each acknowledgment filed
42 pursuant to this section for 6 years after the date on which the
43 acknowledgment was filed.



1 11. ~~[Willful refusal]~~ *A public officer who refuses* to execute
2 and file the acknowledgment required by this section shall be
3 deemed to ~~be:~~

4 ~~—(a) A willful~~ *have committed a* violation of this chapter for the
5 purposes of NRS 281A.785 and 281A.790. ~~;~~ ~~and~~

6 ~~—(b) Nonfeasance in office for the purposes of NRS 283.440 and,~~
7 ~~if the public officer is removable from office pursuant to NRS~~
8 ~~283.440, the Commission may file a complaint in the appropriate~~
9 ~~court for removal of the public officer pursuant to that section. This~~
10 ~~paragraph grants an exclusive right to the Commission, and no other~~
11 ~~person may file a complaint against the public officer pursuant to~~
12 ~~NRS 283.440 based on any violation of this section.]~~

13 12. As used in this section, “general election” has the meaning
14 ascribed to it in NRS 293.060.

15 **Sec. 37.** NRS 281A.510 is hereby amended to read as follows:

16 281A.510 1. ~~[A]~~ *Except as otherwise provided in this*
17 *section, a* public officer or ~~[public]~~ employee shall not accept or
18 receive an honorarium.

19 2. An honorarium paid on behalf of a public officer or ~~[public]~~
20 employee to a charitable organization from which the *public* officer
21 or employee does not derive any financial benefit is deemed not to
22 be accepted or received by the *public* officer or employee for the
23 purposes of this section.

24 3. This section does not prohibit:

25 (a) The receipt of *any* payment *by a public officer or employee*
26 for work performed outside the normal course of ~~[a person's]~~ *his or*
27 *her* public office or employment if the performance of that work is
28 consistent with the applicable policies of ~~[the person's]~~ *his or her*
29 *public body, agency or* employer regarding supplemental
30 employment.

31 (b) The receipt of an honorarium by the spouse *or domestic*
32 *partner* of a public officer or ~~[public]~~ employee if it is related to the
33 ~~[spouse's]~~ profession or occupation ~~[]~~ *of the spouse or domestic*
34 *partner.*

35 4. As used in this section, “honorarium” means the payment of
36 money or anything of value for an appearance or speech by the
37 public officer or ~~[public]~~ employee in ~~[the officer's or employee's]~~
38 *his or her* capacity as a public officer or ~~[public]~~ employee. The
39 term does not include the payment of:

40 (a) The actual and necessary costs incurred by the public officer
41 or ~~[public]~~ employee, the ~~[officer's or employee's]~~ spouse or ~~[the~~
42 ~~officer's or employee's aid]~~ *domestic partner of the public officer*
43 *or employee or any assistant of the public officer or employee* for
44 transportation and for lodging and meals while the public officer or



1 ~~[public]~~ employee is away from ~~[the officer's or employee's]~~ *his or*
2 *her* residence.

3 (b) Compensation which would otherwise have been earned by
4 the public officer or ~~[public]~~ employee in the normal course of ~~[the~~
5 ~~officer's or employee's]~~ *his or her* public office or employment.

6 (c) A fee for a speech related to the *public* officer's or
7 employee's profession or occupation outside of ~~[the officer's or~~
8 ~~employee's]~~ *his or her* public office or employment if:

9 (1) Other members of the profession or occupation are
10 ordinarily compensated for such a speech; and

11 (2) The fee paid to the public officer or ~~[public]~~ employee is
12 approximately the same as the fee that would be paid to a member
13 of the private sector whose qualifications are similar to those of the
14 *public* officer or employee for a comparable speech.

15 (d) A fee for a speech delivered to an organization of
16 legislatures, legislators or other elected officers.

17 5. In addition to any other penalties provided by law, a public
18 officer or ~~[public]~~ employee who violates the provisions of this
19 section shall forfeit the amount of the honorarium.

20 **Sec. 38.** NRS 281A.550 is hereby amended to read as follows:

21 281A.550 1. A former member of the Public Utilities
22 Commission of Nevada shall not:

23 (a) Be employed by a public utility or parent organization or
24 subsidiary of a public utility; or

25 (b) Appear before the Public Utilities Commission of Nevada to
26 testify on behalf of a public utility or parent organization or
27 subsidiary of a public utility,

28 ↪ for 1 year after the termination of the member's service on the
29 Public Utilities Commission of Nevada.

30 2. A former member of the Nevada Gaming Control Board or
31 the Nevada Gaming Commission shall not:

32 (a) Appear before the Nevada Gaming Control Board or the
33 Nevada Gaming Commission on behalf of a person who holds a
34 license issued pursuant to chapter 463 or 464 of NRS or who is
35 required to register with the Nevada Gaming Commission pursuant
36 to chapter 463 of NRS; or

37 (b) Be employed by such a person,
38 ↪ for 1 year after the termination of the member's service on the
39 Nevada Gaming Control Board or the Nevada Gaming Commission.

40 3. In addition to the prohibitions set forth in subsections 1 and
41 2, and except as otherwise provided in subsections 4 and 6, a
42 *current or* former public officer or *management-level public*
43 employee of a board, commission, department, division or other
44 agency of the Executive Department of *the* State Government ~~;~~
45 ~~except a clerical employee,]~~ shall not solicit or accept employment



1 from a business or industry whose activities are governed by
2 regulations adopted *or administered* by the board, commission,
3 department, division or other agency , *as applicable, during the*
4 *public officer's or employee's period of public service or*
5 *employment or* for 1 year after the termination of ~~the former public~~
6 ~~officer's or employee's~~ *his or her period of public* service or
7 ~~period of~~ employment, if:

8 (a) The ~~former~~ public officer's or employee's principal duties
9 *include or* included the formulation of policy contained in the
10 regulations governing the business or industry;

11 (b) ~~During~~ *Within* the immediately preceding year ~~the~~
12 ~~former~~ *during the public officer's or employee's period of public*
13 *service or employment or within the year immediately preceding*
14 *the termination of the public officer's or employee's period of*
15 *public service or employment, the* public officer or employee
16 directly performed activities, or controlled or influenced an audit,
17 decision, investigation or other action, which significantly affected
18 the business or industry ; ~~which might, but for this section, employ~~
19 ~~the former public officer or employee;~~ or

20 (c) As a result of the ~~former~~ public officer's or employee's
21 governmental service or employment, the ~~former~~ public officer or
22 employee possesses knowledge of the trade secrets of a direct
23 business competitor.

24 4. The provisions of subsection 3 do not apply to a *current or*
25 former ~~public officer who was a~~ member of a board, commission
26 or similar body of the State if:

27 (a) The ~~former public officer~~ *member* is engaged in the
28 profession, occupation or business regulated by the board,
29 commission or similar body;

30 (b) The ~~former public officer~~ *member* holds a license issued
31 by the board, commission or similar body; and

32 (c) Holding a license issued by the board, commission or similar
33 body is a requirement for membership on the board, commission or
34 similar body.

