



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

NOTICE OF PUBLIC MEETING

NAME OF ORGANIZATION: NEVADA COMMISSION ON ETHICS
DATE & TIME OF MEETING: Wednesday, June 15, 2016 at 1:00 p.m.
PLACE OF MEETING: This meeting will be held at the following location:

**Grant Sawyer State Building
Room 4412
555 E. Washington Avenue
Las Vegas, NV 89101**

and via video-conference to:

**Nevada Legislative Building
Room 3143
401 S. Carson Street
Carson City, NV 89701**

AGENDA

NOTES:

- Two or more agenda items may be combined for consideration.
- At any time, an agenda item may be taken out of order, removed, or delayed.
- Public comment will be accepted at the beginning of the open session and again before the conclusion of the open session of the meeting. Comment and/or testimony by the public may be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made as public comment. Members of the public may also submit written public comment to the Commission at NCOE@ethics.nv.gov.

	1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.
	2. Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
For Possible Action	3. Approval of Minutes of the April 7, 2016, April 14, 2016 and April 20, 2016 Commission Meetings.
For Possible Action	4. Discussion and possible approval of final determination including Proposed Stipulation submitted under the standards set forth in NRS 281A.465, concerning Third-Party Request for Opinion No. 14-71C regarding Jim Pitts, Sheriff, Elko County.

For Possible Action	5. Presentation of and discussion on Agency Strategic Plan prepared by the Executive Director.
For Possible Action	6. Report by Executive Director on agency status and operations, including: <ul style="list-style-type: none"> • Proposed legislative and regulatory considerations, procedures and deadlines • Agency Budget Request for the 2017-2018 Biennium • Commissioner Appointments • Education and outreach by the Commission • Upcoming Commission meetings • Commission technology update, including, new computer equipment, office technology upgrades and the Commission's Website
	7. Commissioner Comments on matters including, without limitation, identification of future agenda items, upcoming meeting dates and meeting procedures. No action will be taken under this agenda item.
	8. Public Comment. Comment and/or testimony by any member of the public may be limited to three (3) minutes. No action will be taken under this agenda item.
	9. Adjournment.

***A meeting or hearing held by the Commission pursuant to NRS 281A.440 to receive information or evidence regarding the conduct of a public officer or employee, and deliberations of the Commission regarding such a public officer or employee, are exempt from the provisions of NRS Chapter 241, The Open Meeting Law. As a result, these agenda items, or any portion of them, may be heard in closed session.**

NOTES:

- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, Nevada 89703; via email at ncoe@ethics.nv.gov or call 775-687-5469 as far in advance as possible.
- ❖ To request an advance copy of the supporting materials for any open session of this meeting, contact Executive Director Yvonne M. Nevarez-Goodson, Esq. at ncoe@ethics.nv.gov or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3rd working day before the meeting at the Commission's office, 704 W. Nye Lane, Ste. 204, Carson City, Nevada, or on the Commission's website at www.ethics.nv.gov. A copy also will be available at the meeting location on the meeting day.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020 before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City
- Nevada Commission on Ethics' website: <http://ethics.nv.gov>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

AGENDA ITEM NO. 3

AGENDA ITEM NO. 3



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

April 7, 2016

The Commission on Ethics held a public meeting on
Thursday, April 7, 2016, at 2:00 p.m.
at the following location:

**Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts are available for public inspection at the Commission's office located in Carson City.

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chair Cheryl A. Lau, Esq. called the meeting to order at 2:00 p.m. via telephone. Also present via telephone were Commissioners John C. Carpenter, Magdalena Groover, Barbara J. Gruenewald, Esq., James M. Shaw and Dan H. Stewart. Present for Commission Staff in Carson City were Executive Director, Yvonne M. Nevarez-Goodson, Esq., Commission Counsel, Tracy L. Chase, Esq., Senior Legal Researcher Darci Hayden, PP and Executive Assistant Valerie M. Carter, CPM.

Vice-Chair Keith A. Weaver, Esq. was excused from the meeting.

The pledge of allegiance was conducted.

2. Public Comment.

Commission Counsel Tracy L. Chase, Esq. stated there was a member of the public present in Carson City, however, she did not wish to make public comment.

3. Consideration, discussion and approval of non-budget bill draft request concepts pertaining to NRS Chapter 281A (The Ethics in Government Law) to be submitted to the Governor's Office for the 2017 Legislative Session, and direction to the Executive Director to submit the concepts to the Governor's office.

Chair Cheryl A. Lau, Esq. invited the Executive Director to present the recommended concepts regarding NRS Chapter 281A to the Commission and then allow for questions and comments.

Executive Director Yvonne M. Nevarez-Goodson, Esq. gave a summary of the BDR process for the 2017 Legislative session. Ms. Nevarez-Goodson explained that the Governor has asked agencies to submit “concepts” for consideration rather than detailed draft language, and the Governor’s office will decide whether the concepts will be supported. She explained that if the Governor supports the concepts, the Commission will have sufficient time to convene the BDR subcommittee to work out the specific details and language.

Executive Director Yvonne M. Nevarez-Goodson, Esq. presented her Memo and draft mock-up of NRS 281A to the Commission, and discussed each of the fourteen topics she was recommending for consideration by the Commission. The Memo and draft mock-up of NRS 281A are attached hereto as Exhibit A.

A lengthy discussion ensued regarding the recommended changes. Several Commissioner’s requested various clarifications and expressed concerns regarding the nature of the concepts. In particular, the Commission expressed concern about the effect of the proposed concepts on the Commission’s authority to resolve Requests for Opinion and the broadening the Commission’s jurisdiction. The Executive Director assured the Commission that the intention of the proposed concepts would continue to place all final authority to resolve such matters with the Commission, and other proposed concepts were intended to promote efficiencies in the Commission’s processing of matters.

Commissioners requested the Executive Director to provide additional information before they vote on whether to approve the proposed concepts.

A discussion ensued regarding scheduling an addition telephonic meeting to further discuss and vote on the proposed BDR concepts. Commissioners and staff agreed upon April 14, 2016 at 10:00 a.m.

4. Open Session for Public Comment.

No public comment.

5. Adjournment.

Commissioner Carpenter moved to adjourn the meeting, Commissioner Shaw seconded the Motion. The motion carried unanimously and the meeting was adjourned at 3:02 p.m.

Minutes prepared by:

Valerie Carter, CPM
Executive Assistant

Minutes approved June 15, 2016:

Cheryl A. Lau, Esq.
Chair

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Exhibit 1



**STATE OF NEVADA
COMMISSION ON ETHICS**

COMMISSION MEMORANDUM

DATE: April 7, 2016
TO: Commissioners
FROM: Yvonne Nevarez-Goodson, Esq., Executive Director
RE: 2017 Legislative Bill Draft Request Concepts to Governor

Dear Commissioners:

Under NRS 281A.240, the Commission's Executive Director is required to "recommend to the Commission any legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government." In consideration of this statutory mandate and in consultation with the Commission Counsel, please consider the enclosed recommendations for proposed concepts to be submitted to the Governor for consideration during the 2017 Legislative Session.

Based on significant review of the Commission's mission for outreach and education of the Ethics in Government Law to Nevada's public officers and employees, balanced against the Commission's caseload and its administrative and investigative processes and responsibilities, the following recommendations are intended to promote the Commission's mission, significantly streamline caseload processes, and increase staff and Commission efficiencies. Moreover, these proposals are also expected to result in taxpayer savings through decreased budgetary requirements.

The Commission does not have independent statutory authority to initiate its own bill draft request before the Legislature. However, given its unique status in State Government, the Commission has the authority to seek sponsorship for its legislative measures from either the Governor or a Legislator (or Legislative Committee). In the most recent Legislative Session of 2015, the Commission obtained the Governor's sponsorship of AB 60. In prior years, the Commission acquired various legislative sponsorships. Based on timing considerations, the Commission's first opportunity to seek sponsorship comes from the Governor's Office.

The Governor's Office has established new protocols and deadlines in preparation for the 2017 Legislative Session, which include, among other requirements, deadlines to submit bill draft request "concepts" for the Governor's consideration.

Governor's Deadlines:

April 15, 2016:

Deadline to submit "Non-budget Bill Draft Request Concepts." Under this streamlined approach, the Governor's Office will review all proposed agency concepts and decide which concepts will receive gubernatorial sponsorship. Approval of concepts before specific language or details will save agency time and consideration.

May 16, 2016

The Governor's Office will issue decisions regarding sponsorship of agency proposals. At that time, we will know whether we will have the Governor's sponsorship for the Commission's proposed Legislation or if we will need to seek legislative sponsorship.

Summary of Executive Director's BDR Concept Recommendations:

- 1) Eliminate Investigatory Panels.
- 2) Authorize Commission to resolve complaints less formally through administrative action of Executive Director and ratification by Commission: Letters of Caution; Deferred Discipline with Education; Corrective Action; Censure/Reprimand.
- 3) Statutorily prohibit public officers or employees from abusing authority or power.
- 4) Streamlining Advisory Opinions: Advice Only; Not binding or subject to Judicial Review.
- 5) Establish Independent Authority of Commission Counsel (with consent of Chair) to Bring/Defend Legal Action.
- 6) Make Independent Contractors of Government Agencies Subject to Ethics Law.
- 7) Establish Statutory Authority for Commission to Introduce BDR.
- 8) Establish uniform personal interests throughout each subsection of NRS 281A.400 to include pecuniary interests and commitments in a private capacity.
- 9) Statutorily prohibit public officers and employees from holding inconsistent public offices or employment.
- 10) Statutorily prohibit "boss-of-boss" employment circumstances.
- 11) Streamline Contracting prohibitions.
- 12) Clarify Open Meeting Law Exemption.
- 13) Clarify Filing Requirements for Acknowledgment Forms.
- 14) Clarify scope of Cooling-Off Prohibitions: inclusion of independent contracts; tighten discretion of Commission to grant waivers; clarify scope of work prohibited in business or industry; codify NRS 281A.410 into 281A.550.

If you have any questions regarding the proposed changes, please contact me.

Sincerely,

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

[Unofficial Codification of Assembly Bill 60,
78th Session of the Nevada State Legislature, Effective May 27, 2015.]
- With Proposed concepts for 2017 Session

CHAPTER 281A - ETHICS IN GOVERNMENT

GENERAL PROVISIONS

NRS 281A.010	Short title.
NRS 281A.020	Legislative findings and declarations.
NRS 281A.030	Definitions.
NRS 281A.035	“Agency” defined.
NRS 281A.040	“Business entity” defined.
NRS 281A.050	“Candidate” defined.
NRS 281A.060	“Commission” defined.
NRS 281A.065	“Commitment in a private capacity” defined.
NRS 281A.070	“Compensation” defined.
NRS 281A.080	“Decision” defined.
NRS 281A.085	“Domestic partner” defined.
NRS 281A.086	“Domestic partnership” defined.
NRS 281A.090	“Executive Director” defined.
NRS 281A.100	“Household” defined.
NRS 281A.105	“Intentionally” defined.
NRS 281A.108	“Investigatory panel” or “panel” defined.
NRS 281A.115	“Knowingly” defined.
NRS 281A.119	“Local agency” defined.
NRS 281A.125	“Member of a local legislative body” defined.
NRS 281A.135	“Opinion” defined.
NRS 281A.139	“Pecuniary interest” defined.
NRS 281A.145	“Political subdivision” defined.
NRS 281A.150	“Public employee” defined.
NRS 281A.160	“Public officer” defined.
NRS 281A.163	“State agency” defined.
NRS 281A.165	“State Legislator” or “Legislator” defined.
NRS 281A.170	“Willful violation” defined.
NRS 281A.180	Terms “public officer” and “public employee” include former public officer or employee; exceptions.
NRS 281A.182	Persons serving in certain positions designated as public officers; applicability.
NRS 281A.185	Abrogation of common-law privileges and immunities; exceptions.
NRS 281A.190	Computation of time.

COMMISSION ON ETHICS

NRS 281A.200	Creation; appointment, terms and qualifications of members; prohibited activities by members; vacancies.
NRS 281A.210	Chair; meetings; compensation; facilities.
NRS 281A.220	Investigatory panels: Appointment; members; review and final determination of just and sufficient cause; disqualification of members from participation in further proceedings in matter.
NRS 281A.230	Executive Director: Appointment; qualifications; classification; prohibited activities and other employment.
NRS 281A.240	Executive Director: Duties; employment of staff; designation of qualified person to Perform duties when Executive Director unable to act on matter.

- [NRS 281A.250](#) Commission Counsel: Appointment; qualifications; classification; prohibited activities and other employment.
- [NRS 281A.260](#) Commission Counsel: Duties; legal advice; appointment or employment of other counsel by Commission under certain circumstances.
- [NRS 281A.270](#) Assessment for administrative costs: Determination; payment by certain cities and counties; use of proceeds; collection.
- [NRS 281A.275](#) Authority to apply for and accept grants, contributions, services and money.
- [NRS 281A.280](#) Jurisdiction; statute of limitations.
- [NRS 281A.290](#) Duties of Commission; inclusion of annotations of opinions of Commission in Nevada Revised Statutes.
- [NRS 281A.300](#) Oaths; written requests and subpoenas for attendance and production of books and papers.

SPECIALIZED OR LOCAL ETHICS COMMITTEE

- [NRS 281A.350](#) Establishment; functions; limitations on powers; confidentiality.

CODE OF ETHICAL STANDARDS

- [NRS 281A.400](#) General requirements; exceptions.
- [NRS 281A.410](#) Limitations on representing or counseling private persons before public agencies; disclosure required by certain public officers.
- [NRS 281A.420](#) Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions.
- [NRS 281A.430](#) Contracts in which public officer or employee has interest prohibited; exceptions.

PROCEEDINGS AND OPINIONS

- [NRS 281A.440](#) Rendering of opinions by Commission: Requests; investigations; determination of just and sufficient cause; notice and hearings; confidentiality.
- [NRS 281A.450](#) Legal defense of public officer or employee in proceedings relating to opinion requests.
- [NRS 281A.460](#) Opinions of Commission may include guidance to public officer or employee; restrictions.
- [NRS 281A.465](#) Standards for resolving opinion requests by stipulations, agreed settlements or consent orders.
- [NRS 281A.470](#) Specialized or local ethics committee: Establishment; functions; confidentiality.
[Replaced in revision by [NRS 281A.350](#).]
- [NRS 281A.475](#) Standards for determining whether violation is willful violation and amount of civil penalty imposed.
- [NRS 281A.480](#) Commission authorized to impose civil penalties; duties of Commission upon finding willful violation; circumstances in which violation not deemed willful; effect of chapter upon criminal law; judicial review; burden of proof.

ADDITIONAL REQUIREMENTS, ETHICAL STANDARDS, REMEDIES AND PENALTIES

- [NRS 281A.500](#) Notice and acknowledgment of statutory ethical standards: Distribution of information regarding standards; duty to file acknowledgement; contents; form; retention; penalty for willful refusal to file.
- [NRS 281A.510](#) Public officer or employee prohibited from accepting or receiving honorarium; penalty.
- [NRS 281A.520](#) Public officer or employee prohibited from requesting or otherwise causing governmental entity to incur expense or make expenditure to support or oppose ballot question or candidate in certain circumstances.
- [NRS 281A.530](#) Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions. [Repealed.]

NRS 281A.540 Governmental grant, contract or lease and certain actions taken in violation of chapter are voidable; prohibited contract is void; recovery of benefit received as result of violation.

NRS 281A.550 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission.

GENERAL PROVISIONS

NRS 281A.010 Short title. This chapter may be cited as the Nevada Ethics in Government Law.

(Added to NRS by [1977, 1103](#); A [1995, 2443](#); [2003, 2662](#), [3019](#))—(Substituted in revision for NRS 281.411)

NRS 281A.020 Legislative findings and declarations.

