

Agenda Item 3



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

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS
BILL DRAFT REQUEST (BDR) SUBCOMMITTEE**

The Commission on Ethics held a public meeting on
Wednesday, April 15, 2020, at 10:30 a.m.
at the following location:

**Ethics Commission Office
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. A recording of the meeting is available for public inspection at the Commission's office.

1. Call to Order and Roll Call.

Vice-Chair Wallin, CPA, CMA, CFM appeared telephonically and called the meeting to order at 10:30 a.m. Also appearing telephonically were Commissioners Brian Duffrin and Barbara Gruenewald, Esq. Present for Commission staff in Carson City were Commission Counsel Tracy L. Chase, Esq. and Executive Assistant Kari Pedroza. Executive Director Yvonne M. Nevarez-Goodson, Esq., Associate Counsel Casey Gilham, Esq., and Senior Legal Researcher Darci Hayden appeared telephonically.

2. Public Comment.

There was no public comment.

3. Consideration and approval of the Executive Director's recommendations for Nevada Commission on Ethics' Bill Draft Request (BDR) for the 2021 Nevada Legislative Session.

Executive Director Nevarez-Goodson directed the Subcommittee to the BDR Recommendation memorandum provided in the Subcommittee meeting materials which outlined the Commission's BDR history, as well as the Executive Director's recommendation for the 2021 Legislative Session. She provided summaries of the most recent Commission Legislation included in Senate Bill 84 (SB 84) from 2017 and Senate Bill 129 (SB 129) from 2019, and recommended that the Subcommittee consider the proposed changes in the Second Reprint of SB 129 as a starting point for the Commission's 2021 Legislative BDR.

The Executive Director recommended the following provisions from SB 129 be prioritized in the upcoming Legislative BDR:

Requests for Advisory Opinions

- 2-year statute of limitations for advice re: past conduct.
- Distinction between issuing a decision versus a written opinion; extra time to issue written opinion.
- Materials and hearing are confidential and exempt from Open Meeting Law. Commission **may** hold open hearing upon waiver of confidentiality in accordance with regulations of Commission.

Ethics Complaints

- Authorizing Commission to extend 45-day deadline to determine jurisdiction/investigation based upon showing of good cause.
- Requiring Commission to serve a "Notice of Investigation" instead of a copy of the ethics complaint on the Subject.
- Clarifies that consistent with existing subpoena power, Subject of a complaint must participate in an investigation regardless of whether they file a written response to the allegations; exceptions if privileges apply.
- Review Panel may grant an extension from 70-day timeline to investigate a case for good cause shown.
- Clarifies the parties to adjudicatory proceedings after investigation include the Executive Director and Subject of the complaint who may each present/defend their cases to the Commission after the Commission issues a written notice of hearing and schedule for discovery.
- Distinction between issuing a decision versus a written opinion; extra time to issue written opinion.
- Clarifies the protections for confidentiality of the identity of person who files an ethics complaint, including when they otherwise serve as witnesses.
- Materials and hearings are exempt from OML (except final action). Clarifies that exemption exists even for final action, but the Commission will make its final decision in an open hearing in accordance with regulations of Commission.

Ethical Standards of Conduct

- Cooling Off Provisions:
 - o Confirms that prohibitions apply to current and former public officers and employees.
 - o Expands prohibition against a public officer/employee leaving public service to work for a vendor to which the officer or employee was involved in "awarding" a contract over \$25,000 during the preceding year to any contract in which the public officer or employee was involved in awarding of such contract or material implementation, management or administration of such a contract.
 - o Authorizes public officers/employees to request information from a potential employer in a business or industry without being deemed to improperly negotiate future employment.
 - o Limits application of prohibition to seek/accept employment from regulated business or industry applicable to Executive Branch employees to management level employees.
- Abuse of Power/Authority:
 - o Prohibits actions by public officers/employees that a reasonable person would find gross/unconscionable abuse of official position undermining integrity or impartiality of reasonable person in public officer position;
 - o Does not include allegations of bias, error or abuse of discretion within normal scope of duties.
- Misuse of Government Resources
 - o Clarifies and makes consistent prohibition of public officer/employee and State Legislator from using government resources for significant personal or pecuniary interest.

- Clarifies 2 of the 4 requirements of the limited-use exception: 1) to allow use if there is a **written** policy allowing such use **before** the conduct; and 2) defines “appearance of impropriety” as a perception by a reasonable person that the use is inappropriate, disproportionate, excessive or unreasonable.
- Disclosure/Abstention:
 - New limited exception from disclosing certain information for legally protected confidential relationships (i.e. attorney/client) – abstention mandatory in such circumstances.
 - Adds abstention requirement for matters that are materially affected by the nature of private representations of private clients within the preceding year.