35 5. Except as otherwise provided in subsection 6, a *current or*
36 former public officer or employee of the State or a political
37 subdivision, except a clerical employee, shall not solicit or accept
38 employment from a person to whom a contract for supplies,
39 materials, equipment or services was awarded by the State or
40 political subdivision, as applicable, *or was implemented, managed*
41 *or administered by the State or political subdivision, as applicable,*
42 *during the public officer's or employee's period of public service*
43 *or employment or* for 1 year after the termination of ~~the officer's or~~
44 ~~employee's~~ *his or her period of public* service or ~~period of~~
45 employment, if:



1 (a) The amount of the contract exceeded \$25,000;

2 (b) The contract was awarded *or was implemented, managed or*
3 *administered by the State or political subdivision, as applicable,*
4 *within the immediately preceding year during the public officer's*
5 *or employee's period of public service or employment or* within the
6 ~~12-month period~~ *year* immediately preceding the termination of
7 the *public* officer's or employee's *period of public* service or
8 ~~period of~~ employment; and

9 (c) The position held by the ~~former~~ public officer or employee
10 at the time the contract was awarded *or while it was implemented,*
11 *managed or administered by the State or political subdivision, as*
12 *applicable,* allowed the ~~former~~ public officer or employee to
13 *materially* affect or influence the awarding of the contract ~~or its~~
14 *implementation, management or administration.*

15 6. A current or former public officer or employee may file a
16 request for an advisory opinion pursuant to NRS 281A.675
17 concerning the application of the relevant facts in that person's case
18 to the provisions of subsection 3 or 5, as applicable, and *the*
19 *Commission may* determine whether relief from the strict
20 application of those provisions is proper. *For the purposes of*
21 *submitting all necessary information for the Commission to render*
22 *a decision and issue an advisory opinion in the matter, a current*
23 *or former public officer or employee may request information*
24 *concerning potential employment from any business, industry or*
25 *other person without violating the provisions of subsection 3 or 5,*
26 *as applicable.* If the Commission determines that relief from the
27 strict application of the provisions of subsection 3 or 5, as
28 applicable, is not contrary to:

29 (a) The best interests of the public;

30 (b) The continued ethical integrity of the State Government or
31 political subdivision, as applicable; and

32 (c) The provisions of this chapter,

33 ↪ it may issue an advisory opinion to that effect and grant such
34 relief.

35 7. For the purposes of subsection 6, the request for an advisory
36 opinion, *the decision rendered,* the advisory opinion and all
37 meetings, hearings and proceedings of the Commission in such a
38 matter are governed by the provisions of NRS 281A.670 to
39 281A.690, inclusive.

40 8. The advisory opinion does not relieve the current or former
41 public officer or employee from the strict application of any
42 provision of NRS 281A.410.

43 9. ~~For~~ *Except as otherwise provided in subsection 6, for* the
44 purposes of this section:



1 (a) A former member of the Public Utilities Commission of
2 Nevada, the Nevada Gaming Control Board or the Nevada Gaming
3 Commission; or

4 (b) Any other *current or* former public officer or employee
5 governed by this section,

6 ↪ is employed by or is soliciting or accepting employment from a
7 business, industry or other person described in this section if any
8 oral or written agreement is sought, negotiated or exists during the
9 restricted period pursuant to which the personal services of
10 the public officer or employee are provided or will be provided to
11 the business, industry or other person, even if such an agreement
12 does not or will not become effective until after the restricted
13 period.

14 10. As used in this section, "regulation" has the meaning
15 ascribed to it in NRS 233B.038 and also includes regulations
16 adopted *or administered* by a board, commission, department,
17 division or other agency of the Executive Department of *the* State
18 Government that is exempted from the requirements of chapter
19 233B of NRS.

20 **Sec. 39.** NRS 281A.665 is hereby amended to read as follows:

21 281A.665 *1. The published opinions of the Commission*
22 *constitute administrative precedents with persuasive value that the*
23 *Commission may consider and follow in the adjudication and*
24 *disposition of any request for an advisory opinion or ethics*
25 *complaint.*

26 *2. The Legislative Counsel shall prepare annotations to this*
27 *chapter for inclusion in the Nevada Revised Statutes based on the*
28 *published opinions of the Commission.*

29 3. The ~~Commission's~~ *opinions of the Commission* may
30 include guidance to a public officer or employee on questions
31 whether:

32 ~~1.]~~ (a) A conflict exists between the public officer's or
33 employee's personal interest and the public officer's or employee's
34 official ~~duty.~~

35 ~~2.]~~ *duties.*

36 (b) The public officer's or employee's official duties involve the
37 use of discretionary judgment whose exercise in the particular
38 matter would have a significant effect upon the disposition of the
39 matter.

40 ~~3.]~~ (c) The conflict would materially affect the independence
41 of the judgment of a reasonable person in the public officer's or
42 employee's situation.

43 ~~4.]~~ (d) The public officer or employee possesses special
44 knowledge which is an indispensable asset of ~~the public officer's or~~



1 ~~employee's public~~ *his or her public body*, agency *or employer* and
2 is needed by it to reach a sound decision.

3 ~~[(5)]~~ (e) It would be appropriate for the public officer or
4 employee to withdraw or abstain from participation, disclose the
5 nature of the public officer's or employee's conflicting personal
6 interest or pursue some other designated course of action in the
7 matter.

8 **Sec. 40.** (Deleted by amendment.)

9 **Sec. 41.** NRS 281A.675 is hereby amended to read as follows:

10 281A.675 1. ~~[(A)]~~ *Except as otherwise provided in this*
11 *section and NRS 281A.280:*

12 (a) A public officer or employee may file with the Commission
13 a request for an advisory opinion to:

14 ~~[(a)]~~ (1) Seek guidance on matters which directly relate to the
15 propriety of his or her own past, present or future conduct as a
16 public officer or employee under the statutory ethical standards ;
17 ~~[set forth in this chapter:]~~ or

18 ~~[(b)]~~ (2) Request relief pursuant to NRS 281A.410, 281A.430 or
19 281A.550.

20 (b) *The supervisory head or the legal counsel of a public body,*
21 *agency or employer may file with the Commission a request for an*
22 *advisory opinion to seek guidance on the application of the*
23 *statutory ethical standards to a hypothetical or general set of facts*
24 *and circumstances involving one or more particular positions with*
25 *the public body, agency or employer, but such a request must not*
26 *involve any actual or specific facts and circumstances of any*
27 *public officers or employees who are or will be serving or who*
28 *have served in those particular positions.*

29 2. The request for an advisory opinion must be:

30 (a) Filed on a form prescribed by the Commission; and

31 (b) Submitted with all necessary information for the
32 Commission to render *a decision and issue* an advisory opinion in
33 the matter.

34 3. *At any time after a request for an advisory opinion is filed*
35 *with the Commission, the Commission may request additional*
36 *information relating to the request for an advisory opinion from*
37 *the following persons:*

38 (a) *The requester and his or her legal counsel.*

39 (b) *If the requester filed the request for an advisory opinion*
40 *pursuant to paragraph (a) of subsection 1 and is not represented*
41 *by the legal counsel of his or her public body, agency or employer,*
42 *the supervisory head or the legal counsel of that public body,*
43 *agency or employer, but the Commission shall not disclose the*
44 *name or position of the requester or the subject matter of the*



1 *request for an advisory opinion in making such a request for*
2 *additional information.*

3 4. The Commission may decline to render *a decision and issue*
4 an advisory opinion if the ~~{public officer or employee}~~ *requester*
5 does not:

6 (a) Submit all necessary information for the Commission to
7 render *a decision and issue* an advisory opinion in the matter; or

8 (b) Declare by oath or affirmation that he or she will testify
9 truthfully regarding the matter.

10 **Sec. 42.** NRS 281A.680 is hereby amended to read as follows:

11 281A.680 1. ~~{If a public officer or employee}~~ *Except as*
12 *otherwise provided in this section, if a requester* properly files a
13 request for an advisory opinion, the Commission shall render *a*
14 *decision and issue* an advisory opinion that interprets the statutory
15 ethical standards and applies those standards to the given set of facts
16 and circumstances.