1. It is hereby declared to be the public policy of this State that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself or herself to avoid:

(i) conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves; and

(ii) misusing or abusing the public officer or employee's position in government in a manner that degrades the public trust.

2. The Legislature finds and declares that:

(a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests **and abuse of official authority.**

(b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.

(c) In interpreting and applying the provisions of this chapter that are applicable to State Legislators, the Commission must give appropriate weight and proper deference to the public policy of this State under which State Legislators serve as "citizen Legislators" who have other occupations and business interests, who are expected to have particular philosophies and perspectives that are necessarily influenced by the life experiences of the Legislator, including, without limitation, professional, family and business experiences, and who are expected to contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted.

(d) The provisions of this chapter do not, under any circumstances, allow the Commission to exercise jurisdiction or authority over or inquire into, intrude upon or interfere with the functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or [NRS 41.071](#).

(Added to NRS by [1977, 1103](#); A [1999, 2730](#); [2009, 1046](#))—(Substituted in revision for NRS 281.421) **??NRS 281A.020- clarify that the statement of policy in this section is not purely guidance and that conduct not in conformity with the policy may be considered a violation of this chapter.**

NRS 281A.030 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 281A.035](#) to [281A.170](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [1977, 1103](#); A [1985, 1216, 2122](#); [1987, 385](#); [1991, 1594](#); [1997, 256](#); [1999, 2731](#); [2003, 926, 3385](#); [2003, 20th Special Session, 263](#); [2005, 2556](#); [2009, 1047](#); [2013, 3765](#))—(Substituted in revision for NRS 281.431)

NRS 281A.035 “Agency” defined. “Agency” means any state agency or local agency. (Added to NRS by [2013, 3763](#))

NRS 281A.040 “Business entity” defined. “Business entity” means an organization or enterprise operated for economic gain, including, without limitation, a proprietorship, partnership, firm, business, company, trust, joint venture, syndicate, corporation or association.

(Added to NRS by [1985, 2120](#); A [2009, 1047](#))—(Substituted in revision for NRS 281.432)

NRS 281A.050 “Candidate” defined. “Candidate” means any person: 1. Who files a declaration of candidacy;

1. Who files an acceptance of candidacy; or
2. Whose name appears on an official ballot at any election.

(Added to NRS by [1991, 1591](#); A [1993, 265](#); [2001, 1955](#))—(Substituted NRS 281.4323)

NRS 281A.060 “Commission” defined. “Commission” means the Commission on Ethics. (Added to NRS by [1985, 2120](#))—(Substituted in revision for NRS 281.4325)

NRS 281A.065 “Commitment in a private capacity” defined. “Commitment in a private capacity,” with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive. (Added to NRS by [2013, 3763](#))

NRS 281A.070 “Compensation” defined. “Compensation” means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered, personally or by another.

(Added to NRS by [1991, 1591](#))—(Substituted in revision for NRS 281.4327)

NRS 281A.080 “Decision” defined.

1. The making of a “decision” is the exercise of governmental power to adopt laws, regulations or standards, render quasi-judicial decisions, establish executive policy or determine questions involving substantial discretion.

2. The term does not include:

- (a) The functions of the judiciary.
- (b) The functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or [NRS 41.071](#).

(Added to NRS by [1985, 2121](#); A [2009, 1047](#))—(Substituted in revision for NRS 281.433)

NRS 281A.085 “Domestic partner” defined. “Domestic partner” means a person in a domestic partnership.
(Added to NRS by [2013, 3764](#))

NRS 281A.086 “Domestic partnership” defined. “Domestic partnership” means:
1. A domestic partnership as defined in [NRS 122A.040](#); or
2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in [NRS 122A.040](#), regardless of whether it bears the name of a domestic partnership or is registered in this State.
(Added to NRS by [2013, 3764](#))

NRS 281A.090 “Executive Director” defined. “Executive Director” means the Executive Director appointed by the Commission pursuant to [NRS 281A.230](#).
(Added to NRS by [1999, 2728](#))—(Substituted in revision for NRS 281.4333)

NRS 281A.100 “Household” defined. “Household” means an association of persons who live in the same home or dwelling and who are related by blood, adoption, marriage or domestic partnership.
(Added to NRS by [1985, 2121](#); A [2013, 3765](#))—(Substituted in revision for NRS 281.434)

NRS 281A.105 “Intentionally” defined. “Intentionally” means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.
(Added to NRS by [2009, 1043](#))

~~**NRS 281A.108 “Investigatory panel” or “panel” defined.** “Investigatory panel” or “panel” means an investigatory panel appointed by the Commission pursuant to [NRS 281A.220](#).
(Added to NRS by [1999, 2728](#); A [2009, 1047](#))—(Substituted in revision for NRS 281A.140)~~

NRS 281A.115 “Knowingly” defined. “Knowingly” imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.
(Added to NRS by [2009, 1043](#))

NRS 281A.119 “Local agency” defined. “Local agency” means any local legislative body, agency, bureau, board, commission, department, division, office or other unit of any county, city or other political subdivision.
(Added to NRS by [2013, 3764](#))

NRS 281A.125 “Member of a local legislative body” defined. “Member of a local legislative body” means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy.
(Added to NRS by [2009, 1043](#); A [2013, 3765](#))

NRS 281A.135 “Opinion” defined. “Opinion” includes, without limitation, the disposition of a request for an opinion by **written opinion, order,** stipulation, agreed settlement, consent order or default as authorized by [NRS 233B.121](#).
(Added to NRS by [2009, 1043](#))

NRS 281A.139 “Pecuniary interest” defined. “Pecuniary interest” means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:

1. Anything of economic value; and
2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.

(Added to NRS by [2013, 3764](#))

NRS 281A.145 “Political subdivision” defined. “Political subdivision” means any county, city or other local government as defined in [NRS 354.474](#).

(Added to NRS by [2009, 1043](#))

NRS 281A.150 “Public employee” defined. “Public employee” means any person who performs public duties under the direction and control of a public officer for compensation paid by the State or any county, city or other political subdivision.

(Added to NRS by [1985, 2121](#); A [2009, 1047](#))—(Substituted in revision for NRS 281.436)

NRS 281A.160 “Public officer” defined.

1. “Public officer” means a person who is:
 - (a) Elected or appointed to a position which:
 - (1) Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and
 - (2) Involves the exercise of a public power, trust or duty; or
 - (b) Designated as a public officer for the purposes of this chapter pursuant to [NRS 281A.182](#).
2. As used in this section, “the exercise of a public power, trust or duty” means:
 - (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;
 - (b) The expenditure of public money; and
 - (c) The administration of laws and rules of the State or any county, city or other political subdivision.
3. “Public officer” does not include:
 - (a) Any justice, judge or other officer of the court system;
 - (b) Any member of a board, commission or other body whose function is advisory;
 - (c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or
 - (d) A county health officer appointed pursuant to [NRS 439.290](#).
4. “Public office” does not include an office held by:
 - (a) Any justice, judge or other officer of the court system;
 - (b) Any member of a board, commission or other body whose function is advisory;
 - (c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or
 - (d) A county health officer appointed pursuant to [NRS 439.290](#).

(Thoughts about contract positions – Attorneys for Boards, Teachers, Principals, Independent contractors, etc. – people paid with public funds?)

(Added to NRS by [1985, 2121](#); A [1987, 2093](#); [1999, 883](#); [2001, 658](#), [1955, 2288](#); [2003, 116](#); [2005, 2302](#); [2009, 1047](#); [2013, 3765](#))—(Substituted in revision for NRS 281.4365)

NRS 281A.163 “State agency” defined. “State agency” means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.

(Added to NRS by [2013, 3764](#))

NRS 281A.165 “State Legislator” or “Legislator” defined. “State Legislator” or “Legislator” means a member of the Senate or Assembly of the State of Nevada.
(Added to NRS by [2009, 1043](#))

NRS 281A.170 “Willful violation” defined. “Willful violation” means a violation where the public officer or employee:

1. Acted intentionally and knowingly; or
2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter → unless the Commission determines, after applying the factors set forth in [NRS 281A.475](#), that the public officer’s or employee’s act or failure to act has not resulted in a sanctionable violation of this chapter.

(Added to NRS by [1999, 2728](#); A [2009, 1048](#); [2013, 3766](#); 2015, ____). (Substituted in revision for NRS 281.4375) Effective May 27, 2015

NRS 281A.180 Terms “public officer” and “public employee” include former public officer or employee; exceptions. In applying the provisions of this chapter to an alleged violation by a former public officer or employee, the use of the term “public officer” or “public employee” in this chapter must be interpreted to include the former public officer or employee, unless the commencement of proceedings against the former public officer or employee concerning the alleged violation is time-barred by the statute of limitations pursuant to [NRS 281A.280](#).

(Added to NRS by [2009, 1044](#))

NRS 281A.182 Persons serving in certain positions designated as public officers; applicability.

1. Any person who serves in one of the following positions is designated as a public officer for the purposes of this chapter:

(a) A president of a university, state college or community college within the Nevada System of Higher Education.

(b) A superintendent of a county school district.

(c) A county manager or a city manager.

2. This section applies to such a person regardless of whether the person serves in the position:

(a) By appointment, contract or employment;

(b) With or without compensation; or

(c) On a temporary, interim or acting basis. (Added to NRS by [2013, 3764](#))

NRS 281A.185 Abrogation of common-law privileges and immunities; exceptions.

1. In any proceeding commenced against a public officer or employee pursuant to the authority of this chapter, including any judicial review thereof, the public officer or employee who is the subject of the proceeding may not assert, claim or raise any common-law privilege or immunity as an affirmative defense, for testimonial or evidentiary purposes or for any other purpose.

2. The provisions of this chapter are intended to abrogate common-law privileges and immunities only in a proceeding commenced pursuant to the authority of this chapter and only for the public officer or employee who is the subject of the proceeding. This abrogation of common-law privileges and immunities does not apply to or affect:

(a) Any privilege or immunity granted by the Constitution of the United States or of the State of Nevada or by [NRS 41.071](#), [chapter 49](#) of NRS or any other statute;

(b) Any person who is not the subject of the proceeding; or

(c) Any other proceeding that is not commenced pursuant to the authority of this chapter.

(Added to NRS by [2009, 1044](#))

NRS 281A.190 Computation of time. In computing any period prescribed or allowed by this chapter:

1. If the period begins to run on the occurrence of an act or event, the day on which the act or event begins is excluded from the computation.
2. The last day of the period is included in the computation, except that if the last day falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Commission is not open for the conduct of business, the period is extended to the close of business on the next business day.

(Added to NRS by [2013, 3764](#))

COMMISSION ON ETHICS

NRS 281A.200 Creation; appointment, terms and qualifications of members; prohibited activities by members; vacancies.

1. The Commission on Ethics, consisting of eight members, is hereby created.
2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or employees, and at least one of whom must be an attorney licensed to practice law in this State.
3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or employees, and at least one of whom must be an attorney licensed to practice law in this State.
4. Not more than four members of the Commission may be members of the same political party. Not more than four members of the Commission may be residents of the same county.
5. None of the members of the Commission may, while the member is serving on the Commission:

- (a) Hold another public office;
- (b) Be actively involved in the work of any political party or political campaign; or
- (c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

- (I) The appropriation of public money;
- (II) The issuance of a license or permit; or
- (III) Any proposed subdivision of land or special exception or variance from zoning regulations.

6. After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms. (Added to NRS by [1985, 2121](#); A [1991, 1594](#); [1999, 2731](#); [2009, 1048](#); [2013, 3766](#))—(Substituted in revision for NRS 281.455)

NRS 281A.210 Chair; meetings; compensation; facilities.

1. The Commission shall:
 - (a) At its first meeting and annually thereafter elect a Chair and Vice Chair from among its members.
 - (b) Meet regularly at least once in each calendar quarter, unless there are no requests made for an opinion pursuant to [NRS 281A.440](#), and at other times upon the call of the Chair.
2. Members of the Commission are entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission.
3. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided

for state officers and employees generally.

4. The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.

(Added to NRS by [1977, 1105](#); A [1981, 1979](#); [1983, 1440](#); [1985, 391](#), [2123](#); [1987, 2094](#); [1989, 1709](#); [1991, 1594](#); [1997, 256](#); [1999, 2732](#); [2005, 2278](#))—(Substituted in revision for NRS 281.461)

~~**NRS 281A.220 Investigatory panels: Appointment; members; review and final determination of just and sufficient cause; disqualification of members from participation in further proceedings in matter.**~~

~~1. The Chair shall appoint one or more investigatory panels of two members of the Commission on a rotating basis to review the determinations of just and sufficient cause made by the Executive Director pursuant to [NRS 281A.440](#) and make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in a matter.~~

~~2. The Chair and Vice Chair of the Commission may not serve together on an investigatory panel. 3. The members of an investigatory panel may not be members of the same political party.~~

~~4. If an investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in a matter, the members of the investigatory panel shall not participate in any further proceedings of the Commission relating to that matter.~~

~~(Added to NRS by [1999, 2730](#); A [2009, 1049](#))—(Substituted in revision for NRS 281.462)~~

NRS 281A.230 Executive Director: Appointment; qualifications; classification; prohibited activities and other employment.

1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Executive Director must have experience in administration, investigations and law.

3. The Executive Director is in the unclassified service of the State.

4. The Executive Director shall devote the Executive Director's entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of the Executive Director's duties.

5. The Executive Director may not:

(a) Be actively involved in the work of any political party or political campaign; or

(b) Except in pursuit of the business of the Commission, communicate directly or indirectly with a State Legislator or a member of a local legislative body on behalf of someone other than the Executive Director to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

(Added to NRS by [1999, 2728](#); A [2009, 1049](#))—(Substituted in revision for NRS 281.463)

NRS 281A.240 Executive Director: Duties; employment of staff; designation of qualified person to perform duties when Executive Director unable to act on matter.

1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

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

(b) Receive requests for opinions pursuant to [NRS 281A.440](#).

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the ~~investigatory panel appointed pursuant to NRS 281A.220~~ **Commission** regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

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

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

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

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

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

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

3. If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.

(Added to NRS by [1999, 2729](#); A [2003, 3385](#); [2005, 2278](#); [2009, 1050](#); [2011, 1726](#); [2013, 3767](#))—(Substituted in revision for NRS 281.4635)

NRS 281A.250 Commission Counsel: Appointment; qualifications; classification; prohibited activities and other employment.

1. The Commission shall appoint, within the limits of legislative appropriation, a Commission Counsel who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Commission Counsel must be an attorney who is licensed to practice law in this State.

3. The Commission Counsel is in the unclassified service of the State.

4. The Commission Counsel shall devote the Commission Counsel's entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of the Commission Counsel's duties.

5. The Commission Counsel may not:

(a) Be actively involved in the work of any political party or political campaign; or

(b) Except in pursuit of the business of the Commission, communicate directly or indirectly with a State Legislator or a member of a local legislative body on behalf of someone other than the Commission Counsel to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon

any ordinance or resolution, taking other legislative action or voting upon:

- (I) The appropriation of public money;
- (II) The issuance of a license or permit; or
- (III) Any proposed subdivision of land or special exception or variance from zoning regulations.

(Added to NRS by [1999, 2729](#); A [2001, 568](#); [2009, 1050](#))—(Substituted in revision for NRS 281.464)

NRS 281A.260 Commission Counsel: Duties; legal advice; appointment or employment of other counsel by Commission under certain circumstances.

1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct. The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

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

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

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

(b) Employ outside legal counsel.