Open Meeting Law (“OML”) Exemption/Application

- This bill requests complete exemption from OML and instead provides that the Commission will take final action in an open meeting defined under its regulations, but that is not required to comply with the notice, agenda and supplemental materials requirements of OML for confidential documents and scheduling/noticing challenges for cases.
- OML also now requires that a public body take legal action regarding litigation in an open, public meeting under OML. This bill authorizes the Commission to delegate litigation decisions to its Chair, Executive Director or both and to allow Commission Counsel to initiate, defend, participate and appeal in legal proceedings with consent or ratification of Commission or Chair/Executive Director (if so delegated).

Administrative

- Executive Director must be licensed attorney in Nevada.
- Review Panel must prepare/serve written Panel Determinations; deadlines for deferral agreements; mediate settlements.
- Requires all public officers and employees to cooperate in Commission’s lawful investigations or proceedings and furnish information unless limited rights privileges, immunities or confidentiality apply.

Executive Director Nevarez-Goodson also asked the Subcommittee to consider the following new recommendations:

Advisory Opinions

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

Ethics Complaints

- Jurisdictional Recommendations – Confirm confidentiality.
- Confidentiality of Requester: Significant staff time is spent analyzing and coordinating appropriateness of confidentiality of Requester, and if confidentiality is maintained, ensuring appropriate redactions to complaints and protection of witnesses who may otherwise inadvertently identify the

Requester. This may be solved, in part, with the approach to issuing a Notice of Complaint in lieu of providing a copy of the Ethics Complaint.

- Requiring State and local governmental agencies to cooperate and provide information, even if confidential, during the course of an ethics investigation. Internal employee disciplinary matters often parallel ethics investigations. The Commission doesn't want to be blindsided by or uninformed of evidence of an internal agency investigation that relates to ethical misconduct. There is inherent protection of such information given that the Commission's investigatory file is statutorily confidential.
- Increase investigatory timeframe with opportunity to request extensions from Review Panel for good cause.
- Extend deadline for Review Panel to render a decision from 15 days to 45 days. This would provide Review Panel opportunity to direct additional investigation or seek legal research/advice on a given matter.
- Confirm that proposed stipulations are exempt from OML.

Commissioner Duffrin expressed his concern that extensions of statutory timelines could result in delays for subjects of complaints and requesters of advisory opinions to receive resolution of their matters. However, he further opined that the Commission would not likely receive budgetary resources to hire an additional position to help alleviate the increased caseload given the current economic circumstances, and therefore the extensions would assist staff to complete the workload. The Executive Director confirmed that extensions of time would not alleviate the backlog of investigations due to caseload increases, but would ensure that the oldest cases do not get pushed further back by newer cases where there is no waiver of the timelines.

Commissioner Gruenewald asked what feedback was given by the Committee Members in the Senate or the Assembly last session regarding the time extensions. Executive Director Nevarez-Goodson reported that the Assembly Committee on Legislative Operations and Elections did not want open-ended deadlines for extensions and the Second Reprint of SB 129 included an amendment clarifying that extensions would only be granted for good cause with a specified deadline, and the same recommendation was incorporated herein.

Commissioner Gruenewald supported the Executive Director's recommendation to remove any section regarding referrals of complaints involving State Legislators from the BDR proposal to avoid legislative concerns that the amendment was targeting legislators. Executive Director Nevarez-Goodson confirmed that the amendment in SB 129 did not grant additional jurisdiction to the Commission over State Legislators and instead provided a procedural mechanism for the Commission to refer appropriate ethics complaints to the Legislature without waiving confidentiality or having to make such decisions in an open public meeting. The BDR Subcommittee agreed to exclude any such provisions to avoid any possibility that the language could damage the other goals of the legislation due to any unintended misinterpretations of the provisions.

Executive Director Nevarez-Goodson informed the Commissioners that feedback from the public regarding the Abuse of Power/Authority provision is that the public is concerned that the Commission does not have jurisdiction over conduct that would be deemed a true abuse of power simply because it does not implicate a pecuniary interest or a commitment in a private capacity under the current law. She stated that the Commission has received numerous complaints alleging an abuse of power, but the complaints were dismissed for failure to allege the financial interest or commitment in a private capacity. She explained that the proposed language to this provision in the BDR was constitutionally supported by legislative attorneys and would provide an opportunity for the Commission to investigate allegations of abuse, but not allegations regarding bias or performance in carrying out public duties.