17 2. The Commission shall render *a decision concerning* the
18 *request for an* advisory opinion within 45 days after receiving the
19 request, unless ~~{the}~~ :

20 (a) ~~The requester waives this time limit {~~
21 ~~—2.}; or~~

22 (b) *The Commission stays or dismisses the proceedings*
23 *concerning the request for an advisory opinion because:*

24 (1) *An ethics complaint is filed or pending that involves*
25 *some or all of the same issues or facts and circumstances that are*
26 *involved in the request for an advisory opinion; and*

27 (2) *The Commission determines that staying or dismissing*
28 *the proceedings concerning the request for an advisory opinion is*
29 *necessary for the just adjudication and disposition of the*
30 *proceedings concerning the ethics complaint.*

31 3. *If the Commission renders a decision concerning the*
32 *request for an advisory opinion pursuant to this section, the*
33 *Commission shall issue a written advisory opinion within 90 days*
34 *after the date on which the decision is rendered, unless the*
35 *Commission determines that there is good cause to extend this*
36 *time limit and sets a specific and reasonable time period for such*
37 *an extension.*

38 4. If the *Commission issues a written* advisory opinion
39 ~~{rendered by the Commission}~~ *to a requester who filed the request*
40 *for an advisory opinion pursuant to paragraph (a) of subsection 1*
41 *of NRS 281A.675 and the advisory opinion* relates to the propriety
42 of the present or future conduct of the requester, the advisory
43 opinion is:

44 (a) Binding upon the requester with regard to the future conduct
45 of the requester; and



1 (b) A final decision that is subject to judicial review pursuant to
2 NRS 233B.130.

3 ~~§3~~ If the requester seeks judicial review pursuant to NRS
4 233B.130, any proceedings concerning such judicial review must be
5 confidential and held in closed court without admittance of persons
6 other than those necessary to the proceedings, unless the requester
7 waives this right to confidential proceedings.

8 *5. If the Commission issues a written advisory opinion to a*
9 *requester who filed the request for an advisory opinion pursuant*
10 *to paragraph (b) of subsection 1 of NRS 281A.675, the advisory*
11 *opinion is not a final decision that is subject to judicial review*
12 *pursuant to NRS 233B.130.*

13 **Sec. 43.** NRS 281A.685 is hereby amended to read as follows:

14 281A.685 1. Except as otherwise provided in this section, the
15 following materials are confidential and are not public records
16 pursuant to chapter 239 of NRS:

17 (a) A request for an advisory opinion;

18 (b) The *decision rendered and the* advisory opinion ~~rendered~~
19 *issued* by the Commission in response to the request;

20 (c) Any information, communications, records, documents or
21 other materials in the possession of the Commission or its staff that
22 are related to the request; and

23 (d) Any information, communications, records, documents or
24 other materials in the possession of the requester of the advisory
25 opinion that are related to the request and, if disclosed by the
26 requester, would reveal the existence, nature or content of the
27 request, *the decision rendered* or the advisory opinion.

28 2. The provisions of subsection 1 do not create or impose any
29 duty on the Commission or its staff to protect or defend against the
30 disclosure of any materials not in the possession of the Commission
31 or its staff, regardless of whether the materials are related to the
32 request.

33 3. The provisions of subsection 1 do not apply to any materials
34 in the possession of the Commission or its staff that are related to
35 the request if the requester of the advisory opinion:

36 (a) Acts in contravention of *the decision rendered or* the
37 advisory opinion, in which case the Commission may disclose the
38 request, *the decision rendered*, the advisory opinion and any
39 information, communications, records, documents or other materials
40 in the possession of the Commission or its staff that are related to
41 the request;

42 (b) Authorizes the Commission, in writing, to make the request,
43 *the decision rendered*, the advisory opinion or any information,
44 communications, records, documents or other materials in the
45 possession of the Commission or its staff that are related to the



1 request publicly available ~~§~~ , *except that any disclosure of*
2 *materials pursuant to this paragraph is limited to the specific*
3 *materials that the requester authorizes the Commission, in writing,*
4 *to make publicly available;* or

5 (c) Voluntarily discloses, in any manner, the request, *the*
6 *decision rendered*, the advisory opinion or any information,
7 communications, records, documents or other materials in the
8 possession of the Commission or its staff that are related to the
9 request, except to:

10 (1) The ~~public body,~~ *supervisory head or the legal counsel*
11 *of his or her public body*, agency or employer ~~of the requester or~~
12 ~~the~~ *or to any other public officer or employee of that public body,*
13 *agency or employer to whom the supervisory head or the legal*
14 *counsel authorizes such a disclosure;*

15 (2) *The* legal counsel of the requester ~~§~~
16 ~~—(2)~~ *to facilitate legal representation when the requester is*
17 *not represented by the legal counsel of his or her public body,*
18 *agency or employer;*

19 (3) Any *other* person to whom the Commission authorizes
20 the requester to make such a disclosure; or

21 ~~(3)~~ (4) Any *other* person to whom the requester makes such
22 a disclosure for the purposes of judicial review pursuant to
23 *subsection 4 of* NRS 281A.680.

24 **Sec. 44.** NRS 281A.690 is hereby amended to read as follows:

25 281A.690 1. ~~Except as otherwise provided in this section,~~
26 ~~the~~ *The* provisions of chapter 241 of NRS do not apply to:

27 (a) Any meeting or hearing held by the Commission to receive
28 information or evidence concerning a request for an advisory
29 opinion; and

30 (b) Any deliberations or actions of the Commission on such
31 information or evidence.

32 2. The ~~public officer or employee~~ *requester* who files the
33 request for an advisory opinion may also file a request with
34 the Commission to hold a public meeting or hearing regarding the
35 request for an advisory opinion. *If the Commission grants the*
36 *request to hold a public meeting or hearing, the Commission shall*
37 *provide public notice of the meeting or hearing, and the meeting*
38 *or hearing must be open to the public and conducted in*
39 *accordance with the regulations of the Commission, but the*
40 *meeting or hearing is not subject to the provisions of chapter 241*
41 *of NRS.*

42 **Sec. 45.** (Deleted by amendment.)

43 **Sec. 46.** (Deleted by amendment.)



1 **Sec. 47.** NRS 281A.710 is hereby amended to read as follows:
2 281A.710 1. Except as otherwise provided in this section and
3 NRS 281A.280, the Commission may render *a decision and issue*
4 an opinion that interprets the statutory ethical standards and applies
5 those standards to a given set of facts and circumstances regarding
6 the propriety of the conduct of a public officer or employee if an
7 ethics complaint is:

8 (a) Filed by a specialized or local ethics committee established
9 pursuant to NRS 281A.350.

10 (b) Filed by any person, except a person who is incarcerated in a
11 correctional facility in this State or any other jurisdiction.

12 (c) Initiated by the Commission on its own motion, except the
13 Commission shall not initiate such an ethics complaint based solely
14 upon an anonymous complaint.

15 2. An ethics complaint filed by a *specialized or local ethics*
16 *committee or* person *pursuant to paragraph (a) or (b) of subsection*
17 *1* must be:

18 (a) Verified under oath and filed on a form prescribed by the
19 Commission; and

20 (b) Submitted with sufficient evidence to support the allegations
21 in order for the Commission to make a determination of whether it
22 has jurisdiction in the matter and whether an investigation is
23 warranted in the matter pursuant to NRS 281A.715 and 281A.720.

24 3. The Commission may decline to render *a decision and issue*
25 an opinion if the *specialized or local ethics committee or* person
26 ~~[who files]~~ *filing* the ethics complaint *pursuant to paragraph (a) or*
27 *(b) of subsection 1* does not submit all necessary evidence in the
28 matter.

29 **Sec. 48.** NRS 281A.715 is hereby amended to read as follows:

30 281A.715 1. Based on the evidence submitted with an ethics
31 complaint filed with the Commission *by a specialized or local*
32 *ethics committee or person* pursuant to *paragraph (a) or (b) of*
33 *subsection 1 of NRS 281A.710* ~~[]~~ *and any additional evidence*
34 *obtained by the Executive Director pursuant to subsection 2*, the
35 Commission shall determine whether it has jurisdiction in the matter
36 and whether an investigation is warranted in the matter. The
37 Commission shall make its determination within 45 days after
38 receiving the ethics complaint, unless the ~~[public officer or~~
39 ~~employee who is the subject of the ethics complaint waives this time~~
40 ~~limit.~~

41 ~~—2.]~~ *Commission determines that there is good cause to extend*
42 *this time limit and sets a specific and reasonable time period for*
43 *such an extension.*

44 2. *To assist the Commission in making its determination*
45 *pursuant to subsection 1 whether it has jurisdiction in the matter*



1 *and whether an investigation is warranted in the matter, the*
2 *Executive Director may conduct a preliminary investigation to*
3 *obtain additional evidence concerning the allegations in the ethics*
4 *complaint.*

5 3. If the Commission determines *pursuant to subsection 1* that
6 it does not have jurisdiction in the matter, the Commission shall
7 dismiss the matter.