(Added to NRS by [1977, 1107](#); A [1985, 2126](#); [1999, 2743](#); [2005, 1577](#); [2009, 1051](#); [2013, 3768](#))—(Substituted in revision for NRS 281.4645)

Whenever or when, in the opinion of the Commission Counsel, in consultation with the Chair of the Commission or authorized designee, to protect and secure the interest of the Commission, it is necessary that a suit be commenced or defended in an federal, state or local court or other administrative venue, the Commission Counsel or authorized designee shall commence the action or make the defense.

NRS 281A.270 Assessment for administrative costs: Determination; payment by certain cities and counties; use of proceeds; collection.

1. Each county whose population is 10,000 or more and each city whose population is 15,000 or more and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out the provisions of this chapter and only to the extent authorized for expenditure by the Legislature;

(c) Does not revert to the State General Fund at the end of any fiscal year; and

(d) Does not revert to a city or county if:

(1) The actual expenditures by the Commission are less than the amount of the assessments approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period; or

(2) The budget of the Commission is modified after the amount of the assessments has been approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, “population” means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to [NRS 360.283](#).

(Added to NRS by [2003, 2661](#); A [2011, 1206](#); [2013, 3768](#))—(Substituted in revision for NRS 281.4647)

NRS 281A.275 Authority to apply for and accept grants, contributions, services and money. The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission and the Commission complies with the provisions of the State Budget Act.

(Added to NRS by [2013, 3764](#))

NRS 281A.280 Jurisdiction; statute of limitations.

1. The Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of this chapter by a public officer or employee or former public officer or employee in any proceeding commenced by:

(a) The filing of a request for an opinion with the Commission; or

(b) The Commission on its own motion,

↳ within 2 years after the alleged violation or reasonable discovery of the alleged violation.

2. For the purposes of this section, a proceeding is commenced:

(a) On the date on which a request for an opinion is filed in the proper form with the Commission in accordance with the regulations of the Commission; or

(b) If the proceeding is commenced by the Commission on its own motion, on the date on which the Commission serves the public officer or employee or former public officer or employee with notice of the proceeding in accordance with the regulations of the Commission.

(Added to NRS by [1995, 2443](#); A [1997, 256](#); [1999, 2732](#); [2005, 2279](#); [2009, 1051](#))—(Substituted in revision for NRS 281.465)

NRS 281A.290 Duties of Commission; inclusion of annotations of opinions of Commission in Nevada Revised Statutes. The Commission shall:

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

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

(b) For the filing of a request for an opinion with the Commission;

- (c) For the withdrawal of a request for an opinion by the person who filed the request; and
 - (d) To facilitate the prompt rendition of opinions by the Commission.
 - 2. Prescribe, by regulation, forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to [NRS 281A.500](#), maintain files of such statements and make the statements available for public inspection.
 - 3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.
 - 4. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.
 - 5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government. **(Can this include Commission's own BDR?)**
 - 6. Publish a manual for the use of public officers and employees that explains the requirements of this chapter.
- ↳ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the published opinions of the Commission.
- (Added to NRS by [1977, 1105](#); A [1985, 2124](#); [1991, 1595](#); [1999, 2732](#); [2003, 3019, 3386](#); [2003, 20th Special Session, 265](#); [2011, 1726](#); [2013, 3769](#))—(Substituted in revision for NRS 281.471)

NRS 281A.300 Oaths; written requests and subpoenas for attendance and production of books and papers.

- 1. The Chair and Vice Chair of the Commission may administer oaths.
- 2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or employee who is the subject of a request for an opinion, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of books and papers. A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.
- 3. Before issuing a subpoena to a public officer or employee who is the subject of a request for an opinion to compel his or her attendance as a witness or his or her production of books or papers, the Executive Director shall submit a written request to the public officer or employee requesting:
 - (a) The appearance of the public officer or employee as a witness; or
 - (b) The production by the public officer or employee of any books and papers relating to the request for an opinion.
- 4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chair may issue the subpoena. Failure of the public officer or employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or employee of the time set forth in subsections 4, 5 and 6 of [NRS 281A.440](#).
- 5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chair of the Commission may report to the district court by petition, setting forth that:
 - (a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;
 - (b) The witness has been subpoenaed by the Commission pursuant to this section; and
 - (c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to

the witness, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

(Added to NRS by [1991, 1591](#); A [1997, 257](#); [1999, 2733](#); [2003, 3387](#); [2005, 2279](#); [2009, 1052](#); [2013, 3769](#))—(Substituted in revision for NRS 281.475)

SPECIALIZED OR LOCAL ETHICS COMMITTEE

NRS 281A.350 Establishment; functions; limitations on powers; confidentiality.

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

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity.

The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

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

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

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

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

3. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

(Added to NRS by [1977, 1107](#); A [1985, 2126](#); [1991, 105](#); [1995, 2198, 2445](#); [1997, 640, 641](#); [2011, 1727](#); [2013, 3781](#))—(Substituted in revision for NRS 281A.470)

CODE OF ETHICAL STANDARDS

NRS 281A.400 General requirements; exceptions. A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity *(for himself or a person to whom he has a commitment in a private capacity?)* which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

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

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and *(himself or a person to whom he has a commitment in a private capacity?)* any business entity in which the public officer or employee has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation *(for himself or a person to whom he has a commitment in a private capacity?)* from any private source for the performance of the public officer's or employee's duties as a public officer or employee.

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

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

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee *(or a person to whom he has a commitment in a private capacity?)*. This subsection does not prohibit:

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

(1) The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

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

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

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

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

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

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

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

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

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

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

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

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

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

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

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

9. A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee *(or a person to whom he has a commitment in a private capacity?)* through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts *(for himself or a person to whom he has a commitment in a private capacity?)* through the use of the public officer's or employee's official position.

(Added to NRS by [1977, 1105](#); A [1987, 2094](#); [1991, 1595](#); [1993, 2243](#); [1997, 3324](#); [1999, 2736](#); [2003, 3388](#); [2009, 1053](#); [2013, 3771](#))—(Substituted in revision for NRS 281.481)

No public officer or public employee may concurrently hold another public office or position of public employment that is incompatible with his public duties or otherwise falls within the "chain of command" of the other position. (teacher/school board member, hospital employee/hospital board member, bus driver/RTC member - "boss of your boss" prohibition.

Include prohibition against improper use or abuse of public position or authority for any purpose not deemed to promote the public trust – Not necessarily tied to personal interest?

NRS 281A.410 Limitations on representing or counseling private persons before public agencies; disclosure required by certain public officers. In addition to the requirements of the code of ethical standards and the other provisions of this chapter:

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

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

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

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

3. A member of a local legislative body shall not represent or counsel a private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves. The Commission may relieve the member from the strict application of the provisions of this subsection if:

(a) The member requests an opinion from the Commission pursuant to subsection 1 of [NRS 281A.440](#); and (b) The Commission determines that such relief is not contrary to:

- (1) The best interests of the public;
- (2) The continued ethical integrity of each local agency affected by the matter; and
- (3) The provisions of this chapter.

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

5. Not later than January 15 of each year, if any State Legislator, member of a local legislative body or other public officer permitted by this section has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Department, he or she shall disclose for each such representation or counseling during the previous calendar year:

- (a) The name of the client;
- (b) The nature of the representation; and
- (c) The name of the state agency.

6. The disclosure required by subsection 5 must be made in writing and filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is filed in one of the following ways:

- (a) Delivered in person to the principal office of the Commission in Carson City.
- (b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid.

Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.

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

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

7. The Commission shall retain a disclosure filed pursuant to this section for 6 years after the date on which the disclosure was filed.

(Added to NRS by [1977, 1106](#); A [1991, 1597](#); [2001, 2289](#); [2007, 638](#); [2009, 1054](#); [2013, 3772](#))—(Substituted in revision for NRS 281.491)

NRS 281A.420 Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions.

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

- (a) Regarding which the public officer or employee has accepted a gift or loan;
- (b) In which the public officer or employee has a significant pecuniary interest; or
- (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person,
↳ without disclosing information concerning the gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, or upon the person to whom the public officer or employee has a commitment in a private capacity.

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

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) Any campaign contributions that the public officer reported in a timely manner pursuant to [NRS 294A.120](#) or [294A.125](#); or

(b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to [NRS 294A.286](#).

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

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

(b) The public officer's significant pecuniary interest; or

(c) The public officer's commitment in a private capacity to the interests of another person.

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

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

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

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

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

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

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

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

(Added to NRS by [1977, 1106](#); A [1987, 2095](#); [1991, 1597](#); [1995, 1083](#); [1997, 3326](#); [1999, 2738](#); [2003, 818](#), [1735](#), [3389](#); [2007, 3372](#); [2009, 1055](#), [1057](#); [2013, 3774](#))—(Substituted in revision for NRS 281.501)

NRS 281A.430 Contracts in which public officer or employee has interest prohibited; exceptions. *(See attachment from SB 361 – Proposed amendment in 2011)*

1. Except as otherwise provided in this section and [NRS 218A.970](#) and [332.800](#), a public officer or employee shall not bid on or enter into a contract between an agency and any business entity in which the public officer or employee has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with an agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with an agency, or may benefit financially or otherwise from a contract between an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to [NRS 396.255](#).

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

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of [NRS 332.112](#) or [332.148](#);

(b) The sources of supply are limited;

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

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

➔ If a public officer who is authorized to bid on or enter into a contract with an agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of [NRS 281A.420](#), shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

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

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

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

(c) At the meeting, the member discloses his or her significant pecuniary interest in

the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of [NRS 281A.420](#); and

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

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

(a) The public officer or employee requests an opinion from the Commission pursuant to subsection 1 of [NRS 281A.440](#); and

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

(1) The best interests of the public;

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

(3) The provisions of this chapter.

(Added to NRS by [1993, 2241](#); A [1995, 689](#); [2001, 1629](#); [2003, 892](#); [2009, 1060](#); [2013, 3776](#))—(Substituted in revision for NRS 281.505)

PROCEEDINGS AND OPINIONS

NRS 281A.440 Rendering of opinions by Commission: Requests; investigations; determination of just and sufficient cause; notice and hearings; confidentiality.

1. The Commission shall (~~MAY?~~) render an advisory opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as a public officer or employee, unless the public officer or employee waives the time limit. The public officer or employee may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to the requester's future conduct; and
(b) Final and subject to judicial review pursuant to [NRS 233B.130](#), except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester. (?)

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director ~~and the investigatory panel~~ to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

➤ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Within 45 days after receiving a request for an opinion pursuant to paragraph (a) or (b) of subsection 2, the Commission shall determine whether it has jurisdiction concerning the request, unless the public officer or employee who is the subject of the request waives this time limit. Upon a determination by the Commission that it has jurisdiction concerning a request for an opinion pursuant to paragraph (a) or (b) of subsection 2, or upon the motion of the Commission initiating a request for an opinion pursuant to paragraph (c) of subsection 2, as applicable, the Executive Director shall investigate the facts and circumstances

relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist the Executive Director ~~and the investigatory panel~~ in conducting the investigation. The public officer or employee is not required in the response ~~or in any proceeding before the investigatory panel~~ to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim ~~or raise it in the response or in any proceeding before the investigatory panel.~~

4. ***Upon the completion of an investigation,*** The Executive Director shall ~~complete the investigation and~~ present a written recommendation relating to just and sufficient cause, including, without limitation, the specific evidence or reasons that support the recommendation, to the ~~investigatory panel~~ ***Commission*** within 70 days after the determination by the Commission that it has jurisdiction concerning the request or after the motion of the Commission initiating the request, as applicable, unless the public officer or employee waives this time limit.

5. Within 15 days after the Executive Director has provided the written recommendation in the matter to the ~~investigatory panel~~ ***Commission*** pursuant to subsection 4, ~~the investigatory panel shall conclude the investigation and~~ ***Commission shall*** make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. ~~The investigatory panel~~ ***Commission*** shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. ~~The investigatory panel shall cause a record of its proceedings in each matter to be kept.~~

6. If the ~~investigatory panel~~ ***Commission*** determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Commission shall hold a hearing and render an opinion in the matter within 60 days after the determination of just and sufficient cause ~~by the investigatory panel~~, unless the public officer or employee waives this time limit.

7. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto in any manner except to:

(1) The public body, agency or employer of the public officer or employee; or

(2) A person to whom the Commission authorizes the current or former public officer or employee to make such a disclosure; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. Except as otherwise provided in subsections 9 and 10, all information, communications, records, documents or other material in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, ~~including, without limitation, the record of the proceedings of the investigatory panel made pursuant to subsection 5,~~ are confidential and not public records pursuant to [chapter 239](#) of NRS until:

(a) The ~~investigatory panel~~ **Commission** determines whether there is just and sufficient cause to render an opinion in the matter and serves written notice of such a determination on the public officer or employee who is the subject of the request for an opinion submitted or initiated pursuant to subsection 2; or

(b) The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 authorizes the Commission in writing to make its information, communications, records, documents or other material which are related to the request publicly available,

↳ whichever occurs first.

9. Except as otherwise provided in this subsection, if a person who submits a request for an opinion pursuant to paragraph (b) of subsection 2 asks for the person's name to be kept confidential, the Commission:

(a) Shall keep the person's name confidential if the person is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the request.

(b) May keep the person's name confidential if the person offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of the person's name will subject the person or a member of the person's household to a bona fide threat of physical force or violence.

↳ If the Commission keeps the person's name confidential, the Commission shall not render an opinion in the matter unless there is sufficient evidence without the person's testimony to consider the propriety of the conduct of the public officer or employee who is the subject of the request. If the Commission intends to present the person's testimony for consideration as evidence in rendering an opinion in the matter, the Commission shall disclose the person's name within a reasonable time before the Commission's hearing on the matter. **(Disclose the person's name as the requester – or only as a witness intended to present testimony?)**

10. Except as otherwise provided in this subsection, the investigative file related to a request for an opinion regarding a public officer or employee, as described in subsection 17, is confidential. At any time after being served with written notice of the determination of the ~~investigatory panel~~ **Commission** regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter, the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the matter becomes a public record as provided in [chapter 239](#) of NRS.

11. Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.

↳ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

12. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the **Executive Director or** Commission to ask any question submitted by a person who is not a party to the proceeding.

13. If a person who requests an opinion pursuant to subsection 1 or 2 does not:

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that the person will testify truthfully,

→ the Commission may decline to render an opinion.

14. For good cause shown, the Commission may take testimony from a person by telephone or video conference.

15. For the purposes of [NRS 41.032](#), the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

16. A meeting or hearing that the Commission ~~or the investigatory panel~~ holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission ~~and the investigatory panel~~ on such information or evidence are not subject to the provisions of [chapter 241](#) of NRS. **(Clarify that exemption extends to final action of the Commission under certain circumstances; i.e., during timeframe of confidential proceedings?)**

17. For the purposes of this section, the investigative file which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information provided to or obtained by the Commission, ~~or~~ its staff ~~or an investigatory panel~~ through any form of communication during the course of an investigation and any records, documents or other material created or maintained during the course of an investigation which relate to the public officer or employee who is the subject of the request for an opinion, including without limitation, a transcript, regardless of whether such information, records, documents or other material are obtained by a subpoena.

(Added to NRS by [1977, 1107](#); A [1985, 2124](#); [1987, 2095](#); [1991, 1598](#); [1995, 2443](#); [1997, 3327](#); [1999, 665, 2739](#); [2003, 3391](#); [2007, 615](#); [2009, 1061](#); [2013, 3777](#); [2015, _____](#))—
(Substituted in revision for NRS 281.511) **Effective May 27, 2015**

(Authority for Commission to resolve matters less formally: Public censures/reprimands, letters of caution, deferred discipline with education, corrective action, etc., ability for Executive Director (with consent/ratification of Commission) to make administrative decisions?)