Executive Director Nevarez-Goodson provided that state and local government agency stakeholders were comfortable with the proposed language in the abuse of power provision as submitted in the 2019 Legislative session.

Commissioner Duffrin asked whether the Commission would experience a significant increase in the number of complaints or investigations if the Commission could investigate allegations of abuse of power not associated with a financial interest and/or a commitment in a private capacity. Executive Director Nevarez-Goodson replied that she did not think the number of complaints filed would increase as the Commission is already receiving these types of complaints; however, the number of complaints being investigated would likely increase. Executive Director Nevarez-Goodson stated she would provide the Subcommittee with statistics regarding the number of these types of complaints received in prior years for the next meeting.

Commissioner Gruenewald asked if there was any feedback from any Legislators that they did not want the Commission to have jurisdiction over the Legislative Branch, and Executive Director Nevarez-Goodson responded that she did not receive that feedback. Vice-Chair Wallin added that she attended many of the hearings and meetings with Legislators during the last session and confirmed that there was no concern about the Ethics Commission oversight of the Legislative Branch from the Legislators. Executive Director reminded the BDR Subcommittee that former Governor Sandoval introduced a bill in 2017 to remove legislators from the jurisdiction of the Ethics Commission and the bill died in committee.

Executive Director Nevarez-Goodson asked the Subcommittee members to consider her recommendation for the Commission's Executive Director and Commission Counsel to issue informal, administrative advice to public officers and employees that would not contradict Commission precedent in an effort to streamline the Commission's Advisory Opinion case load and be more accessible and timely to the needs of public officers and employees. Executive Director Nevarez-Goodson clarified that the proposal would provide the Commission with discretion in determining which opinions would be binding and subject to judicial review, and Commission Counsel Chase offered that this is a similar process to that which is in practice with the Court System.

The BDR Subcommittee members agreed that this would be a worthwhile pursuit for the Commission's bill. Based on the direction of the Subcommittee, Executive Director Nevarez-Goodson confirmed that for the next BDR Subcommittee meeting she would provide language pertaining to Advisory Opinions proposing an extension from the 45-day timeline upon the receipt of the Requestor's approval of the facts and an outline for an informal advisory process.

Executive Director Nevarez-Goodson provided information on why she recommended the inclusion of the language requiring that the Executive Director be a licensed attorney in Nevada, including that the statutory duties of the Executive Director require legal analysis, recommendations, and the overall practice of law, as well as that limited staffing resources require the Executive Director to legally represent herself as a party if there are vacancies in the Associate Counsel position or if a conflicts of interest prevent the Associate Counsel from acting in a particular matter. Commissioner Gruenewald asked if there were other agencies with the same requirement, and Executive Director Nevarez-Goodson noted that two new Commissions were created during the last legislative session, the Commission on Indigent Defense and the Commission on Sentencing, which both statutorily require that their Executive Directors be licensed attorneys. Vice-Chair Wallin shared her opinion that this session may be a more opportune time to propose this with the budget issue and the inability to hire another attorney; Commissioner Gruenewald agreed.

Executive Director Nevarez-Goodson clarified the intention of the proposal requiring state and local governmental agency cooperation during the course of an ethics investigation. Commissioner Gruenewald stated her agreement in pursuing this proposal.

Vice-Chair Wallin asked Executive Director Nevarez-Goodson to provide language at the next meeting allowing the Commission to refer non-jurisdictional complaints to another government agency with appropriate jurisdiction without jeopardizing the confidentiality of the complaint. Commissioners Duffrin and Gruenewald agreed with the request. Executive Director

Nevarez-Goodson confirmed that she and Commission Counsel Chase would work together to draft that language to be provided at the next BDR Subcommittee meeting.

Commissioner Gruenewald moved to accept the Executive Director's recommendations to the Nevada Commission on Ethics' Bill Draft Request (BDR) for the 2021 Nevada Legislative Session, including the Committee's requested revisions and new language to be provided at the next Subcommittee meeting. Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

4. 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.

Commissioner Gruenewald thanked Executive Director Nevarez-Goodson for her excellent BDR summary and history of past legislation. Vice-Chair Wallin and Commissioner Duffrin echoed Commissioner Gruenewald's comments. Commissioner Duffrin thanked Commission staff for their efforts working from home and shared his opinion that the BDR recommendation is a good product going forward. Vice-Chair Wallin thanked her fellow Subcommittee members for their time and hard work. She also expressed her thoughts about meeting with legislators before the upcoming session.