8 ~~3.~~ 4. If the Commission determines *pursuant to subsection 1*
9 that it has jurisdiction in the matter but the evidence ~~[submitted with~~
10 ~~the ethics complaint]~~ is not sufficient to warrant an investigation in
11 the matter, the Commission shall dismiss the matter, with or without
12 issuing a letter of caution or instruction to the public officer or
13 employee pursuant to NRS 281A.780.

14 ~~4.~~ 5. If the Commission determines *pursuant to subsection 1*
15 that it has jurisdiction in the matter and the evidence ~~[submitted with~~
16 ~~the ethics complaint]~~ is sufficient to warrant an investigation in the
17 matter, the Commission may direct the Executive Director to
18 investigate the ethics complaint pursuant to NRS 281A.720.

19 6. *If the Commission initiates an ethics complaint on its own*
20 *motion pursuant to paragraph (c) of subsection 1 of NRS*
21 *281A.710 and the Commission determines that the evidence:*

22 (a) *Is not sufficient to warrant an investigation in the matter,*
23 *the Commission may dismiss the matter, with or without prejudice.*
24 *If the Commission dismisses the matter, it shall issue a letter of*
25 *caution or instruction to the public officer or employee pursuant*
26 *to NRS 281A.780.*

27 (b) *Is sufficient to warrant an investigation in the matter, the*
28 *Commission may direct the Executive Director to investigate the*
29 *ethics complaint pursuant to NRS 281A.720.*

30 **Sec. 49.** NRS 281A.720 is hereby amended to read as follows:
31 281A.720 1. If the Commission directs the Executive
32 Director to investigate an ethics complaint pursuant to NRS
33 281A.715, ~~[or if the Commission initiates an ethics complaint on its~~
34 ~~own motion pursuant to NRS 281A.710,]~~ the Executive Director
35 shall investigate the facts and circumstances relating to the ethics
36 complaint to determine whether the Executive Director believes that
37 there is just and sufficient cause for the Commission to render *a*
38 *decision and issue* an opinion in the matter in order to present a
39 written recommendation to the review panel pursuant to
40 NRS 281A.725.

41 2. The Executive Director shall ~~[provide]~~ *prepare and serve a*
42 *written* notice of the investigation *of the ethics complaint* pursuant
43 to this section ~~[to]~~ *on* the public officer or employee who is the
44 subject of the ethics complaint and provide the public officer or
45 employee an opportunity to submit to the Executive Director a



1 response to the ~~[allegations against the public officer or employee in~~
2 ~~the ethics complaint.]~~ *written notice of the investigation.* The
3 response must be submitted within 30 days after the date on which
4 the public officer or employee ~~[receives]~~ *is served with the written*
5 *notice of the investigation pursuant to this section, unless the public*
6 *officer or employee waives the time limit set forth in subsection 1*
7 *of NRS 281A.725 and the Executive Director grants [an extension.]*
8 *one or more extensions for good cause shown and sets a specific*
9 *and reasonable time period for such an extension.*

10 3. The purpose of the response submitted pursuant to this
11 section is to provide the Executive Director and the review panel
12 with any information relevant to the ethics complaint which the
13 public officer or employee believes may assist:

14 (a) The Executive Director in performing his or her investigation
15 and other functions pursuant to this section and NRS 281A.725; and

16 (b) The review panel in performing its review and other
17 functions pursuant to NRS 281A.730.

18 4. The public officer or employee is not required in the
19 response submitted pursuant to this section or in any proceedings
20 before the review panel to assert, claim or raise any objection or
21 defense, in law or fact, to the allegations against the public officer or
22 employee, and no objection or defense, in law or fact, is waived,
23 abandoned or barred by the failure to assert, claim or raise it in the
24 response or in any proceedings before the review panel.

25 5. *Whether or not the public officer or employee submits a*
26 *response pursuant to this section, the Executive Director may take*
27 *action, in the manner authorized by NRS 281A.300, to secure the*
28 *public officer's or employee's participation, attendance as a*
29 *witness and production of any books and papers during the course*
30 *of the investigation.*

31 **Sec. 50.** NRS 281A.725 is hereby amended to read as follows:

32 281A.725 1. ~~[Except as otherwise provided in this~~
33 ~~subsection, the]~~ *The* Executive Director shall complete the
34 investigation required by NRS 281A.720 and present a written
35 recommendation to the review panel within 70 days after the
36 Commission directs the Executive Director to investigate the ethics
37 complaint ~~[or after the Commission initiates the ethics complaint on~~
38 ~~its own motion, as applicable.],~~ *except that:*

39 (a) The public officer or employee who is the subject of the
40 ethics complaint may waive this time limit ~~[]~~; *or*

41 (b) *Upon the request of the Executive Director, the presiding*
42 *officer of the review panel may grant one or more extensions of*
43 *this time limit for good cause shown and must set a specific and*
44 *reasonable time period for such an extension.*



1 2. The *written* recommendation *that the Executive Director*
2 *presents to the review panel* must:

3 (a) Set forth the factual and legal basis for the recommendation;

4 (b) State whether the Executive Director believes that there is
5 just and sufficient cause for the Commission to render *a decision*
6 *and issue* an opinion in the matter; and

7 (c) If the Executive Director believes that a disposition of the
8 matter without an adjudicatory hearing is appropriate under the facts
9 and circumstances, state any suggested disposition that is consistent
10 with the provisions of this chapter, including, without limitation,
11 whether the Executive Director believes that the conduct at issue
12 may be appropriately addressed through additional training or other
13 corrective action under the terms and conditions of a deferral
14 agreement.

15 **Sec. 51.** NRS 281A.730 is hereby amended to read as follows:

16 281A.730 1. Except as otherwise provided in this section, the
17 review panel shall determine whether there is just and sufficient
18 cause for the Commission to render *a decision and issue* an opinion
19 in the matter within 15 days after the Executive Director ~~[provides]~~
20 *presents to* the review panel ~~[with]~~ the recommendation required by
21 NRS 281A.725. The public officer or employee who is the subject
22 of the ethics complaint may waive this time limit. *The review panel*
23 *shall serve on the public officer or employee who is the subject of*
24 *the ethics complaint a written notice of its determination.*

25 2. The review panel shall cause a record of its proceedings to
26 be kept.

27 3. The review panel shall not determine that there is just and
28 sufficient cause for the Commission to render *a decision and issue*
29 an opinion in the matter unless the Executive Director has provided
30 the public officer or employee an opportunity to respond ~~[to the~~
31 ~~allegations]~~ as required by NRS 281A.720.

32 4. If the review panel determines that there is not just and
33 sufficient cause for the Commission to render *a decision and issue*
34 an opinion in the matter, it shall dismiss the matter, with or without
35 prejudice, and with or without issuing a letter of caution or
36 instruction to the public officer or employee pursuant to
37 NRS 281A.780.

38 5. If the review panel determines that there is just and
39 sufficient cause for the Commission to render *a decision and issue*
40 an opinion in the matter but reasonably believes that the conduct at
41 issue may be appropriately addressed through additional training or
42 other corrective action under the terms and conditions of a deferral
43 agreement, the review panel may:

44 (a) Approve a deferral agreement proposed by the Executive
45 Director and the public officer or employee instead of referring the



1 ethics complaint to the Commission for further proceedings in the
2 matter; or

3 (b) Authorize the Executive Director and the public officer or
4 employee to develop such a deferral agreement and may thereafter
5 approve such a deferral agreement instead of referring the ethics
6 complaint to the Commission for further proceedings in the matter.