NRS 281A.450 Legal defense of public officer or employee in proceedings relating to opinion requests.

1. If a request for an opinion is submitted to or initiated by the Commission concerning a present or former state officer or employee, unless the state officer or employee retains his or her legal counsel or the Attorney General tenders the defense of the state officer or employee to an insurer who, pursuant to a contract of insurance, is authorized to defend the state officer or employee, the Attorney General shall defend the state officer or employee or employ special counsel to defend the state officer or employee in any proceeding relating to the request for the opinion if:

(a) The state officer or employee submits a written request for defense in the manner provided in [NRS 41.0339](#); and

(b) Based on the facts and allegations known to the Attorney General, the Attorney General determines that the act or omission on which the alleged violation is based:

(1) Appears to be within the course and scope of public duty or employment of the state officer or employee; and

(2) Appears to have been performed or omitted in good faith.

2. The Attorney General shall create a written record setting forth the basis for the Attorney General's determination of whether to defend the state officer or employee pursuant to paragraph (b) of subsection

(Added to NRS by [2005, 2556](#))—(Substituted in revision for NRS 281.515)

NRS 281A.460 Opinions of Commission may include guidance to public officer or employee; restrictions. The Commission's opinions may include guidance to a public officer or employee on questions whether:

1. A conflict exists between the public officer's or employee's personal interest and the public officer's or employee's official duty.

2. The public officer's or employee's official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter.

3. The conflict would materially affect the independence of the judgment of a reasonable person in the public officer's or employee's situation.

4. The public officer or employee possesses special knowledge which is an indispensable asset of the public officer's or employee's public agency and is needed by it to reach a sound decision.

5. It would be appropriate for the public officer or employee to withdraw or abstain from participation, disclose the nature of the public officer's or employee's conflicting personal interest or pursue some other designated course of action in the matter.

(Added to NRS by [1977, 1107](#); A [1985, 2126](#); [1987, 2097](#); [1997, 258](#); [2005, 2280](#))—
(Substituted in revision for NRS 281.521)

NRS 281A.465 Standards for resolving opinion requests by stipulations, agreed settlements or consent orders. In any matter in which the Commission disposes of a request for an opinion by stipulation, agreed settlement or consent order, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.

(Added to NRS by [2013, 3764](#))

NRS 281A.470 Specialized or local ethics committee: Establishment; functions; confidentiality. [Replaced in revision by [NRS 281A.350](#).]

NRS 281A.475 Standards for determining whether violation is willful violation and amount of civil penalty imposed.

1. In determining whether a violation of this chapter is a willful violation and, if so, the amount of any civil penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.480, the Commission shall consider, without limitation:

(a) The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;

(b) The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;

(c) The cost to the Commission to conduct the investigation and any hearing relating to the violation;

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

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

(f) The extent of any financial gain resulting from the violation; and

(g) Any other matter justice may require.

2. The factors set forth in this section are not exclusive or exhaustive, and the Commission may consider other factors in the disposition of the matter if they bear a reasonable relationship to the Commission's determination of the severity of the violation.

3. In applying the factors set forth in this section, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.

(Added to NRS by [2013, 3765](#); 2015, _____) Effective May 27, 2015

NRS 281A.480 Commission authorized to impose civil penalties; duties of Commission upon finding willful violation; circumstances in which violation not deemed willful; effect of chapter upon criminal law; judicial review; burden of proof.

1. In addition to any other penalties provided by law and in accordance with the provisions of NRS 281A.475, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

- (a) Not to exceed \$5,000 for a first willful violation of this chapter;
- (b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and
- (c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to any other penalties provided by law, the Commission may, upon its own motion or upon the motion of the person about whom an opinion was requested pursuant to NRS 281A.440, impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

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

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

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker Pro Tempore of the Assembly or the President Pro Tempore of the Senate, as appropriate.

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

(1) 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 of this chapter.

(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 or more willful violations of this chapter.

➤ 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) Notwithstanding any other provision of this chapter, any act or failure to act by a

public officer or employee 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 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 any prior published opinion issued by the Commission which was publicly available on the Internet website of the Commission.

6. In addition to any other penalties provided by law, a public employee who commits a willful violation of this chapter is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

(Added to NRS by [1977, 1108](#); A [1987, 2097](#); [1991, 1600](#); [1993, 2244](#); [1995, 2446](#); [1997, 258](#), [3330](#), [3333](#); [1999, 2564](#), [2743](#); [2001, 199](#); [2003, 3394](#); [2005, 1577](#), [2281](#); [2007, 639](#); [2009, 1064](#); [2013, 3782](#), 2015, _____)—(Substituted in revision for NRS 281.551) Effective May 27, 2015

ADDITIONAL REQUIREMENTS, ETHICAL STANDARDS, REMEDIES AND PENALTIES

NRS 281A.500 Notice and acknowledgment of statutory ethical standards: Distribution of information regarding standards; duty to file acknowledgement; contents; form; retention; penalty for willful refusal to file. *(Make consistent with SOS Financial Disclosure statements when public officers hold more than one office or serve on multiple boards)*

1. On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:

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

(b) For an elected public officer of:

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

(2) The city, the city clerk;

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

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

2. Within 30 days after a public employee begins employment:
 - (a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and
 - (b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.
3. Each public officer shall acknowledge that the public officer:
 - (a) Has received, read and understands the statutory ethical standards; and
 - (b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.
4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:
 - (a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.
 - (b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer swears or affirms the oath of office.
5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer swears or affirms the oath of office in accordance with subsection 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.
6. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:
 - (a) Delivered in person to the principal office of the Commission in Carson City.
 - (b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid.
Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.
 - (c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.
 - (d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.
7. The form for making the acknowledgment must contain:
 - (a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a copy of the standards; and
 - (b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a printed copy of the statutory ethical standards from the Commission.
8. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a printed copy of the form for making the acknowledgment, a printed copy of the statutory ethical standards must be included with the form.
9. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.
10. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:
 - (a) A willful violation of this chapter for the purposes of [NRS 281A.480](#); and
 - (b) Nonfeasance in office for the purposes of [NRS 283.440](#) and, if the public officer is removable from office pursuant to [NRS 283.440](#), the Commission may file a complaint in

the appropriate court for removal of the public officer pursuant to that section. 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 of this section.

11. As used in this section, “general election” has the meaning ascribed to it in [NRS 293.060](#).

(Added to NRS by [1999, 2730](#); A [2001, 2289](#); [2003, 3020, 3396](#); [2003, 20th Special Session, 265](#); [2009, 1066](#); [2013, 3784](#))—(Substituted in revision for NRS 281.552)

If a person is serving in a public office for which the person is required to file an acknowledgment pursuant to subsection 3, the person may use the acknowledgment the person files for that initial office to satisfy the requirements of subsection 3 for every other public office to which the person is appointed and in which the person is also serving.

NRS 281A.510 Public officer or employee prohibited from accepting or receiving honorarium; penalty.

1. A public officer or public employee shall not accept or receive an honorarium.
2. An honorarium paid on behalf of a public officer or public employee to a charitable organization from which the officer or employee does not derive any financial benefit is deemed not to be accepted or received by the officer or employee for the purposes of this section.
3. This section does not prohibit:
 - (a) The receipt of payment for work performed outside the normal course of a person’s public office or employment if the performance of that work is consistent with the applicable policies of the person’s public employer regarding supplemental employment.
 - (b) The receipt of an honorarium by the spouse of a public officer or public employee if it is related to the spouse’s profession or occupation.
4. As used in this section, “honorarium” means the payment of money or anything of value for an appearance or speech by the public officer or public employee in the officer’s or employee’s capacity as a public officer or public employee. The term does not include the payment of:
 - (a) The actual and necessary costs incurred by the public officer or public employee, the officer’s or employee’s spouse or the officer’s or employee’s aid for transportation and for lodging and meals while the public officer or public employee is away from the officer’s or employee’s residence.
 - (b) Compensation which would otherwise have been earned by the public officer or public employee in the normal course of the officer’s or employee’s public office or employment.
 - (c) A fee for a speech related to the officer’s or employee’s profession or occupation outside of the officer’s or employee’s public office or employment if:
 - (1) Other members of the profession or occupation are ordinarily compensated for such a speech; and
 - (2) The fee paid to the public officer or public employee is approximately the same as the fee that would be paid to a member of the private sector whose qualifications are similar to those of the officer or employee for a comparable speech.
 - (d) A fee for a speech delivered to an organization of legislatures, legislators or other elected officers.
5. In addition to any other penalty imposed pursuant to [NRS 281A.480](#), a public officer or public employee who violates the provisions of this section shall forfeit the amount of the honorarium.

(Added to NRS by [1991, 1592](#); A [1999, 2745](#); [2007, 640](#))—(Substituted in revision for NRS 281.553)

NRS 281A.520 Public officer or employee prohibited from requesting or otherwise causing governmental entity to incur expense or make expenditure to support or oppose ballot question or candidate in certain circumstances.

1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

- (a) A ballot question.
- (b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy or acceptance of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:

(1) The public office held by the public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:

(1) The public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense or an expenditure incurred to create or disseminate a television program that provides a forum for discussion or debate regarding a ballot question, if persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) “Governmental entity” means:

(1) The government of this State;

(2) An agency of the government of this State;

(3) A political subdivision of this State; and

(4) An agency of a political subdivision of this State.

(b) “Pamphlet, brochure, publication, advertisement or television programming” includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

(1) A press release issued to the media by a governmental entity; or

(2) The official website of a governmental entity.

(Added to NRS by [2003, 925](#); A [2009, 1067](#))—(Substituted in revision for NRS 281.554)

NRS 281A.530 Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions. Repealed. (See chapter 551, Statutes of Nevada 2013, at page 3786.)

NRS 281A.540 Governmental grant, contract or lease and certain actions taken in violation of chapter are voidable; prohibited contract is void; recovery of benefit received as result of violation.

1. In addition to any other penalties provided by law, a governmental grant, contract or lease entered into in violation of this chapter is voidable by the State, county, city or political subdivision. In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of the intent to void a grant, contract or lease under this section no later than 30 days after the Commission has determined that there has been a related violation of this chapter.

2. In addition to any other penalties provided by law, a contract prohibited by [NRS 281.230](#) which is knowingly entered into by a person designated in subsection 1 of [NRS 281.230](#) is void.

3. Any action taken by the State in violation of this chapter is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.

4. In addition to any other penalties provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter by a public officer. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.

(Added to NRS by [1991, 1593](#); A [2009, 1068](#))—(Substituted in revision for NRS 281.557)

NRS 281A.550 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission. *(CLEAN UP – confirm employment includes independent contracts; tighten up the discretion of Commission to grant waivers; clarify scope of work prohibited in business or industry; codify NRS 281A.410 herein)*

1. A former member of the Public Utilities Commission of Nevada shall not:

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

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

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

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

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

(b) Be employed by such a person,

→ for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

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

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or

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

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

(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;

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

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

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

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

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

6. A current or former public officer or employee may request that the Commission apply the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

(a) The best interests of the public;

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

(c) The provisions of this chapter,

→ it may issue an advisory opinion to that effect and grant such relief. ~~The opinion of the Commission in such a case is final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the current or former public officer or employee.~~

7. Each request for an opinion that a current or former public officer or employee submits to the Commission pursuant to subsection 6, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the current or former public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion or any motion, evidence or record of a hearing related thereto in any manner except to:

(1) The public body, agency or employer of the public officer or employee or a prospective employer of the public officer or employee; or

(2) Any person to whom the Commission authorizes the current or former public

officer or employee to make such a disclosure; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. A meeting or hearing that the Commission ~~or an investigatory panel~~ holds to receive information or evidence concerning the propriety of the conduct of a current or former public officer or employee pursuant to this section and the deliberations of the Commission ~~and the investigatory panel~~ on such information or evidence are not subject to the provisions of chapter 241 of NRS. **(Clarify that exemption extends to final action of the Commission under certain circumstances; i.e., during timeframe of confidential proceedings?)**

9. As used in this section, “regulation” has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by a board, commission, department, division or other agency of the Executive Department of State Government that is exempted from the requirements of chapter 233B of NRS.

(Added to NRS by [2009, 1044](#), 2015, _____) Effective May 27, 2015



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

April 14, 2016

The Commission on Ethics held a public meeting on
Thursday, April 14, 2016, at 10:00 a.m.
at the following location:

**Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts are available for public inspection at the Commission's office located in Carson City.

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chair Cheryl A. Lau, Esq. called the meeting to order at 10:02 a.m. via telephone. Also present via telephone were Commissioners John C. Carpenter, Magdalena Groover, Barbara J. Gruenewald and James M. Shaw. Present for Commission Staff in Carson City were Executive Director, Yvonne M. Nevarez-Goodson, Esq., Commission Counsel, Tracy L. Chase, Esq., Associate Counsel, Judy A. Prutzman, Esq., Senior Legal Researcher Darci Hayden, PP and Executive Assistant Valerie M. Carter, CPM.

Vice-Chair Keith A. Weaver, Esq. and Commissioner Dan H. Stewart were excused from the meeting.

The pledge of allegiance was conducted.

2. Public Comment.

No public comment.

3. Consideration, discussion and approval of non-budget bill draft request concepts pertaining to NRS Chapter 281A (The Ethics in Government Law) to be submitted to the Governor's Office for the 2017 Legislative Session, and direction to the Executive Director to submit the concepts to the Governor's office.

Chair Cheryl A. Lau, Esq. introduced the agenda item and invited the Executive Director to offer opening remarks concerning her recommendations regarding NRS Chapter 281A.

Executive Director Yvonne M. Nevarez-Goodson, Esq. thanked the Commission for the opportunity to revisit the recommendations that were discussed at the last Commission meeting

on April 7, 2016. Ms. Nevarez-Goodson reiterated that these recommendations were in no way intended to divest the Commission of any of its authority to make final decisions with respect to any matter or any Request for Opinion (RFO) that is before the Commission. She stated that the intention of the proposed concepts is simply to streamline processes and get information before the Commission more efficiently. Ms. Nevarez-Goodson also noted for Commissioners that some of the BDR proposals are consistent with various budget proposals that she will be offering at the Commission's next public meeting. Accordingly, Executive Director Nevarez-Goodson requested approval of the concepts as crucial for the preparation of the Agency Budget Request for the 2017 – 2019 Biennium.

Chair Lau asked that each BDR proposal be discussed and voted on separately. A summary of the concepts are attached hereto as Exhibit 1. A summary of the concepts and votes of the Commission were considered and approved or denied as follows:

Recommendation No. 1: Streamline Commission's Investigatory Process.

A brief discussion ensued regarding the recommendation. Commissioner Carpenter moved to approve Recommendation No. 1. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 2: Authorize Commission to resolve complaints less formally through administrative action of Executive Director with consent/approval by Commission:

- Letters of Caution; Deferred Discipline with Education; Corrective Action; Censure/Reprimand.

Commissioner Gruenewald moved to approve Recommendation No. 2. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 3: Establish criteria regarding abuse of public authority or power.

Commissioner Carpenter requested more information on this item. Executive Director Yvonne Nevarez-Goodson, Esq. explained that the Commission continues to receive questions and even criticism that the Ethics Commission does not have authority to investigate allegations of abuse of authority where it does not otherwise implicate a pecuniary interest or a commitment to a person with whom the individual might be related or otherwise affiliated. She explained that the Ethics law does not currently address abuse of public power and public trust unless the private interests are implicated.

Commissioner Shaw moved to approve Recommendation No. 3. Chair Lau seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 4: Streamlining Advisory Opinions.

Commissioner Gruenewald discussed her concerns regarding the recommendation, and recommended that Advisory Opinions remain binding and subject to judicial review. Commissioner Carpenter and Commissioner Groover agreed with Commissioner Gruenewald's concerns and expressed their preference not to amend this statute.