5. Public Comment.

No public comment.

6. Adjournment.

Commissioner Gruenewald made a motion to adjourn the public meeting. Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

The meeting adjourned at 12:14 p.m.

Minutes prepared by:

/s/ Kari Pedroza

Kari Pedroza
Executive Assistant

/s/ Yvonne M. Nevarez-Goodson

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved May 20, 2020:

Kim Wallin, CPA, CMA, CFM
Vice-Chair

Brian Duffrin
Commissioner

Barbara Gruenewald, Esq.
Commissioner

Agenda Item 4

2020 BDR

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

Legislative Counsel's Digest:

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

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

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

Sections 2, 7, 9, 14, 23-27 and 29-31 of this bill make various changes to existing provisions of the Ethics Law which govern the operation, powers, functions and duties of the Commission, its members and staff and any specialized or local ethics committees. (NRS 281A.200-281A.350) Under the Ethics Law, the Commission must annually elect a Chair and Vice Chair who are assigned certain powers, functions and duties. (NRS 281A.210, 281A.220, 281A.240, 281A.300) **Sections 2 and 23** of this bill provide for the Chair's powers, functions and duties to be assigned for a particular matter to the Vice Chair or another member of the Commission under certain circumstances. **Section 30** of this bill provides for **the Chair**, a member of the Commission, ~~to administer oaths when~~ appointed by the Chair to preside over any meetings, hearings or proceedings **or a certified court reporter or other authorized person directed by the Chair to administer oaths. Section 30 also authorizes the Executive Director to request a subpoena during the course of an investigation for information, records or documentation regarding confidential personnel records maintained by a state or local government agency that relates to the issues under consideration in an ethics complaint. Such records will be maintained by the Commission as confidential records protected by the Commission's confidential investigatory file. Section 30 further provides that any court proceeding commenced pursuant to this section is deemed good cause for the Commission to grant an extension of the time limits set forth in NRS 281A.700 to 281A.790, inclusive, that apply to proceedings concerning the ethics complaint.**

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

The Ethics Law requires the Commission to appoint and prescribe the duties of the Executive Director who must have experience in administration, investigations and law. (NRS 281A.230) Section 25 of this bill adds to these qualifications by requiring the Executive Director to be an attorney who is licensed to practice law in Nevada. Under the Ethics Law, the Commission may conduct investigations and proceedings and secure the participation and attendance of witnesses and the production of any books and papers. (NRS 281A.290, 281A.300) Section 7 of this bill requires public officers and employees to cooperate with the Commission in its investigations and proceedings and to furnish information and reasonable assistance to the Commission, except to the extent that they are entitled to the protection of certain rights, privileges or immunities or any confidentiality or other protection recognized by law. Section 7 is modeled, in part, on similar provisions governing the Commission on Judicial Discipline.

Commission Counsel who is the legal adviser to the Commission and who, in most cases, is directed by the Commission to act as legal counsel in any litigation in which the Commission or its members or staff are parties in an official capacity. (NRS 281A.250, 281A.260) Under Nevada's Open Meeting Law, the Commission may receive information regarding any litigation from its legal counsel and deliberate toward a decision regarding the litigation without holding a public meeting that complies with the Open Meeting Law. (NRS 241.015) However, the Commission cannot take action regarding the litigation, such as authorizing an appeal in the litigation, unless the Commission takes the action in a public meeting that complies with the Open Meeting Law. (Comm'n on Ethics v. Hansen, 134 Nev. 68 Adv. Op. 40, 419 P.3d 140, 142-43 (2018))

Section 9 of this bill allows the Commission to delegate authority to the Chair or the Executive Director, or both, to make decisions regarding any litigation in which the Commission or its members or staff are parties in an official capacity. Sections 9 and 64 of this bill also provide that during any period in which proceedings concerning a request for an advisory opinion or an ethics complaint are confidential under the Ethics Law, the Open Meeting Law does not apply to any meetings, hearings, deliberations or actions of the Commission involving: (1) any decisions in litigation concerning any judicial action or proceeding related to the request for an advisory opinion or the ethics complaint; and (2) any delegation of authority to make such decisions in the litigation to the Chair or the Executive Director, or both.