7 *6. If the review panel authorizes the development of a*
8 *deferral agreement pursuant to subsection 5, the review panel*
9 *shall specify a time limit for its development in the written notice*
10 *of its determination that is served pursuant to subsection 1, and*
11 *the deferral agreement must be developed within the time limit,*
12 *unless the review panel grants one or more extensions for good*
13 *cause shown and sets a specific and reasonable time period for*
14 *such an extension. If the deferral agreement is not developed*
15 *within the time limit, or any extension thereof, the review panel*
16 *shall refer the ethics complaint to the Commission for further*
17 *proceedings in the matter.*

18 7. If the review panel does not approve a deferral agreement
19 pursuant to subsection 5 or if the public officer or employee declines
20 to enter into such a deferral agreement, the review panel shall refer
21 the ethics complaint to the Commission for further proceedings in
22 the matter.

23 ~~7.7~~ 8. If the review panel determines that there is just and
24 sufficient cause for the Commission to render *a decision and issue*
25 an opinion in the matter and reasonably believes that the conduct at
26 issue may not be appropriately addressed through additional training
27 or other corrective action under the terms and conditions of a
28 deferral agreement, the review panel shall refer the ethics complaint
29 to the Commission for further proceedings in the matter.

30 **Sec. 52.** NRS 281A.740 is hereby amended to read as follows:
31 281A.740 1. In proceedings concerning an ethics complaint,
32 the Executive Director and the public officer or employee who is the
33 subject of the ethics complaint may develop a deferral agreement to
34 defer further proceedings in the matter under the terms and
35 conditions of the deferral agreement. *A deferral agreement must be*
36 *developed within any time limit specified by the review panel, or*
37 *any extension thereof, pursuant to NRS 281A.730.*

38 2. A deferral agreement does not become effective unless
39 approved by the review panel pursuant to NRS 281A.730. If the
40 review panel approves a deferral agreement, the Commission shall
41 enforce the terms and conditions of the deferral agreement.

42 3. A deferral agreement must:

43 (a) Specify the training or other corrective action to be
44 completed by or imposed upon the public officer or employee;



1 (b) Specify any other terms and conditions, consistent with the
2 provisions of this chapter, to be imposed upon the public officer or
3 employee; and

4 (c) Provide that the Commission may vacate the deferral
5 agreement and conduct further proceedings in the matter if the
6 Commission finds that the public officer or employee has failed to
7 comply with any terms and conditions of the deferral agreement.

8 4. The imposition of training or other corrective action and the
9 imposition of any other terms and conditions in a deferral agreement
10 is without prejudice to any other disposition of the matter, consistent
11 with this chapter, that may be ordered by the Commission if it
12 vacates the deferral agreement and conducts further proceedings in
13 the matter and finds that the public officer or employee has violated
14 any provision of this chapter.

15 5. The Executive Director shall monitor the compliance of the
16 public officer or employee who is the subject of a deferral
17 agreement and may require the public officer or employee to
18 document his or her compliance with the deferral agreement.

19 6. The Executive Director shall:

20 (a) Inform the Commission of any alleged failure of the public
21 officer or employee to comply with the deferral agreement;

22 (b) Give the public officer or employee written notice of any
23 alleged failure to comply with the deferral agreement; and

24 (c) Allow the public officer or employee not less than 15 days to
25 respond to such a notice.

26 7. Within 60 days after the date on which the public officer or
27 employee responds or was entitled to respond to the written notice
28 of any alleged failure to comply with the deferral agreement, the
29 Commission shall determine whether the public officer or employee
30 failed to comply with the deferral agreement, unless the public
31 officer or employee waives this time limit.

32 8. If the Commission determines that the public officer or
33 employee failed to comply with the deferral agreement, the
34 Commission may take any action it deems appropriate, consistent
35 with the terms and conditions of the deferral agreement and the
36 provisions of this chapter, including, without limitation, vacating the
37 deferral agreement and conducting further proceedings in the matter.

38 9. If the public officer or employee who is the subject of the
39 deferral agreement complies in a satisfactory manner with the
40 deferral agreement, the Commission shall dismiss the matter.

41 **Sec. 53.** NRS 281A.745 is hereby amended to read as follows:

42 281A.745 1. If the review panel refers an ethics complaint to
43 the Commission for further proceedings in the matter pursuant
44 to NRS 281A.730 or if the Commission vacates a deferral
45 agreement and conducts further proceedings in the matter pursuant



1 to NRS 281A.740, the Commission shall hold an adjudicatory
2 hearing and render ~~an opinion in the matter~~ *a decision concerning*
3 *the ethics complaint* within 60 days after the date on which the
4 review panel refers the ethics complaint to the Commission or the
5 Commission vacates the deferral agreement, as appropriate, unless
6 the public officer or employee who is the subject of the ethics
7 complaint waives this time limit.

8 2. ~~[[~~ *Before* the Commission holds an adjudicatory hearing
9 ~~to receive evidence]~~ concerning an ethics complaint, the
10 Commission shall:

11 (a) ~~Notify]~~ *Provide* the public officer or employee who is the
12 subject of the ethics complaint *with a written notice* of the date,
13 time and place of the hearing; *and*

14 (b) *Provide the parties with a written schedule for discovery*
15 *relating to the hearing.*

16 3. *At the adjudicatory hearing:*

17 (a) *The Executive Director or his or her designee shall present*
18 *the case to the Commission; and*

19 (b) *The Commission shall:*

20 (1) Allow the public officer or employee to be represented by
21 legal counsel; and

22 ~~[(e)]~~ (2) Allow the public officer or employee to hear the
23 ~~evidence]~~ case presented to the Commission *by the Executive*
24 *Director or his or her designee* and to ~~respond and]~~ present
25 ~~evidence on]~~ his or her own ~~behalf.~~
26 ~~—3.] case to the Commission.~~

27 4. Unless the public officer or employee agrees to a shorter
28 time, an adjudicatory hearing may not be held less than 10 days after
29 the date on which the *written* notice of the hearing is ~~given]~~
30 *provided* to the public officer or employee.

31 ~~[4.]~~ 5. For good cause shown, the Commission may take
32 testimony from a person by telephone or video conference at an
33 adjudicatory hearing or at any other proceedings concerning the
34 ethics complaint.

35 6. *After the Commission renders a decision concerning the*
36 *ethics complaint, the Commission shall issue a written opinion:*

37 (a) *Within 90 days after the date on which the decision is*
38 *rendered; or*

39 (b) *On the date of the next meeting of the Commission that is*
40 *held after the date on which the decision is rendered,*

41 *whichever is later, unless the Commission determines that there*
42 *is good cause to extend this time limit and sets a specific and*
43 *reasonable time period for such an extension.*

44 7. *The written opinion issued by the Commission must*
45 *include findings of fact and conclusions of law and otherwise*



1 *comply with the requirements for a final decision set forth in*
2 *NRS 233B.125.*

3 **Sec. 54.** NRS 281A.750 is hereby amended to read as follows:
4 281A.750 1. Except as otherwise provided in this section and
5 NRS 281A.755, all information, communications, records,
6 documents or other materials in the possession of the Commission,
7 the review panel or their staff that are related to an ethics complaint
8 are confidential and are not public records pursuant to chapter 239
9 of NRS until:

10 (a) The review panel determines whether there is just and
11 sufficient cause for the Commission to render *a decision and issue*
12 an opinion in the matter and serves *the* written notice of its
13 determination on the public officer or employee who is the subject
14 of the ethics complaint ~~{3}~~ *pursuant to NRS 281A.730;* or

15 (b) The public officer or employee who is the subject of the
16 ethics complaint authorizes the Commission, in writing, to make the
17 information, communications, records, documents or other materials
18 that are related to the ethics complaint publicly available,
19 ↪ whichever occurs first.