Commissioner Carpenter moved that the Commission deny Recommendation No. 4. Commissioner Gruenewald seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 5: Encompass certain Independent Contractors of Government Agencies as “Public employees” under the Ethics Law.

A brief discussion ensued regarding the recommendation. Commissioner Shaw moved to approve Recommendation No. 5. Commissioner Gruenewald seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 6: Establish uniform personal interests throughout each subsection of NRS 281A.400.

Commissioner Gruenewald requested additional information regarding this recommendation. Executive Director Nevarez-Goodson explained that there have been debates from opposing counsel regarding whether or not a significant personal interest includes a commitment in a private capacity, because that specific language is not utilized in that subsection. Ms. Nevarez-Goodson explained that the goal of this recommendation is to bring uniformity to each of those subsections.

Commissioner Shaw moved to approve Recommendation No. 6. Commissioner Groover seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 7: Limit public officers and employees from holding an inconsistent public office or public employment.

Commissioner Carpenter stated that he remains unable to support the recommendation, as he believes certain circumstances may require disclosure and sometimes abstention, but he does not agree with the statutory prohibition of employment or public office. Commissioners Groover and Gruenewald agreed with Commissioner Carpenter.

Commissioner Carpenter moved to deny Recommendation No. 7. Commissioner Gruenewald seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 8: Statutorily prohibit “boss-of-boss” employment circumstances in public sector.

Executive Director Yvonne Nevarez-Goodson offered a brief explanation regarding this recommendation. She explained that the Commission often received requests, for example, from school teachers who may want to run for a school board seat, and the Commission has consistently advised the Commission cannot prohibit the teacher from running for the seat, but if elected, the teacher must choose between maintaining employment as a teacher and serving as a member of the school board. The Commission’s opinions in this area rely solely on NRS 281A.020. This recommendation would make it clear that the conduct is statutorily prohibited.

A brief discussion ensued regarding the recommendation. Several Commissioners had concerns regarding broadening the jurisdiction. Commissioner Carpenter moved to deny Recommendation No. 8. Commissioner Gruenewald seconded the Motion. The Motion was put to a vote and carried as follows:

Commissioner Carpenter:	Aye.
Commissioner Groover:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Lau:	No.
Commissioner Shaw:	No.

The Motion Passed.

Recommendation No. 9: Streamline and clarify contracting prohibitions.

Commissioner Shaw moved to approve Recommendation No. 9. Commissioner Carpenter seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 10: Clarify Commission's confidentiality provisions.

This recommendation was not discussed or voted on.

Recommendation No. 11: Clarify Filing Requirements for Acknowledgment Forms.

Commissioner Carpenter moved to approve Recommendation No. 11. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

Recommendation No. 12: Clarify scope of Cooling-Off Prohibitions.

- Inclusion of independent contracts; tighten discretion of Commission to grant waivers; clarify scope of work prohibited in business or industry; codify NRS 281A.410 into 281A.550.

Commissioner Groover requested additional information regarding this recommendation. Executive Director Yvonne Nevarez-Goodson, Esq. explained that the Commission has received scrutiny over the last year regarding the waivers that it has granted with respect to requests regarding the cooling-off requirements. She explained that the Commission currently has significant discretion to interpret the waivers on a case-by-case basis, but the factors in the statutes are broad. This recommendation involved cleaning up the statute to give the Commission better guidelines as to when and how it might grant waivers.

A brief discussion ensued regarding the recommendation.

Commissioner Carpenter moved to approve Recommendation No. 12. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

Executive Director Nevarez-Goodson assured the Commission that in response to their direction, she will present the approved concepts to the Governor's office. She also confirmed that there would be sufficient time for the BDR Subcommittee to develop suggestions and recommendations to the full Commission regarding the language and other details if the Governor approves the concepts.

4. Open Session for Public Comment.

No public comment.

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5. Adjournment.

Commissioner Shaw moved to adjourn the meeting. Commissioner Groover seconded the motion. The motion was put to a vote and carried unanimously. The meeting adjourned at 11:06 a.m.

Minutes prepared by:

Valerie Carter, CPM
Executive Assistant

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved June 15, 2016:

Cheryl A. Lau, Esq.
Chair

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Exhibit 1



**STATE OF NEVADA
COMMISSION ON ETHICS**

COMMISSION MEMORANDUM

DATE: April 13, 2016
TO: Commissioners
FROM: Yvonne Nevarez-Goodson, Esq., Executive Director
RE: 2017 Legislative Bill Draft Request Concepts to Governor

Dear Commissioners:

Under NRS 281A.240, the Commission's Executive Director must "recommend to the Commission any legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government." In consideration of this statutory mandate, please consider the enclosed recommendations for **proposed concepts** to be submitted to the Governor for consideration during the 2017 Legislative Session.

These concepts are intended to provide the Governor with the Commission's **ideas** for proposed legislation. The Commission considered various recommendations during its April 7, 2016 Commission Meeting and requested additional information before making its decision. Based on the feedback from that meeting, please review the following streamlined recommendations with the Executive Director's explanation.

Governor's Deadlines:

April 15, 2016:

Deadline to submit "Non-budget Bill Draft Request **Concepts**." The Governor's Office will review all proposed agency concepts and decide which concepts will receive gubernatorial sponsorship. If the Governor approves the concepts, the Commission will have an opportunity to develop specific language for the BDR.

May 16, 2016

The Governor's Office will issue decisions regarding sponsorship of agency proposals. At that time, we will know whether we will have the Governor's sponsorship for the Commission's proposed Legislation or if we will need to seek legislative sponsorship.

Revised Summary of Executive Director's BDR Concept Recommendations:

- 1) Streamline Commission's Investigatory Process.
- 2) Authorize **Commission** to resolve complaints less formally through administrative action of Executive Director **with consent/approval by Commission:**
 - Letters of Caution; Deferred Discipline with Education; Corrective Action; Censure/Reprimand. (Same process followed by Judicial Discipline Commission)
- 3) Establish criteria regarding abuse of public authority or power.
- 4) Streamline Advisory Opinions.
- 5) Encompass certain Independent Contractors of Government Agencies as "Public employees" under the Ethics Law.
- 6) Establish uniform personal interests throughout each subsection of NRS 281A.400.
- 7) Limit public officers and employees from holding an inconsistent public office or public employment.
- 8) Statutorily prohibit "boss-of-boss" employment circumstances in public sector.
- 9) Streamline and clarify contracting prohibitions.
- 10) Clarify Commission's confidentiality provisions.
- 11) Clarify Filing Requirements for Acknowledgment Forms.
- 12) Clarify scope of Cooling-Off Prohibitions.
 - Inclusion of independent contracts; tighten discretion of Commission to grant waivers; clarify scope of work prohibited in business or industry; codify NRS 281A.410 into 281A.550.

Please Note: The initial Commission meeting to discuss these concepts focused on concerns about relinquishing Commission authority to staff/Executive Director. However, **the intent and scope of these recommendations was completely the opposite.** These recommendations **in no way** take the final authority regarding complaint cases and other final decisions away from the Commission. The use of the word "ratification" in the prior recommendations was misleading. The better choice of words would have been "consent" and/or "approval."

In fact, these recommendations are intended to streamline processes and get cases and issues before the Commission for final decision more efficiently and without the need for a full investigation for minor issues. Eliminating Panels does not divest the Commission of its authority to determine whether cases will be dismissed or forwarded to a hearing. Instead, the Commission Staff will forward those recommendations directly to the Commission for action – rather than diverting them through a Panel.

These suggestions directly follow the process currently undertaken by our sister agency in the Judicial Branch. I have provided some background materials from the Judicial Discipline Commission as support for many of these proposals.

Intent/Rationale of Recommendations:

1) Streamlining Commission's Investigatory Process:

Currently, the Commission is statutorily mandated to investigate any complaint that is filed if the complaint relates to a public officer or employee, alleges conduct in violation of NRS 281A, and provides a minimum level of evidence to support the allegations. For every case during the last 6 years, with the exception of a few, these cases have resulted in minor violations or no violations, yet have taken years to resolve.

The Commission should be able to streamline the process significantly to resolve these minor cases, including the elimination of investigatory panels. Investigatory Panels have proven to be a perfunctory process that takes an inordinate amount of staff and Commission time and expense for the very minimal threshold determination of "credible evidence." The Panel is asked to forward a matter to the Commission for a hearing that may satisfy credible evidence, but never pass a "preponderance standard" at hearing, or to dismiss a matter that the full Commission may be interested in vetting.

Under the Commission's process, any complaint, no matter how serious, triggers significant staff evaluation and due process requirements, including:

- Jurisdictional Analysis by Executive Director, Associate Counsel and Commission Counsel
- Notice of Jurisdiction to Requester/Subject
- Appeal rights of Jurisdictional Determination – Separate Commission Hearing and Order on Jurisdiction
 - o If jurisdiction is rejected – case dismissed
 - o If jurisdiction is accepted
 - Notice to Subject – Opportunity to Respond
- Investigation commences
- Investigation concludes
 - o Staff prepares Recommendation to Investigatory Panel
 - o Panel Hearing
 - o Panel Determination
 - o Case Dismissed or Notice of Commission Hearing Issued
- Commission Hearing
 - o Notice Issued
 - o Scheduling Order Issued setting forth deadlines for Executive Director/Associate Counsel and Subject
 - o Case Resolved by Stipulation or Hearing
- **STATISTICS:**
 - o Fiscal Year 2015:
 - Received 60 Complaints
 - 43 Dismissed – No Jurisdiction
 - 14 Complaints Proceeded to Investigation
 - o 3 consolidated against same subject as one case
 - 5 Panel Dismissals
 - 4 Panels waived – No Panel/directly to Commission
 - 5 Cases Forwarded by Panel to Commission Hearing

- 9 Cases Before Commission for Resolution
- NO Hearings – all Stipulations
- **9 Stips**
 - 3 Willful violations
 - 4 Nonwillful violations – mitigating factors
 - 2 No violations

2) Authorize Commission to resolve complaints less formally through administrative action of Executive Director with consent/approval by Commission: Letters of Caution; Deferred Discipline with Education; Corrective Action; Censure/Reprimand.

- See Judicial Discipline Statutes – resolving cases short of full investigations.
- All recommendations of ED Subject to Approval by the Commission.

3) Establish criteria regarding abuse of public authority or power.

- The Commission's current jurisdiction to investigate and render an opinion in a matter must include evidence of a pecuniary interest or commitment in a private capacity to the interests of another person that is in conflict with public duties.
- The Commission is criticized for not having the ability to evaluate inappropriate conduct of public officers and employees that does not implicate these specific private interests but nevertheless implicates conduct that does not comport with the public trust and is otherwise an abuse of official power.
- As a concept, this may be a valuable idea, but it will require the Commission to develop specific guidelines for public officers to understand the boundaries of conduct deemed as abusive.
- We may develop factors to consider in evaluating whether conduct amounts to an abuse of authority or power.

4) Streamlining Advisory Opinions.

- Currently, our advisory opinions are subject to judicial review.
- The advisory opinions have become overly tactical, formal and subject to lawyering, inhibiting the Commission's ability to effectively advise public officers and employees about the application of the Ethics Law.
- When public officers don't like the advice, they appeal the decision, seek to withdraw the RFO, or ignore the advice with no real consequence.
- Should advice really be subject to judicial review?
- Perhaps not all advisory opinions need to serve as Commission precedent
- Attorney General Opinions are not subject to judicial review

5) Encompass certain Independent Contractors of Government Agencies as "Public employees" subject to Ethics Law.

- The Commission has considered various cases during the last 5 years that have questioned whether certain persons serving as independent contractors are subject to the ethics law.
- These questions have arisen in the context of applicable standards of conduct and whether the cooling-off restrictions apply if the intended scope of work in the private sector will be maintained through an independent contract.
- The Commission has emphatically concluded that independent contractors are deemed "employed" in the private sector for purposes of cooling off requirements.

- In other cases, the Commission has determined that persons serving public agencies through independent contracts are not public officers or employees, but should be because their service is paid through public funds and implicates significant public trust.
- As offered by the Commission in 2013 with regard to school superintendents, college presidents and Board Trustees, the Legislature saw fit to include these public positions within the definition of public employees whether employed by contract or otherwise. The concern is that these positions are responsible for administering significant public policy and expending significant public funds that they should have Ethics accountability as public officers or employees.
- The Commission has received an increase of cases during the last 2 years questioning the ethical conduct of persons who work for various agencies through independent contractual agreements – these persons are paid through public funds and are asked to exercise significant control regarding the respective State and Local government agencies, yet they are not accountable to the public under the Ethics Law.
- The Commission could carve out those independent contractors who by virtue of their duties and responsibilities set forth in the contracts, are exercising a public power, trust or duty – as is currently required under the definition of a public officer in NRS 281A.160.

6) Establish uniform personal interests throughout each subsection of NRS 281A.400 to include pecuniary interests and commitments in a private capacity.

- A review of the 10 separate subsections of NRS 281A.400 which define the standards of conduct of public officers and employees are inconsistent with respect to the types of personal interests triggered by the provision.
- The overall goal of the Ethics Law is to prohibit conflicts of interest, yet these provisions cause disparities in the Commission's ability to enforce certain prohibitions/statutes depending on the nature of the private interest. These should be consistent.
- See the attached handout regarding NRS 281A.400 to provide consistency and ensure that prohibited conduct of public officers and employees captures each of the defined conflicts under the Ethics Law – in particular, pecuniary interests and commitments in a private capacity.
- Example: If we have evidence that a public officer has used government resources to benefit the interests of a person to whom he has a private commitment, we cannot cite NRS 281A.400(7) because that provision leaves out "commitments in a private capacity"
 - o A public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee
- Example: If we have evidence that a public officer used his position to negotiate a government contract on behalf of himself or a relative, we cannot cite NRS 281A.400(3) because (3) is specific to business entities.
 - o A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any business entity in which the public officer or employee has a significant pecuniary interest.

7) Limit public officers and employees from holding an inconsistent public offices or employment.

- This recommended proposal does NOT prohibit two separate individuals, even if related, from holding inconsistent positions.
 - o I.e., spouses, siblings, etc., may hold inconsistent positions which may otherwise trigger disclosure/abstention requirements.
- Instead, this proposal provides statutory criteria for the Commission to apply to a circumstance in which an elected or appointed public officer or employee seeks to hold another public position in government that is inconsistent with the duties and responsibilities of his original position.
 - o For example:
 - It may be inconsistent for the Director of the Ethics Commission to also serve any other public office, volunteer or paid, over which the Ethics Commission has jurisdiction.
 - It may be inconsistent for a member of the State Board of Education to also be appointed to serve on a County School District Board.
- The Attorney General has already offered an opinion indicating such inconsistent public positions are not permitted and several jurisdictions prevent the same.
- Many statutes and local government charters and ordinances already prohibit certain positions from holding other employment or other positions.
- This proposed recommendation would cover those positions that are not specifically addressed in statute.

8) Statutorily prohibit “boss-of-boss” employment circumstances.

- The Commission already has several opinions prohibiting public officers and employees from serving in public positions of authority over their current employment. These opinions cite 281A.020 alone as the basis for the prohibition.
- I.e., a member of the school board may also not be employed by a school within the district; trustee of a hospital board may not also be employed by the hospital
- This proposal would codify the Commission’s existing opinions to make it clear to public employees where the law prohibits such service – and not rely solely upon 281A.020, which is otherwise a statement of legislative policy.

9) Streamline/Clarifying Contracting prohibitions.

- Under current law, any public officer or employee is prohibited from entering into a contract with ANY governmental entity, unless the contract is subject to open competitive bidding or otherwise receives relief from the Commission.
- However, State law establishes criminal consequences for public officers and employees who enter into certain contracts with government, even if the Commission grants relief from an ethical violation.
- This proposal mirrors the suggestion of SB 391 from 2011 which clarifies that the ethical concern relates to contracts in which the public officer or employee has some influence or other conflict as a result of his public position.
- Is it an ethical conflict for a public employee who works for the State Welfare Division to enter into a contract with Lyon County for services unrelated to his/her work for Welfare?

10 Clarify Filing Requirements for Acknowledgment Forms.

- The Commission received several requests for advisory opinions during the last fiscal year seeking clarity about the filing requirements for a public officer who holds multiple appointed positions and whether separate forms are required to be filed – and when.
- For example, a City Council member may serve on 15 various boards or committees for the City and those appointments may come at varying times throughout his/her tenure as a City Council member. Does the member need to file a new form for each appointment, or is one form sufficient. When is the form required?
- Is there a difference whether the other board or committee appointment exists only by virtue and qualification of serving as a public officer in the original position.
- This recommendation mirrors the language developed by the Nevada Secretary of State (SOS) in its requirements for Financial Disclosure Forms under similar circumstances.
- Also, instead of encouraging a full-scale investigation for untimely filings, can we impose a simple fine like the SOS does for Financial Disclosures?

11 Clarify scope of Cooling-Off Prohibitions: inclusion of independent contracts; tighten discretion of Commission to grant waivers; clarify scope of work prohibited in business or industry; codify NRS 281A.410 into 281A.550.

- How these provisions may be clarified is not necessarily the decision of the Commission
- Nevertheless, the Commission has been scrutinized for the lack of consistency in granting waivers under the cooling-off requirements and it may behoove the Commission to provide a conceptual amendment to clarify the scope and discretion of these requirements to being some uniformity to the waivers or otherwise provide more direct policy guidance to the Commission.
- The current waiver standards are very broad:
 - o Not contrary to ethics laws or State's best interests

Possible Motions:

I move to **approve/reject** the following recommendations of the Executive Director for proposed concepts to be submitted to the Governor for consideration during the 2017 Legislative Session:

Recommendation Nos.: _____

Conclusion

The Executive Director will notify the Governor's Office regarding any approved concepts to be considered for the 2017 Legislative Session.

Sincerely,

Yvonne M. Nevarez-Goodson, Esq.
Executive Director



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

April 20, 2016

The Commission on Ethics held a public meeting on
Wednesday, April 20, 2016, at 1:00 p.m.
at the following locations:

**Nevada Commission on Tourism
Laxalt Building - Second Floor Chambers
401 North Carson Street
Carson City, NV 89701**

and via video-conference to:

**Governor's Office of Economic Development
555 E. Washington Ave, Suite 5400
Las Vegas, NV 89101**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts are available for public inspection at the Commission's office located in Carson City.

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chair Cheryl A. Lau, Esq. called the meeting to order in Carson City, Nevada at 1:00 p.m. Also present in Carson City were Vice-Chair Keith A. Weaver, Esq., and Commissioners Barbara J. Gruenewald, Esq., James M. Shaw and Dan H. Stewart. Present for Commission Staff in Carson City were Executive Director, Yvonne M. Nevarez-Goodson, Esq., Commission Counsel, Tracy L. Chase, Esq., Associate Counsel, Judy A. Prutzman, Esq. and Senior Legal Researcher Darci Hayden, PP.

Present in Las Vegas, Nevada was Executive Assistant, Valerie M. Carter, CPM.

Commissioners John C. Carpenter and Magdalena Groover were excused from this meeting.

The pledge of allegiance was conducted.

2. Public Comment.

No public comment.

3. Approval of Minutes of the March 16, 2016 Commission Meeting.

Commission Counsel Tracy L. Chase confirmed a quorum was present to vote on the approval of the March 16, 2016 Meeting Minutes.

Commissioner Shaw moved to approve the Minutes of the March 16, 2016 Commission Meeting and Commissioner Stewart seconded the Motion. The Motion was put to a vote and carried unanimously.

4. Discussion and consideration of final disposition concerning Third-Party Request for Opinion No. 14-70C regarding Shirley Matson, Former Nye County Assessor, submitted pursuant to NRS 281A.440(2), including determination of willfulness and imposition of possible sanctions under NRS 281A.480.

Jim Hoffman, Esq. of the Law Office of Lisa Rasmussen, Esq., appeared before the Commission, representing the Subject in RFO 14-70C, Shirley Matson.

Executive Director, Yvonne M. Nevarez-Goodson, Esq., appeared on behalf of the Commission.

Commission Counsel Tracy L. Chase, Esq. introduced the agenda item, summarized the factual background and advised the Commission to focus on the definition of a "Willful Violation" set forth in NRS 281A.170, the standards for determining whether a violation is willful pursuant to NRS 281A.475, and the amount of civil penalty which may be appropriately imposed pursuant to NRS 281A.480.

Counsel Chase reminded the Commission that it already made a determination that Matson violated the Ethics Law pursuant to the Executive Director's Motion for Summary Judgment. Accordingly, the only issue currently before the Commission was whether Matson's violations were willful and whether civil penalties should be issued pursuant to NRS 281A.480. Ms. Chase discussed each of these statutes in detail for the Commission.

Mr. Hoffman concurred with the facts as presented by Counsel Chase and provided his opening remarks regarding the willfulness of the violations committed by Ms. Matson.

Executive Director Yvonne Nevarez-Goodson, Esq. offered opening comments and recommended the Commission conclude that Matson engaged in two separate courses of conduct subject to two willful violations of the Ethics Law with associated civil penalties of \$5,000 each. Director Nevarez-Goodson argued that Matson's conduct included separate and distinct acts that could have warranted five or more violations. However, consistent with the Commission's prior Opinions, Ms. Nevarez-Goodson supported the imposition of only two courses of conduct.

Mr. Hoffman acknowledged the Commission's prior determination that Matson's conduct violated the Ethics Law, but he argued that all conduct could be considered as one course of conduct. Mr. Hoffman offered closing remarks and requested that any penalties imposed be light in nature.

Executive Director Yvonne Nevarez-Goodson, Esq. offered closing remarks reminding the Commission that this case represented the kind of behavior by Public Officers that is

unacceptable and the Commission's Opinion in this matter should serve as a strong message from the Commission regarding conduct of this nature.

Chair Lau asked that the Commission take the matter under consideration and called the meeting into a closed session at 1:24 p.m.¹ Chair Lau called the meeting back into open session at 1:28 p.m.

Commissioner Shaw clarified with Mr. Hoffman whether his client, Ms. Matson, was aware of the hearing today and what was being decided. Mr. Hoffman confirmed that she was aware.

Commissioner Shaw moved that the Commission find Ms. Matson committed two willful violations of the Ethics in Government law based on two separate courses of conduct and recommended a civil penalty of \$5,000 for two violations. The motion was seconded by Commissioner Gruenewald. Commissioner Gruenewald requested clarification on the Motion regarding the sanctions. Commissioner Shaw expressed his intention that each willful violation include a civil penalty of \$2,500 for a total of \$5,000. Commissioner Gruenewald confirmed her second to the Motion. The Motion was put to a vote and carried unanimously.

Chair Lau requested that Commission Counsel Tracy L. Chase, Esq. prepare a written Opinion to reflect the Commission's decision and notify the parties.

5. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 14-73C regarding Leonard Lance Gilman, Commissioner, Storey County Commission, submitted pursuant to NRS 281A.440(2).

Chair Lau excused Commissioner Weaver from participating in this agenda item as he served on the Investigatory Panel.

Appearing before the Commission on behalf of the Subject was Rick Hsu, Esq. Judy A. Prutzman, Esq., Associate Counsel appeared on behalf of Executive Director Nevarez-Goodson.

Commission Counsel, Tracy L. Chase, Esq., summarized the Request for Opinion and the facts presented in the Stipulated Agreement that was before the Commission for approval.

Associate Counsel Judy A. Prutzman, Esq. concurred with the facts presented by Commission Counsel and expressed the Executive Director's support of the Stipulated Agreement.

Rick Hsu, Esq. confirmed his approval and satisfaction with the language of the proposed Stipulated Agreement as presented.

Commissioner Gruenewald moved to approve the Stipulated Agreement in RFO 14-73C. The Motion was seconded by Commissioner Shaw.

Commission Counsel Tracy L. Chase, Esq. sought clarification whether the Motion included direction for Commission Counsel to prepare the final Stipulated Agreement and publish it on the Commission's Website. Commissioner Gruenewald agreed to amend the motion to include that direction. Commissioner Shaw seconded the amended Motion. The Motion was put to a vote and carried unanimously.

¹ Pursuant to NRS 281A.440(15) the Commission's deliberations in a Third-Party Request for Opinion may be held in a closed session, not subject to the Open Meeting Law.

6. Report by Executive Director on agency status and operations.

Executive Director Yvonne M. Nevarez-Goodson, Esq. updated the Commission regarding Commissioner Appointments. She informed the Commission that Commissioner Shaw's second term will expire on June 30th of this year, and she plans to remind the Legislative Commission of the pending vacancy. Ms. Nevarez-Goodson also reported that the Governor reappointed Commissioner Weaver for another four-year term.

Ms. Nevarez-Goodson informed the Commission regarding the schedule for upcoming meetings, including a full day meeting expected on June 15, 2016 in Las Vegas and a possible brief telephonic meeting in May to hold a workshop for proposed regulations.

Ms. Nevarez-Goodson updated the Commission regarding its outreach and education program, stating that training requests were starting to pick up again with more invitations from State agencies. Ms. Nevarez-Goodson reported that she recently provided training to the Washoe County School District and various State agencies.

Ms. Nevarez-Goodson reported that she has submitted the Commission's approved BDR concepts to the Governor's office and expects to hear back within the next couple of weeks regarding the Governor's support. Without the Governor's approval, she stated that the Commission will have to consider whether it wishes to seek a legislative sponsorship of its BDR.

Ms. Nevarez-Goodson next explained the regulatory process for amendments to the Commission's Regulations (NAC 281A) and discussed possible amendments, including the jurisdictional appeal process, the provisions regarding hearings and withdrawal, and any other provisions that might assist the commission in carrying out its business.

7. Consideration, discussion and approval of Proposed Budget Enhancement Concepts pertaining to the 2017-2019 Biennial Budget of the Nevada Commission on Ethics to be submitted to the Governor's Office, and direction to the Commission's Executive Director to submit the concepts to the Governor's office.

Executive Director Yvonne M. Nevarez-Goodson, Esq. discussed the Governor's Budget Instructions for the FY17-19 Budget Request, and the process regarding agency enhancement concept requests.

Ms. Nevarez-Goodson gave an overview of the Commission's prior budget enhancement requests, including enhancements to salaries for certain staff, including the Executive Director, over the last two sessions. Ms. Nevarez-Goodson expressed the challenge with representing the Commission before the Legislature and requesting a salary enhancement for her own position. She asked for the Commission's continued support of the salary enhancement requests, and formal support on the record, to seek these enhancements on behalf of the Commission.

Ms. Nevarez-Goodson reiterated the enhancement concept process, stating that only concepts may be proposed to the Governor for approval. If approved, she will include the enhancements in her presentation to the Commission regarding the proposed Agency Budget Request in August 2016.

Ms. Nevarez-Goodson explained that the Budget Instructions have called for agencies to prepare a flat-budget, as well as a second budget that reflects an overall 5% reduction. She expects that the Commission will be able to satisfy both of those guidelines, especially since the

Commission has given her approval to consider recommendations about streamlining investigatory processes and case management processes.

Ms. Nevarez-Goodson proposed various enhancement concepts for the Commission's approval for submission to the Governor's office.

The first enhancement concept included staff title changes and salary adjustments comparable to equivalent positions with the Commission on Judicial Discipline. She explained the similarity of the agency functions as well as the similar positions of the Commission's judicial branch counterpart.

Ms. Nevarez-Goodson also suggested the addition of a part-time paralegal/legal secretary position to assist the Executive Director and Associate Counsel in the Third-Party investigatory/hearing processes. With the addition of the Associate Counsel position, the work load for the Senior Legal Researcher has significantly increased by providing legal support to the Executive Director and Associate Counsel in the investigatory functions of the Commission and the Commission Counsel on the procedural and adjudicatory functions of the Commission. Ms. Nevarez-Goodson stated that these dual roles implicate due process considerations. She hopes that the additional part-time employee would be able to assist with the more administrative tasks that are undertaken by the Executive Assistant and Senior Legal Researcher, in order to free up their time for more substantive tasks.

As an additional enhancement request, Ms. Nevarez-Goodson recommended that the Commission seek an enhancement for a Case Management System and Opinion Database. She stated that the Commission does not currently have a Case Management System, and as cases have become more formal, the appropriate Case Management System will assist in calendaring deadlines, organizing case information, generating templates and streamlining several processes currently in place.

Ms. Nevarez-Goodson also described the need for the Opinion Database, explaining that the Commission's current statutes regarding the Safe Harbor provision require Public Officers and employees to rely upon legal advice that is statutorily required to be based on the Commission's published Opinions. She explained that having the Opinions in a searchable format, available to the public on the Commission's website, would assist those to research our opinions and determine which decisions control their behavior.

Lastly, Ms. Nevarez-Goodson requested an enhancement for the cost of recording equipment. She explained that staff currently uses their personal cell phones to record interviews or meetings where a Court Report is not present.

Ms. Nevarez-Goodson asked the Commission to approve the four items to be forwarded to the Governor's office as conceptual enhancements for approval.

Commissioner Stewart moved to approve all four enhancement concepts. Commissioner Weaver seconded the Motion. The Motion was put to a vote and carried unanimously.

8. Commissioner Comment on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

No Commissioner comments.

9. Open Session for Public Comment.

No public comment.

10. Adjournment.

Commissioner Shaw moved to adjourn the meeting. Commissioner Stewart seconded the Motion. The Motion was put to a vote and carried unanimously. The meeting adjourned at 2:19 p.m.

Minutes prepared by:

Valerie Carter, CPM
Executive Assistant

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved June 15, 2016:

Cheryl A. Lau, Esq.
Chair

Keith A. Weaver, Esq.
Vice-Chair

AGENDA ITEM NO. 4

AGENDA ITEM NO. 4

R E C E I V E D

OCT 13 2014

COMMISSION
ON ETHICS

October 13, 2014

Melinda Kahle
2770 Jennings Way
Elko, NV 89801

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Re.: Third-Party Request for Opinion

To whom it may concern,
Enclosed please find the original and two copies of the three-page "Nevada Commission On Ethics Third-Party Request For Opinion" form, along with three copies of the attachments.

If you have any questions please contact me via phone: 775-830-8656, or via email:
electmindykahle@reagan.com.

Respectfully,



Melinda Kahle

OCT 13 2014

NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

COMMISSION
ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. *(If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)*

NAME: <small>(Last, First)</small>	Jim Pitts		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Elko County Sheriff
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	County of Elko, Nevada			
ADDRESS: <small>(Street number and name)</small>	775 W. Silver Street		CITY, STATE, ZIP CODE	Elko, NV 89801
TELEPHONE:	Work: 775-738-3421	Other: (Home, cell)	E-MAIL:	elkosheriff@elkocountynv.net

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. *(You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)*

Check here ☒ if additional pages are attached.

Question: Elko County Sheriff Jim Pitts is running for re-election. Did he violate any of the below-identified NRS statutes, or any other statute, regulation or code, by wearing his official duty uniform, badge, duty weapon, and other accouterments, while speaking before the public at three recent candidate forums? Did he also violate NRS 281A.400(9), by allowing his current undersheriff, Clair Morris, to wear his duty uniform to public forums in an effort to influence public opinion. Below are listed the three events:

1. Sheriff Candidate Forum, Tuesday, May 6, 2014, 6pm; Elko Convention and Visitors Center, 700 Moren Way, Elko, NV. Attached are the Elko Daily Free Press articles and photos along with a DVD containing "YouTube" video footage of Sheriff Pitts in uniform.