20 2. Except as otherwise provided in subsection ~~{3}~~ *5*, if a person
21 who files an ethics complaint asks that his or her identity as the
22 requester be kept confidential, the Commission:

23 (a) Shall keep the identity of the requester confidential if he or
24 she is a public officer or employee who works for the same public
25 body, agency or employer as the public officer or employee who is
26 the subject of the ethics complaint.

27 (b) May keep the identity of the requester confidential if he or
28 she offers sufficient facts and circumstances showing a reasonable
29 likelihood that disclosure of his or her identity will subject the
30 requester or a member of his or her household to a bona fide threat
31 of physical force or violence.

32 3. *If the Commission keeps the identity of the requester of an*
33 *ethics complaint confidential pursuant to this section, the*
34 *following materials are confidential and are not public records*
35 *pursuant to chapter 239 of NRS:*

36 (a) *All information, communications, records, documents or*
37 *other materials in the possession of the Commission that, if*
38 *disclosed by the Commission, would reveal that the requester filed*
39 *the ethics complaint. Notwithstanding the provisions of chapter*
40 *239 of NRS, in denying a request for public records based on the*
41 *confidentiality provided by this paragraph, the Commission is not*
42 *required to provide any information that, if disclosed by the*
43 *Commission in denying the request for public records, would*
44 *reveal that the requester filed the ethics complaint.*



1 (b) *All information, communications, records, documents or*
2 *other materials in the possession of the requester of the ethics*
3 *complaint or his or her public body, agency or employer that, if*
4 *disclosed by either of them, would reveal that the requester filed*
5 *the ethics complaint. Notwithstanding the provisions of chapter*
6 *239 of NRS, in denying a request for public records based on the*
7 *confidentiality provided by this paragraph, the requester of the*
8 *ethics complaint or his or her public body, agency or employer is*
9 *not required to provide any information that, if disclosed by either*
10 *of them in denying the request for public records, would reveal*
11 *that the requester filed the ethics complaint.*

12 4. If the Commission keeps the identity of the requester *of an*
13 *ethics complaint* confidential ~~[.]~~ *pursuant to this section and the*
14 *Executive Director does not intend to present the testimony of*
15 *the requester as evidence for consideration by the Commission at*
16 *the adjudicatory hearing or in rendering a decision and issuing an*
17 *opinion in the matter,* the Commission shall not render *a decision*
18 *and issue* an opinion in the matter unless there is sufficient evidence
19 without the testimony of the requester to consider the propriety of
20 the conduct of the public officer or employee who is the subject of
21 the ethics complaint. *The provisions of this subsection do not*
22 *abrogate or otherwise alter or affect the confidentiality of the*
23 *identity of the requester of the ethics complaint.*

24 5. If the Commission keeps the identity of the requester of an
25 *ethics complaint confidential pursuant to this section and* the
26 Executive Director intends to present the testimony of the requester
27 as evidence for consideration by the Commission at the adjudicatory
28 hearing or in rendering *a decision and issuing* an opinion in the
29 matter and the public officer or employee who is the subject of
30 the ethics complaint submits a written discovery request to the
31 Commission pursuant to NRS 281A.755, the ~~[Commission]~~
32 *Executive Director* shall disclose the name of the requester only as a
33 proposed witness ~~[within a reasonable time before the adjudicatory~~
34 ~~hearing on the matter.]~~ *in accordance with the schedule for*
35 *discovery provided to the parties pursuant to NRS 281A.745.*

36 **Sec. 55.** NRS 281A.755 is hereby amended to read as follows:

37 281A.755 1. Except as otherwise provided in this section, the
38 investigative file related to an ethics complaint is confidential and is
39 not a public record pursuant to chapter 239 of NRS.

40 2. ~~[At any time after being served with written notice of the~~
41 ~~determination of the review panel regarding the existence of just and~~
42 ~~sufficient cause for the Commission to render an opinion in the~~
43 ~~matter.]~~ *In accordance with the schedule for discovery provided to*
44 *the parties pursuant to NRS 281A.745,* the public officer or
45 employee who is the subject of the ethics complaint may submit a



1 written discovery request to the Commission for a list of proposed
2 witnesses and a copy of any portion of the investigative file that the
3 Executive Director intends to present as evidence for consideration
4 by the Commission at the adjudicatory hearing or in rendering *a*
5 *decision and issuing* an opinion in the matter.

6 3. Any portion of the investigative file which the Executive
7 Director presents as evidence for consideration by the Commission
8 at the adjudicatory hearing or in rendering *a decision and issuing* an
9 opinion in the matter becomes a public record and must be open for
10 inspection pursuant to chapter 239 of NRS ~~H~~ *after the Commission*
11 *takes final action concerning the ethics complaint in a public*
12 *meeting or hearing pursuant to subsection 2 of NRS 281A.760.*

13 4. For the purposes of this section:

14 (a) The investigative file includes, without limitation:

15 (1) Any response concerning the ethics complaint prepared
16 by the public officer or employee pursuant to NRS 281A.720 and
17 submitted to the Executive Director and the review panel during the
18 course of the investigation and any proceedings before the review
19 panel;

20 (2) Any recommendation concerning the ethics complaint
21 prepared by the Executive Director pursuant to NRS 281A.725 and
22 ~~submitted~~ *presented* to the review panel during the course of the
23 investigation and any proceedings before the review panel; and

24 (3) Any other information provided to or obtained by or on
25 behalf of the Executive Director through any form of
26 communication during the course of the investigation and any
27 proceedings before the review panel and any records, documents or
28 other materials created or maintained during the course of the
29 investigation and any proceedings before the review panel which
30 relate to the public officer or employee who is the subject of the
31 ethics complaint, including, without limitation, a transcript,
32 regardless of whether such information, records, documents or other
33 materials are obtained pursuant to a subpoena.

34 (b) The investigative file does not include any deferral
35 agreement.

36 **Sec. 56.** NRS 281A.760 is hereby amended to read as follows:

37 281A.760 *1.* The provisions of chapter 241 of NRS do not
38 apply to:

39 ~~H~~ *(a)* Any meeting or hearing held by the Commission to
40 receive information or evidence concerning an ethics complaint; and

41 ~~F~~ *(b)* Any deliberations *or actions* of the Commission on
42 such information or evidence.

43 *2. The Commission shall take final action concerning an*
44 *ethics complaint in a public meeting or hearing. The Commission*
45 *shall provide public notice of the meeting or hearing, and the*



1 *meeting or hearing must be open to the public and conducted in*
2 *accordance with the regulations of the Commission, but the*
3 *meeting or hearing is not subject to the provisions of chapter 241*
4 *of NRS.*

5 **Sec. 57.** NRS 281A.765 is hereby amended to read as follows:

6 281A.765 ~~1. If the Commission renders an opinion in~~
7 ~~proceedings concerning an ethics complaint, the opinion must~~
8 ~~include findings of fact and conclusions of law.~~

9 ~~2. If, in~~ *In* proceedings concerning an ethics complaint, *if* the
10 Commission determines that a violation of this chapter:

11 ~~(a)~~ 1. Has not been proven, the Commission shall dismiss the
12 matter, with or without prejudice, and with or without issuing a
13 letter of caution or instruction to the public officer or employee
14 pursuant to NRS 281A.780.

15 ~~(b)~~ 2. Has been proven, the Commission may take any action
16 authorized by this chapter.

17 **Sec. 58.** NRS 281A.770 is hereby amended to read as follows:

18 281A.770 In any matter in which the Commission disposes of
19 an ethics complaint by stipulation, agreed settlement or consent
20 order or in which the review panel approves a deferral agreement,
21 the Commission or the review panel, as appropriate, shall :

22 1. *To the extent practicable based on the given set of facts*
23 *and circumstances*, treat comparable situations in a comparable
24 manner ; and ~~[shall ensure]~~

25 2. *Ensure* that the disposition of the matter bears a reasonable
26 relationship to the severity of the violation or alleged violation.