2. Sheriff Candidate Forum, Wednesday, September 24, 2014, Spring Creek Homeowners Association meeting, 670 Bronco Drive, Spring Creek, NV. Attached are the Elko Daily Free Press articles and photos of Sheriff Pitts and Undersheriff Morris in uniform.

3. Sheriff Candidate Forum, Monday, October 6, 2014, 6pm; Elko Convention and Visitors Center, 700 Moren Way, Elko, NV. Attached are the Elko Daily Free Press articles and photos of Sheriff Pitts in uniform.

I also respectfully request an opinion on whether or not Sheriff Pitts is allowed to present a picture of himself in Class A uniform on his website: www.jimpittsforsheriff.com. I was unable to print out a copy of the web page containing the photo.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

Unknown

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input checked="" type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☐ if additional pages are attached.

NAME and TITLE: (Person #1)		Melinda Kahle / Candidate for Sheriff		
ADDRESS:		2770 Jennings Way	CITY, STATE, ZIP	Elko, NV 89801
TELEPHONE:		Work:	Other: (Home, cell) 775-830-8656	E-MAIL: electmindykahle@reagan.com
NATURE OF TESTIMONY:		I am an opponent of Sheriff Pitts in the upcoming election for Elko County Sheriff. I personally appeared at each of the above-listed candidate forums and can testify as to the sheriff wearing his duty uniform while speaking before the public. Testimony can be accompanied by photos and video of the aforementioned events, identifying the sheriff in his uniform.		
NAME and TITLE: (Person #2)				
ADDRESS:			CITY, STATE, ZIP	
TELEPHONE:		Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:				

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. [NAC 281A.435\(3\)](#) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 1.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Melinda Kahle		
YOUR ADDRESS:	2770 Jennings Way	CITY, STATE, ZIP:	Elko, NV 89801
YOUR TELEPHONE:	Day: 775-830-8656	Evening:	E-MAIL: electimindykahle@reagan.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Melinda Kahle
Signature:

October 13, 2014
Date:

MELINDA KAHLE
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

**Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703**



Forms submitted by facsimile will not be considered as properly filed with the Commission.

[NAC 281A.255\(3\)](#)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

I was referred to the Nevada Commission on Ethics website to review opinions prior to my decision to submit this request. I read the opinion regarding Mr. Richard Kirkland, former Washoe County Sheriff (Opinion No. 98-41). While it is understood to this reader that, 1: the investigation into Mr. Kirkland's actions primarily centered around the wearing of his official uniform while publicly endorsing another candidate in a TV commercial, 2: the findings in regards to Mr. Kirkland's case are specific to that investigation, the Commission offered these words in their Conclusion:

"...Furthermore, the Commission advises that in the future Mr. Kirkland not use his uniform, badge, employees, or other physical accouterments of his office in endorsement advertisements so as to avoid the appearance of impropriety under NRS 281.481(7)(a)."

Respectfully submitted,
Melinda Kahle

Email or Phone

☐ Keep me logged in



Re-Elect Jim Pitts Elko County Sheriff

Politician

Timeline

About

Photos

Likes

PEOPLE

141 likes

ABOUT

I am asking for your support for Elko County Sheriff. I have dedicated my life to law enforcement and to protecting and serving the good citizens of Elko...

READ MORE

<http://www.jimpittsforsheriff.com/>



Re-Elect Jim Pitts Elko County Sheriff

September 7

I want to thank everyone who came out to meet and talk yesterday in Lamoille. It was a beautiful day and an even more beautiful setting. It is interesting to hear that you have the same concerns as mine, such as drugs and protecting our children. We look forward to four more years to continue to work on these issues and more. I especially want to thank John and Suzy Palmer for their graciousness of opening their home for this event, for the goodies and for their continued support.

[Like](#) · [Comment](#)

PHOTOS

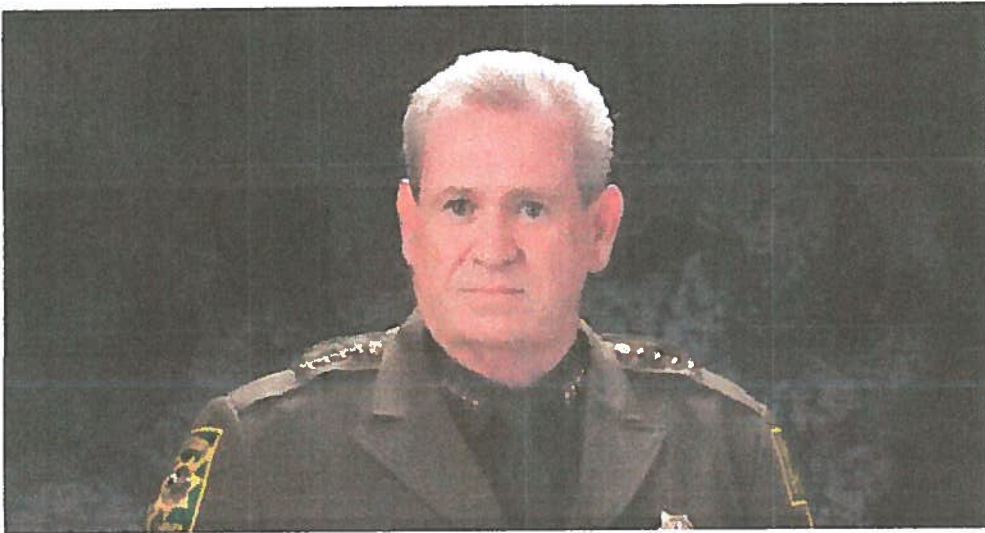


Re-Elect Jim Pitts Elko County Sheriff shared a link.

September 4

On Saturday, Oct. 11, I am going to jump off a 51-story building and rappel 350 feet down the side of Planet Hollywood Resort in Las Vegas! The Vegas Strip offers lots of thrills, but I want to see the Strip from a whole new perspective. [See More](#)

If you would like a sign or car magnet, please let me know by posting, calling or sending a message through my website, www.jimpittsforsheriff.com. Thank You!



Re-Elect Jim Pitts Elko County Sheriff

www.jimpittsforsheriff.com

Re-Elect Jim Pitts Elko County Sheriff

[Like](#) • [Comment](#) • [Share](#)

3



Re-Elect Jim Pitts Elko County Sheriff

May 17

Thanks for coming out for the Armed Forces Parade this morning. I think they had over 30 entries! Great turnout – way to go Elko! I have posted a few pictures for those who could not make it to the parade. (12 photos)



May 7

ELKO DAILY

FREE PRESS



WEDNESDAY

Wells ag teacher awarded truck • Schools, B1

MAY 7, 2014

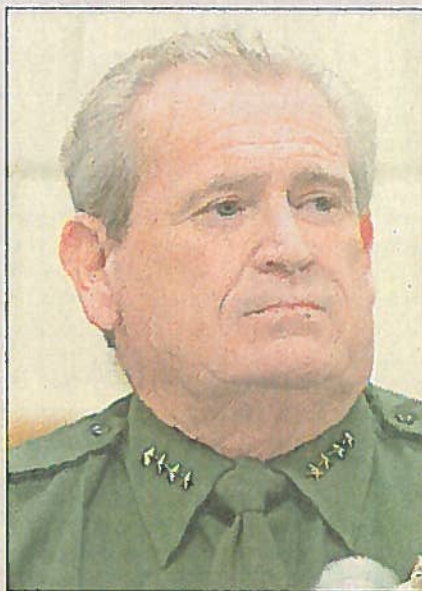
elkodaily.com

Vol. 131 No. 109

\$1.00



Melinda "Mindy" Kahle



Sheriff Jim Pitts

Candidates differ election forum

Primary Dates

Voter registration ends May 20
Early voting begins May 24
Early voting ends June 6
Primary Election June 10

Regarding Pitts' recent decision to charge inmates for food and medical services, Dickenson said, "It's not cost- or time-effective."

When he worked for the sheriff's office previously, he said, a state inmate cooked for the jail and trustees

Miner killed in accident identified

ELKO — Richard C. Otto was the miner who died April 28 at Midas Mine in Elko County, according to the Mine Safety and Health Administration.

MSHA's preliminary report stated Otto, 53, was operating "a jackleg drill when his clothing became entangled in the drill steel of the machine. Another miner found him unresponsive in the heading."

Information from the preliminary report does not represent final determinations regarding the nature of the incident or conclusions regarding the cause of the accident, MSHA noted.

Otto was found by the other miner at about 11:30 a.m., according to Klondex Mines Ltd., which owns Midas. According to the MSHA report, Otto had 32 years of mining experience and had worked at Midas for 11 years.

Midas is more than 90 miles northwest of Elko and is owned by Klondex Mines Ltd.

Klondex bought the mine from Newmont Mining Corp. in February.

By Marianne Kobak McKown

President of small mining firm dies

Sept 27, 2014



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[FORUM](#)

Sheriff candidates address Spring Creek concerns





Heather Kennison/Elko Daily Free

Sheriff Jim Pitts addresses a crowd of Spring Creek residents and the Spring Creek Association board of directors on Wednesday.

September 25, 2014 6:00 am • By [Heather Kennison](#)

[\(1\) Comments](#)

SPRING CREEK — Sheriff candidates addressed a full house Wednesday night as Spring Creek residents posed questions on topics such as school security, ATV travel and loose dogs.

One resident asked candidates Jim Pitts and Mindy Kahle how they felt about arming teachers in schools.

“That would have to be down to training, if the school district went that way,” Pitts said.

Pitts expressed concerns about having teachers armed because they would have to develop a different kind of mindset.

"Teachers are taught to nurture, to teach these students, and if it comes down to it and they've got change that mindset and think 'now I've got to possibly take that person's life,' that's scary that you have to make that decision. Once you make that decision, there's no taking it back."

Kahle said that while she's not opposed to arming teachers, she believes a public forum would be needed to discuss the issue.

"There's a lot of things you have to take into consideration if you're going to give someone lethal force on a campus," she said.

Another resident asked about school resource officers being more proactive as well as reactive.

"We're picking a person who will get to know these kids, know what they're up to," Pitts said.

He added that the officer would also assist in education of teachers about what signs to look for if there is a possible issue.

In the meantime, Pitts said, the sheriff's office has been working to train teachers for active shooter scenarios.

"It's a combination of everything we're trying to do," he said. "We're going to teach the teachers, we're going to put an officer in the school and there's going to need to be community involvement in this, too. That's the best way to handle it."

Kahle said she supports school resource officers, and wishes there could be one on every campus, but wasn't sure how effective they are at prevention.

"I don't know if there's a real answer to stop any school violence. I personally think it's going to happen regardless of if you have somebody on campus that's armed or not," Kahle said.

Education, she said, is another area to address when students have access to guns at homes.

"Law enforcement is very much in a reactive position," she said. "We're not as proactive as we'd

like to be.”

Loose dogs were also high on the list of Spring Creek residents’ concerns.

“If elected what would you do to control the loose dogs in Spring Creek?” asked Spring Creek Association Director Michael McFarlane.

Kahle said there is only one animal control officer for the entire county.

“There needs to be more manpower as far as how many people we have handling such a large geographical area,” she said.

She also suggested the county consider raising fines to help deter dog owners from letting animals run loose.

Pitts agreed animal control is a big problem in Spring Creek.

“Last year, we had 2,272 calls,” he said. “... We need to have more manpower for it because one person cannot do over 17,000 square miles of animal control.”

Deputies are writing citations in the area for loose dogs, he said. Pitts brought up potential solutions such as working with Spring Creek to get another animal control officer or having Spring Creek security trap animals and have deputies pick them up.

Spring Creek resident Charlie Eckberg asked candidates about enforcement of ATV travel restrictions in Spring Creek.

“Nothing ever happens — there doesn’t seem to be pressure to keep them off the streets,” he said.

“How would that change in your term as sheriff?”

Kahle suggested unmarked units or perhaps dirt bikes patrol the area where patrol cars can’t currently go. She also mentioned raising fines.

“Sometimes when you hit people in the pocketbook, it seems to speak a little bit better than some other means,” Kahle said.

Pitts said deputies are currently writing tickets from unmarked units to crack down on juvenile drinking and ATVs.

"My nephew got a ticket from one of my deputies from riding a four-wheeler around one of these roads," he said.

Still, it is up to deputies' discretion to write tickets or not.

"Sometimes hitting the pocketbook works, but a lot of times, call their parents. That'll get a bigger result than that ticket will," Pitts said.

Chairman Terry Lister said since the county passed its ATV ordinance, ATV travel has increased in Spring Creek.

A few questions posed were about the qualifications of each candidate. Kahle is from California and said she has roughly 32 years of experience with different agencies. She is not currently Peace Officer Standards and Training certified for the state of Nevada but has finished an 80-hour reciprocity exam, which means her experience will carry over.

Pitts came to Elko in 1979 and has served in the county for 32 years. He has been sheriff for the last four years. He has been POST-certified since 1982.

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Tags

[Jim Pitts](#), [Mindy Kahle](#), [Sheriff](#), [Atv](#), [Animal Control Officer](#), [Spring Creek Association](#), [School Resource Officers](#), [Armed Teachers](#), [Loose Dogs](#)

More News Stories

[Police Log: Oct. 7, 2014](#) [Deputy arrests man for possessing multiple](#)



[Court hears dispute](#)

High 86° Low 50°

Mostly sunny today



First snow?

A windy storm moving into Nevada today will bring showers and cooler temperatures for the weekend, with the snow level at 8,500 feet on Sunday, according to the National Weather Service.



(AP) — A new report by the Centers for Disease Control says Nevada ranks last in the nation for flu vaccination rates.



New fighter jet in combat

The Air Force's newest fighter jet — the radar-evading F-22 Raptor — was used in combat for the first time this week during strikes over Syria.

Thursday

Elko Daily

FREE PRESS

SEPTEMBER 25, 2014

Vol. 131 No. 230

\$1.00

ates discuss guns in schools



Heather Kennison/Elko Daily Free Press

ABOVE: Sheriff candidate Mindy Kahle, second from left, answers a question about ATVs during a Spring Creek Association forum Wednesday.

LEFT: Sheriff Jim Pitts addresses the crowd of Spring Creek residents and the Spring Creek Association board of directors. Behind him is Assemblyman John Ellison, R-Elko.

to teach the teachers, we're going to put an officer in the school and there's going to need to be community involvement in this, too. That's the best way to handle it."

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"Law enforcement is very much in a reactive

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Oct 7, 2014



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SHERIFF CANDIDATE

Sheriff candidates go head to head





Elaine Bassier, Elko Daily Free Press

Elko County Sheriff Jim Pitts talks about issues during a candidate forum Monday at Elko Convention Center.

October 07, 2014 5:00 am • [DYLAN WOOLF HARRIS dharris@elkodaily.com](mailto:dharris@elkodaily.com)

[\(2\) Comments](#)

ELKO – Although neither Elko County sheriff candidate aggressively attacked the other in a public forum Monday, each briefly spotlighted possible blemishes.

In an event hosted by the Elko Area Chamber of

Candidate forums

6 p.m. today at Carlin City Hall

- Carlin mayoral and city council candidates forum

Commerce's Government Affairs Committee, sheriff candidates Mindy Kahle and incumbent Jim Pitts answered questions that touched on a range of topics, including crime, budgeting and drones.

The evening was cordial. Nevertheless, Kahle noted that a few sheriff employees gained negative press in the past few years. The most notable example occurred in 2011, when then-undersheriff Rick Keema made personal purchases on a county credit card. Though Kahle didn't name any specific examples, she said such coverage can unfairly tarnish an entire department. (Keema maintained the credit card mix-up was an accident and paid back \$2,500 in expenses.)

She said the sheriff needed to set an example and establish a culture of respect, responsibility and accountability.

"It's asking everybody to hold to the standards that I would hold myself to," she said. "... It's establishing boundaries. It's improving professionalism through training.

"I truly believe the vast majority of the men and women in the Elko County Sheriff's Office are good people," she continued. "They're hard workers, they want to go out and do their job. ... It's the few that make it worse for the majority."

Pitts, meanwhile, presented himself as the local candidate, contrasting himself with Kahle, a newcomer to town. He said his roots are in Elko County and he plans to stick around long after he's retired from the sheriff's office – a department he's been with since 1985.

"I have lived in Elko since 1978," he said. Before his tenure with the sheriff's office, Pitts worked with the City of Elko Police Department for about three years.

6 p.m. Thursday at the Elko Convention Center

- Elko city council candidate forum

7 p.m. Thursday at the Elko Convention Center

- Elko mayoral candidate forum

Important election dates

Oct. 18 -- Early voting begins

Oct. 28 -- Last day a registered voter can request an absentee ballot

Oct. 31 -- Early voting ends

Nov. 4 -- Election Day

For more information, contact the Elko County Clerk's Office at 753-4600.

Related Links

- Jim Pitts candidate statement
- Mindy Kahle candidate statement

Pitts told attendees he made promises four years ago and he's stuck to his word. He revitalized a cadet program, for example, as well as a search-and-rescue team and a courthouse security detail.

He also campaigned on reining in the sheriff's budget, which he said has been a success.

"I promised I'd get the budget under control and I've done that," he said. "The last three years, we've operated in the black, and I'm proud of that. But while operating in the black, we've put more man-power on the street."

Kahle suggested the county could've saved money for a jail expansion by offering inmate service programs that would allow a certain population of detainees to serve the end of their sentences outside of the jail.

"If you put somebody in a box and you leave them in a box, it's almost like what we call criminal college," she said. "... (Early release programs) saves for everybody. It saves taxpayers' (money). Everybody wins."

Pitts said although the jail population has dipped to below capacity, he expected it to go back up. Pitts said he helped alleviate jail costs with a program that charged inmates for food, most medical services and a booking fee.

Candidates were asked whether an apparent surge in burglaries was a crime trend or a social-media fueled misperception.

Pitts said the burglary trend was real, but he said it wasn't something law enforcement couldn't contain. The sheriff said deputies, in coordination with the city police officers, arrested a group of suspects who broke into five homes in a single day.

Kahle said left unaddressed burglaries would become a trend. To combat it, she said the department could enlist the public to help be the department's eyes and ears in a neighborhood watch-type program.

"When you get your community involved, and you get them on a level where they trust the local law enforcement they're going to be more willing to give information," she said. "They're going to be more willing to become witnesses, so to speak, when they see any suspicious activity in the

neighborhood.”

The two candidates agreed on many topics.

Both said a traffic violation was a useful tool to stop people suspected of more serious crimes.

They agreed that drones could be a useful tool in specific situations. Pitts said unmanned aircraft could help with search-and-rescue.

Kahle said education and rehabilitation was a large component to cracking down on domestic violence issues. Pitts said his department has been proactive in combating domestic violence. Deputies take classes to better deal with domestic violence cases, he said.

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Tags

[Jim Pitts](#), [Social Issues](#), [Law_crime](#), [Mindy Kahle](#), [Elko County Nevada](#), [Sheriff](#), [Elections](#)

More Local Stories



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[Carlin candidates promote city pride, land acquisition and economic growth](#)



Want to enter the Pigskin Pickers contest?

Find the teams to choose from
on Page A8.

"WE LIVE IN A GLOBAL WORLD -- TAKE COVER"

Commentary
by Diana West



Elko Daily



High 81° Low 39°

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Vol. 131 No. 240

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SHERIFF CANDIDATES



Elko County Sheriff Jim Pitts talks about issues during a candidate forum Monday at Elko Convention Center.

Elko County Sheriff Jim Pitts talks about issues during a candidate forum Monday at Elko Convention Center.

Hardy campaign to hit Elko

ELKO — Despite running in a southern congressional district, Crescent Hardy will mingle with residents in the northeastern part of the state at a local fundraising event.

Hardy, who serves as an assemblyman in District 19, located in Clark County, is running as a Republican candidate for the U.S. House of Representatives, District 4.

Assemblyman John Ellison, R-Elko, and Sen. Pete Goicoechea, R-Eureka, are hosting the reception, which starts 3 p.m. today at Ellison Electric at 438 S. Fifth St., No. 3.

"He spends a lot of time in Elko," Ellison said.

The three state lawmakers will also be available to talk to voters about the upcoming legislative session.

Hardy is running against Democratic incumbent Steven Horsford.

f candidates





**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

Request for Opinion No. **14-71C**

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Jim Pitts, Sheriff, County of Elko,
State of Nevada,

Subject. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law (see sections checked below).

√	Statute	Essence of Statute:
√	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
√	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
√	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.
√	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)

	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
√	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached, together with a copy of the relevant provisions of the NRS and the Nevada Administrative Code (NAC). You may also find the relevant provisions of NRS and NAC and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the receipt of a request for opinion, the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.
2. Within 15 days after the Executive Director provides a written recommendation, the panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.
3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

Pursuant to NRS 281A.440(3), should you wish to respond to these allegations, the Commission must receive your written response no later than 30 days after the date you receive this notice. A lack of response on your part is not deemed an admission that the allegations are true.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469.

Dated this 22nd day of October, 2014.

/s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Commission Counsel/
Acting Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Sheriff Jim Pitts
County of Elko
775 W. Silver Street
Elko, NV 89801

Cert. Mail # 9171 9690 0935 0037 6370 16

Dated: 10/22/14.


Employee, Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Jim Pitts, Sheriff, Elko County,
State of Nevada,

Request for Opinion No. **14-71C**

Public Officer. /

PANEL DETERMINATION

NRS 281A.440(5); NAC 281A.440

The Nevada Commission on Ethics received a Third-Party Request for Opinion (RFO), No. 14-71C, regarding the conduct of Jim Pitts ("Pitts") alleging certain violations of the Ethics in Government Law set forth in NRS 281A.

At the time of the alleged conduct, Pitts served as Sheriff of Elko County, a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

On January 21, 2015, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners Gregory J. Gale and Cheryl A. Lau, Esq. reviewed the following: 1) Request for Opinion; 2) Subject's written response; 3) the results of the Commission's related investigation and 4) the Associate Counsel's Report and Recommendation on behalf of the Executive Director.

Under NAC 281A.435, the Panel unanimously finds just and sufficient cause based on credible evidence of all allegations for the Commission to render an opinion regarding whether Pitts violated NRS 281A.020, NRS 281A.400(1), (2), (7) and (9).

Therefore, the Investigatory Panel will refer all allegations to the Commission for a hearing and the rendering of an opinion. Under NRS 281A.440, you will be notified of a hearing date and procedural matters for the hearing.

Dated: January 28, 2015

By: /s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **PANEL DETERMINATION** in Request for Opinion **No. 14-71C**, via Email and U.S. Mail to the parties and interested persons as follows:

Jim Pitts, Sheriff
Elko County
775 W. Silver Street

Email: jpitts@elkocountynv.net

Melinda Kahle
2770 Jennings Way
Elko, NV 89801

DATED: January 28, 2015



Employee of the Nevada Commission on Ethics



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Jim Pitts, Sheriff, County of Elko,
State of Nevada,

Request for Opinion No. **14-71C**

Subject. /

NOTICE OF ADDITIONAL ISSUES AND FACTS

Pursuant to NRS 281A.440(2), NAC 281A.410 and NAC 281A.415

In addition to the *Notice to Subject* provided on October 22, 2014, NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) has identified relevant issues and facts beyond those presented in the original Third-Party Request for Opinion ("RFO"). Accordingly, you are hereby notified that the Commission's investigation has identified evidence of further campaign-related actions involving your subordinates' participation in and/or contributions to your campaign for re-election that may implicate conduct contrary to NRS 281A.020, 400(1), 400(2), 400(7) and 400(9).

Pursuant to NRS 281A.440(3), you may respond to these allegations in writing to the Commission no later than 30 days after the date you receive this notice. A lack of response on your part is not deemed an admission that the allegations are true.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO confidential until you waive the confidentiality or until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion regarding the additional facts and issues, whichever occurs first. However, the Commission has no authority to require the requester to maintain the confidentiality of the RFO. As a result, information may appear in the media. The Commission will not be the source of any such public information until the appropriate time as provided herein. You will be notified of the Panel Determination.

If you have any questions regarding this notice, please contact me at
(775) 687-5469.

Dated this 29th day of January, 2015.

/s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via Email and U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice of Additional Issues and Facts** addressed as follows:

Jim Pitts, Sheriff
Elko County
775 W. Silver Street
Elko, NV 89801
jpitts@elkocountynv.net

Cert. Mail # 9171 9690 0935 0037 6372 52

Dated: January 29, 2015.

A handwritten signature in blue ink, appearing to read "David Lloyd", written over a horizontal line.

Employee, Nevada Commission on Ethics

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STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Jim Pitts, Sheriff, Elko County,
State of Nevada,

Request for Opinion No. **14-71C**

Public Officer. /

PANEL II DETERMINATION
NRS 281A.440(5); NAC 281A.440

The Nevada Commission on Ethics received a Third-Party Request for Opinion ("RFO"), No. 14-71C, regarding the conduct of Jim Pitts ("Pitts") alleging certain violations of the Ethics in Government Law set forth in NRS 281A.

At the time of the alleged conduct, Pitts served as Sheriff of Elko County, a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

On October 22, 2014, Pitts was served with a Notice to Subject of Request for Opinion ("Notice") providing a copy of the RFO and notice of provisions of the Nevada Ethics in Government law allegedly violated, which included NRS 281A.020 and NRS 281A.400(1), (2), (7) and (9). The RFO and Notice includes, among other matters, allegations that Pitts violated the referenced statutes by campaigning in uniform and using his badge in furtherance of his re-election campaign.

During the investigation of the RFO, additional issues and facts were determined to be present pertaining to campaign-related actions involving Pitts' subordinates' participation in and/or contributions to Pitts' campaign for re-election that also implicated conduct contrary to NRS 281A.020 and NRS 281A.400(1), (2), (7) and (9) (collectively "Additional Facts").

On January 21, 2015, pursuant to NRS 281A.440(5), an Investigatory Panel ("Panel I") consisting of Commissioners Gregory J. Gale and Cheryl A. Lau, Esq. reviewed the following: 1) Request for Opinion; 2) Subject's written response; 3) the results of the Commission's related investigation; and 4) the Associate Counsel's Report and Recommendation on behalf of the Executive Director. Under NAC 281A.435, Panel I unanimously found that just and sufficient cause existed based on credible evidence of all allegations, including those related to the Additional Facts for the Commission to render an opinion regarding whether Pitts violated NRS 281A.020 and NRS 281A.400(1), (2), (7) and (9). A Panel Determination was issued on January 28, 2015.

Pursuant to NAC 281A.415, the Executive Director has the authority to include additional issues and facts in the Executive Director's Recommendation to an Investigatory Panel provided the subject is notified of the same and is provided an

opportunity to respond under subsection 3 of NRS 281A.440(3). Pitts had not been noticed of the Additional Facts prior to the hearing for Panel I, and inadvertently the Additional Facts were included in the Executive Director's Recommendation to the Panel.

On January 29, 2015, a Notice of Additional Issues and Facts was served on Pitts providing him 30 days to file a response thereto. On or about March 7, 2014, Pitts filed a Response to Additional Issues and Facts ("Response").

On or about March 30, 2015, the Parties agreed that a second Panel hearing ("Panel II") would be scheduled for the purpose of reconsideration and issuance of a new determination with respect to the Additional Facts after review of a corrected record, including the Response to the Additional Facts. It is specifically noted that the Panel's previous determination relating to the allegations set forth in the RFO and Notice were properly noticed and processed and that portion of the Panel Determination from Panel I shall stand.

On April 15, 2015, pursuant to NRS 281A.440(5), Panel II was held with respect to the Additional Facts. Panel II consisted of Commissioners Gregory J. Gale and Cheryl A. Lau, Esq., who reviewed the following: 1) Request for Opinion; 2) Panel Determination I; 3) Notice of Additional Issues and Facts; 4) Subject's written response to Additional Issues and Facts; 5) the results of the Commission's related investigation; and 6) the Associate Counsel's Report and Recommendation on behalf of the Executive Director.

In Panel II, under NAC 281A.435, the Panel unanimously found that just and sufficient cause existed based on credible evidence of the allegations pertaining to the Additional Facts for the Commission to render an opinion regarding whether Pitts violated NRS 281A.020 and NRS 281A.400(1), (2), (7) and (9).

Therefore, the Investigatory Panel will refer all allegations to the Commission for a hearing and the rendering of an opinion. With regard to Pitt's request for a dismissal, Panel II considered whether there is just and sufficient cause for the Commission to hear this matter. Pursuant to NAC 281A.265, any motions related to this third-party request for opinion only may be made after the Panel Determination. Under NRS 281A.440, you will be notified of a hearing date and procedural matters for the hearing.

Dated: April 23, 2015

By: /s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF MAILING

I certify that I am a staff member of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **PANEL II DETERMINATION** in Request for Opinion **No. 14-71C**, via Email and U.S. Mail to the parties and interested persons as follows:

Thomas P. Beko, Esq.
Charity F. Felts, Esq.
Erickson, Thorpe &
Swainston, Ltd.
99 West Arroyo Street
P.O. Box 3559
Reno, NV 89505

Email: tbeko@etsreno.com

Email: cfelts@etsreno.com

Jim Pitts, Sheriff
Elko County
775 W. Silver Street

Email: jpitts@elkocountynv.net

Melinda Kahle
2770 Jennings Way
Elko, NV 89801

DATED: April 23, 2015



Staff of the Nevada Commission on Ethics

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STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Jim Pitts, Sheriff, County of Elko,
State of Nevada,

Request for Opinion No. **14-71C**

Subject. /

AMENDED NOTICE OF HEARING

PLEASE TAKE NOTICE, that the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** in lieu of a hearing to consider the matters as noticed in the *Fourth-Amended Notice of Hearing on Motions and Scheduling Order* issued January 12, 2016 regarding the allegations submitted in Third-Party Request for Opinion No. 14-71C. This Notice provides an updated time and location for a hearing on the Proposed Stipulated Agreement previously noticed in the *Notice of Hearing* issued April 14, 2016.

The Hearing Will Take Place:

**Wednesday, June 15, 2016 at 1:15 p.m., or as soon thereafter as the
Commission is able to hear the matter, at the following location:**

**Grant Sawyer State Building
Room 4412
555 E. Washington Avenue
Las Vegas, NV 89101**

and via video-conference to:

**Nevada Legislative Building
Room 3143
401 S. Carson Street
Carson City, NV 89701**

Telephonic attendance of a party and their legal representative may be available upon request.

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue an amended Notice of Hearing and Scheduling Order setting the date, time and location for a hearing to consider the matter.

DATED: June 1, 2016

/s/ Tracy L. Chase

Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **AMENDED NOTICE OF HEARING** in Request for Opinion No. 14-71C, via email and U.S. mail, addressed to the parties and interested persons as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Judy A. Prutzman, Esq.
Associate Counsel
Nevada Commission on Ethics
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Melinda Kahle
13360 W. Saddlebow Drive
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Email: kahle@pyramid.net

DATED: June 1, 2016

An employee, Nevada Commission on Ethics