27 **Sec. 59.** NRS 281A.775 is hereby amended to read as follows:

28 281A.775 1. The Commission, in determining ~~[whether a~~
29 ~~violation of this chapter is a willful violation and, if so,]~~ the penalty
30 to be imposed on a ~~[public officer or employee]~~ *current* or former
31 public officer or employee pursuant to NRS 281A.785 or 281A.790,
32 or the review panel, in determining whether to approve a deferral
33 agreement regarding an alleged violation, shall consider, without
34 limitation:

35 (a) The seriousness of the violation or alleged violation,
36 including, without limitation, the nature, circumstances, extent and
37 gravity of the violation or alleged violation;

38 (b) The number and history of previous warnings, letters of
39 caution or instruction, deferral agreements or violations or alleged
40 violations of the provisions of this chapter relating to the public
41 officer or employee;

42 (c) The cost to conduct the investigation and any meetings,
43 hearings or other proceedings relating to the violation or alleged
44 violation;



1 (d) Any mitigating factors, including, without limitation, any
2 self-reporting, prompt correction of the violation or alleged
3 violation, any attempts to rectify the violation or alleged violation
4 before any ethics complaint is filed and any cooperation by the
5 public officer or employee in resolving the ethics complaint;

6 (e) Any restitution or reimbursement paid to parties affected by
7 the violation or alleged violation;

8 (f) The extent of any financial gain resulting from the violation
9 or alleged violation; and

10 (g) Any other matter justice may require.

11 2. The factors set forth in this section are not exclusive or
12 exhaustive, and the Commission or the review panel, as appropriate,
13 may consider other factors in the disposition of the matter if they
14 bear a reasonable relationship to the determination of the severity of
15 the violation or alleged violation.

16 3. In applying the factors set forth in this section, the
17 Commission or the review panel, as appropriate, shall :

18 (a) *To the extent practicable based on the given set of facts and*
19 *circumstances*, treat comparable situations in a comparable manner
20 ; and ~~[shall ensure]~~

21 (b) *Ensure* that the disposition of the matter bears a reasonable
22 relationship to the severity of the violation or alleged violation.

23 **Sec. 60.** NRS 281A.780 is hereby amended to read as follows:

24 281A.780 1. In proceedings concerning an ethics complaint,
25 the Commission or the review panel, as appropriate, may issue a
26 letter of caution or instruction to the public officer or employee who
27 is the subject of the ethics complaint to caution or instruct the public
28 officer or employee regarding the propriety of his or her conduct
29 under the statutory ethical standards. ~~[set forth in this chapter.]~~

30 2. If the Commission or the review panel issues a letter of
31 caution or instruction to the public officer or employee, the letter:

32 (a) Is confidential and is not a public record pursuant to chapter
33 239 of NRS.

34 (b) May be considered in deciding the appropriate action to be
35 taken on any subsequent ethics complaint involving the public
36 officer or employee, unless the letter is not relevant to the issues
37 presented by the subsequent ethics complaint.

38 **Sec. 61.** NRS 281A.785 is hereby amended to read as follows:

39 281A.785 1. ~~[Except as otherwise provided in this section,~~
40 ~~in]~~ *In* proceedings concerning an ethics complaint, the Commission,
41 based on a finding that a violation of this chapter has been proven,
42 or the review panel, as part of the terms and conditions of a deferral
43 agreement, may, in addition to any other ~~[penalty]~~ *penalties*
44 provided by law and in accordance with the provisions of
45 NRS 281A.775:



1 (a) Require the public officer or employee who is the subject of
2 the ethics complaint to:

3 (1) Comply in all respects with the provisions of this chapter
4 for a specified period without being the subject of another ethics
5 complaint arising from an alleged violation of this chapter by the
6 public officer or employee which occurs during the specified period
7 and for which the review panel determines that there is just and
8 sufficient cause for the Commission to render *a decision and issue*
9 an opinion in the matter.

10 (2) Attend and complete training.

11 (3) Follow a remedial course of action.

12 (4) Issue a public apology.

13 (5) Comply with conditions or limitations on future conduct.

14 (b) Publicly ~~[admonish,]~~ reprimand ~~[or censure]~~ the public
15 officer or employee.

16 (c) Take any combination of such actions or any other
17 reasonable action that the Commission or the review panel, as
18 appropriate, determines will remedy the violation or alleged
19 violation or deter similar violations or conduct.

20 2. ~~In carrying out the provisions of subsection 1, the~~
21 ~~Commission, based on a finding that a violation of this chapter has~~
22 ~~been proven, or the review panel, as part of the terms and conditions~~
23 ~~of a deferral agreement, may publicly:~~

24 ~~—(a) Admonish a public officer or employee if it is determined~~
25 ~~that the public officer or employee has violated any provision of this~~
26 ~~chapter, but the violation is not willful, or if such an admonishment~~
27 ~~is imposed as part of the terms and conditions of a deferral~~
28 ~~agreement. An admonishment is a written expression of disapproval~~
29 ~~of the conduct of the public officer or employee.~~

30 ~~—(b) Reprimand a public officer or employee if it is determined~~
31 ~~that the public officer or employee has willfully violated any~~
32 ~~provision of this chapter, but there is no evidence that the willful~~
33 ~~violation involved bad faith, malicious intent or knowing or reckless~~
34 ~~disregard of the law, or if such a reprimand is imposed as part of the~~
35 ~~terms and conditions of a deferral agreement. A reprimand is a~~
36 ~~severe written reproof for the conduct of the public officer or~~
37 ~~employee.~~

38 ~~—(c) Censure a public officer or employee if it is determined that~~
39 ~~the public officer or employee has willfully violated any provision~~
40 ~~of this chapter and there is evidence that the willful violation~~
41 ~~involved bad faith, malicious intent or knowing or reckless~~
42 ~~disregard of the law or there are no substantial mitigating factors~~
43 ~~pursuant to NRS 281A.775 for the willful violation, or if such a~~
44 ~~censure is imposed as part of the terms and conditions of a deferral~~



1 ~~agreement. A censure is a formal written condemnation of the~~
2 ~~conduct of the public officer or employee.~~

3 ~~—3.]~~ Any action taken by the Commission pursuant to this
4 section is a final decision for the purposes of judicial review
5 pursuant to NRS 233B.130. Any action taken by the review panel
6 pursuant to this chapter, including, without limitation, any action
7 relating to a deferral agreement, is not a final decision for the
8 purposes of judicial review pursuant to NRS 233B.130.

9 **Sec. 62.** NRS 281A.790 is hereby amended to read as follows:

10 281A.790 1. In addition to any other penalties provided by
11 law and in accordance with the provisions of NRS 281A.775, the
12 Commission may impose on a ~~[public officer or employee]~~ *current*
13 or former public officer or employee civil penalties:

14 (a) Not to exceed \$5,000 for a first ~~[willful]~~ violation of this
15 chapter;

16 (b) Not to exceed \$10,000 for a separate act or event that
17 constitutes a second ~~[willful]~~ violation of this chapter; and

18 (c) Not to exceed \$25,000 for a separate act or event that
19 constitutes a third ~~[willful]~~ violation *or any additional violation* of
20 this chapter.

21 2. ~~[H]~~ *For the purposes of this section, in determining*
22 *whether a current or former public officer or employee has*
23 *committed one or more violations of this chapter, each separate*
24 *act or event that constitutes a violation of this chapter must be*
25 *treated as a separate violation that is cumulative to all other*
26 *violations by that person, whenever committed, without regard to*
27 *the sequence of the violations or whether the violations are*
28 *established in the same proceedings concerning the same ethics*
29 *complaint or in separate proceedings concerning separate ethics*
30 *complaints.*

31 3. *Except as otherwise provided in NRS 281A.280, in addition*
32 *to any other penalties provided by law, if a current or former*
33 *public officer or employee or any other person prevents, interferes*
34 *with or attempts to prevent or interfere with any investigation or*
35 *proceedings pursuant to this chapter or the discovery of a violation*
36 *of this chapter, such an act shall be deemed to be a violation of this*
37 *chapter, and the Commission may, ~~upon its own motion or upon~~*
38 *~~the motion of the current or former public officer or employee who~~*
39 *~~is the subject of the investigation or proceedings:] after providing~~*
40 *the person committing such an act with a written notice of the*
41 *charges and an opportunity for a hearing in accordance with the*
42 *regulations of the Commission:*

43 (a) Impose on the person committing such an act a civil penalty
44 not to exceed \$5,000 ~~;~~ *, unless a greater civil penalty is*
45 *authorized by subsection 1;* and



1 (b) If appropriate under the facts and circumstances, assess
2 against the person committing such an act an amount equal to the
3 amount of attorney's fees and costs actually and reasonably incurred
4 *as a result of the act* by the *Commission or any* current or former
5 public officer or employee ~~[as a result of]~~ *who is a subject of the*
6 *investigation or proceedings and who is harmed or prejudiced by*
7 the act.

8 ~~[3.]~~ 4. If the Commission finds that a violation of ~~[a provision~~
9 ~~of]~~ this chapter by a ~~[public officer or employee]~~ *current* or former
10 public officer or employee has resulted in the realization of a
11 financial benefit by the ~~[current or former]~~ public officer or
12 employee or another person, the Commission may, in addition to
13 any other penalties provided by law, require the ~~[current or former]~~
14 public officer or employee to pay a civil penalty of not more than
15 twice the amount so realized.

16 ~~[4.]~~ 5. In addition to any other penalties provided by law, if ~~[a~~
17 ~~proceeding results in]~~ *the Commission issues* an opinion *in which it*
18 *finds* that:

19 (a) ~~[One or more willful violations of this chapter have been~~
20 ~~committed by a]~~ A State Legislator removable from office only
21 through expulsion by the State Legislator's own House pursuant to
22 Section 6 of Article 4 of the Nevada Constitution ~~[.]~~ *has committed*
23 *one or more violations of this chapter and the Commission has*
24 *imposed civil penalties of \$5,000 or more for at least one of those*
25 *violations*, the Commission shall:

26 (1) If the State Legislator is a member of the Senate, submit
27 the opinion to the Majority Leader of the Senate or, if the Majority
28 Leader of the Senate is the subject of the opinion or the person who
29 requested the opinion, to the President Pro Tempore of the Senate;
30 or

31 (2) If the State Legislator is a member of the Assembly,
32 submit the opinion to the Speaker of the Assembly or, if the Speaker
33 of the Assembly is the subject of the opinion or the person who
34 requested the opinion, to the Speaker Pro Tempore of the Assembly.

35 (b) ~~[One or more willful violations of this chapter have been~~
36 ~~committed by a]~~ A state officer removable from office only through
37 impeachment pursuant to Article 7 of the Nevada Constitution ~~[.]~~
38 *has committed one or more violations of this chapter and the*
39 *Commission has imposed civil penalties of \$5,000 or more for at*
40 *least one of those violations*, the Commission shall submit the
41 opinion to the Speaker of the Assembly and the Majority Leader of
42 the Senate or, if the Speaker of the Assembly or the Majority Leader
43 of the Senate is the person who requested the opinion, to the
44 Speaker Pro Tempore of the Assembly or the President Pro
45 Tempore of the Senate, as appropriate.



(c) ~~One or more willful violations of this chapter have been committed by a~~ A public officer , other than a public officer described in paragraphs (a) and (b), *has committed one or more violations of this chapter*, the ~~willful~~ violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) ~~May~~ *Except as otherwise provided in subparagraph (2), may* file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed ~~fewer than three willful violations~~ *one or more violations* of this chapter ~~and the Commission has imposed civil penalties of \$5,000 or more for at least one of those violations.~~

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed ~~three~~ *two* or more ~~willful~~ violations of this chapter ~~and the Commission has imposed civil penalties of \$10,000 or more for at least one of those violations.~~

↳ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

~~5.~~ 6. Notwithstanding any other provision of this chapter, any act or failure to act by a ~~public officer or employee~~ *current* or former public officer or employee relating to this chapter is not a ~~willful~~ violation of this chapter if the public officer or employee establishes by sufficient evidence that:

(a) The public officer or employee relied in good faith upon the advice of the legal counsel *employed or* retained by his or her public body, agency or employer; and

(b) The advice of the legal counsel was:

(1) Provided to the public officer or employee before the public officer or employee acted or failed to act; and

(2) Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee would not be contrary to the provisions of this chapter as interpreted ~~by~~ *in the published opinions of* the Commission.

~~6.~~ 7. In addition to any other penalties provided by law, if a public employee commits a ~~willful~~ violation of this chapter or fails to complete a period of compliance imposed by the Commission pursuant to NRS 281A.785 or by the review panel as part of the terms and conditions of a deferral agreement ~~, the public employee is subject to disciplinary proceedings by~~ :



1 (a) *The Commission shall provide that information to* the
2 *public body, agency or* employer of the public employee ; and
3 ~~[must be referred for]~~

4 (b) *The public body, agency or employer may pursue or take*
5 *appropriate disciplinary* action *against the public employee* in
6 accordance ~~[to]~~ *with* the applicable provisions governing ~~[the]~~ *his or*
7 *her public* employment. ~~[of the public employee.]~~

8 ~~— 7.]~~ 8. The provisions of this chapter do not abrogate or
9 decrease the effect of the provisions of the Nevada Revised Statutes
10 which define crimes or prescribe punishments with respect to the
11 conduct of public officers or employees. If the Commission finds
12 that a *current or former* public officer or employee has committed a
13 ~~[willful]~~ violation of this chapter which it believes may also
14 constitute a criminal offense, the Commission shall refer the matter
15 to the Attorney General or the district attorney, as appropriate, for a
16 determination of whether a crime has been committed that warrants
17 prosecution.

18 ~~[8.]~~ 9. The imposition of a civil penalty pursuant to ~~[subsection~~
19 ~~1, 2 or 3]~~ *any provision of subsections 1 to 4, inclusive,* is a final
20 decision for the purposes of judicial review pursuant to
21 NRS 233B.130.

22 ~~[9.]~~ 10. A finding by the Commission that a *current or former*
23 public officer or employee *or any other person* has violated any
24 provision of this chapter must be supported by a preponderance of
25 the evidence unless a greater burden is otherwise prescribed by law.

26 **Sec. 63.** (Deleted by amendment.)

27 **Sec. 64.** (Deleted by amendment.)

28 **Sec. 65.** The provisions of NRS 354.599 do not apply to any
29 additional expenses of a local government that are related to the
30 provisions of this act.

31 **Sec. 66.** 1. Except as otherwise provided in this section, the
32 Commission on Ethics:

33 (a) Shall apply the amendatory provisions of this act which
34 govern the procedures applicable to administrative proceedings
35 arising under chapter 281A of NRS to any such proceedings that are
36 within the jurisdiction of the Commission and are commenced on or
37 after July 1, 2019, whether or not the conduct at issue in such
38 proceedings occurred before July 1, 2019.

39 (b) May apply the amendatory provisions of this act which
40 govern the procedures applicable to administrative proceedings
41 arising under chapter 281A of NRS to any such proceedings that
42 were commenced before July 1, 2019, and are still within the
43 jurisdiction of the Commission and pending before the Commission
44 on July 1, 2019, unless the Commission determines that such an
45 application would be impracticable, unreasonable or



1 unconstitutional under the circumstances, in which case the
2 Commission shall apply the procedures in effect before July 1,
3 2019.

4 2. The amendatory provisions of sections 11, 18, 32 to 35,
5 inclusive, 37 and 38 of this act do not apply to any conduct
6 occurring before July 1, 2019.

7 **Sec. 67.** This act becomes effective on July 1, 2019.

③