The Ethics Law requires the Commission on Ethics to appoint and prescribe the duties of the Commission Counsel who is the legal adviser to the Commission and who, in most cases, is directed by the Commission to act as legal counsel in any litigation in which the Commission or its members or staff are parties in an official capacity. (NRS 281A.250, 281A.260) **Section 27** of this bill specifies the powers and duties of the Commission Counsel regarding any litigation in which the Commission or its members or staff are parties in an official capacity. Section 27 also authorizes the Commission Counsel to file an appeal or seek other appellate relief in the litigation with the consent or ratification of: (1) the Commission; or (2) the Chair or the Executive Director, or both, when the Commission has delegated authority under Section 9 to provide such consent or ratification. Section 27 clarifies that the Commission Counsel does not represent the interests of the Executive Director in a judicial action or proceeding in which the Executive Director is named as a party based on conduct of the Executive Director in his/her official conduct as a party to an adjudicatory proceeding.

Under the Ethics Law, the Commission must adopt procedural regulations to carry out the functions of the Commission, accept acknowledgments of statutory ethical standards, conduct necessary investigations, recommend legislation to promote ethics in government and publish a manual explaining the requirements of this chapter. (NRS 281A.290) The Executive Director is required to conduct training on the requirements of the ethics in government law for public officers and employees. (NRS 281A.240) Section 29 of this bill replaces the requirement to publish a manual with a requirement to publish the training materials prepared by the Executive Director.

Under the Ethics Law, a specialized or local ethics committee may: (1) establish its own code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity; and (2) render opinions upon the request of public officers and employees subject to its jurisdiction seeking an interpretation of its own code of ethical standards on certain questions. However, a specialized or local ethics committee may not attempt to interpret or render an opinion regarding the statutory ethical standards subject to the jurisdiction of the Commission, but it may refer such questions to the Commission. (NRS 281A.350) **Section 31** of this bill clarifies the circumstances when such questions may be referred to the Commission as a request for an advisory opinion. **Section 31** also makes conforming changes to ensure consistency with the other revisions that this bill makes to the Ethics Law, including removing provisions related to the filing of financial disclosure statements with the Secretary of State to the appropriate chapter, NRS 281.

Section 14 authorizes the Commission to cooperate in investigations of other State/local government agencies to make appropriate referrals of ethics complaints...

The Ethics Law establishes statutory ethical standards that are intended to enhance the people's faith in the integrity and impartiality of public officers and employees by requiring appropriate separation between the roles of persons who are both public servants and private citizens in order to avoid conflicts between their private interests and the interests of the general public whom they serve. (NRS 281A.020, 281A.400-281A.550) **Sections 5, 6, 11, 18 and 32-38** of this bill make various changes to the statutory ethical standards.

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

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

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

discretion in any actions taken by public officers and employees within the normal course and scope of their position or power in government.

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

First, **section 32** of this bill aligns the prohibitions so they employ the same prohibitive language for Legislators and other public officers and employees. As a result, subject to the limited-use exceptions, section 32 prohibits all public officers and employees from using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officers and employees or any persons to whom they have a commitment in a private capacity.

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

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

With certain exceptions, the Ethics Law prohibits public officers and employees from acting upon a matter in which their personal or private interests may create potential conflicts of interests unless, at the time the matter is considered, they make a disclosure that is sufficient to inform the public of their potential conflicts of interests. (NRS 281A.420) **Section 34** of this bill provides that, when public officers and employees make such a public disclosure, they are not required to disclose any information which is confidential as a result of a bona fide relationship that protects the confidentiality of the information under the terms of a contract or as a matter of law, such as the attorney-client relationship, if they:

(1) disclose all nonconfidential information and describe the general nature of the protected relationship; and (2) abstain from acting upon the matter.

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

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

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

The Ethics Law prohibits certain former public officers and employees, for a 1- year “cooling-off” period after the termination of their public service or employment, from soliciting or accepting private employment from any entities regulated or awarded certain contracts by the agencies that employed the former public officers and employees. However, the Ethics Law also allows the Commission to grant relief from the strict application of the prohibition in specified circumstances. (NRS 281A.550) **Section 38** of this bill provides that certain current and former public officers and management-level public employees are subject to the “cooling-off” period both during and after their public service or employment and cannot solicit or accept private employment from such entities under similar circumstances. **Section 38**

also provides that the “cooling-off” period applies when certain current and former public officers and employees are or were materially involved in the implementation, management or administration of certain contracts awarded by their employing agencies.

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

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

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

Section 4 of this bill defines “published opinion” as an opinion issued by the Commission that is publicly available on the Internet website of the Commission. ~~**Section 39** of this bill codifies existing legal principles by stating that the Commission’s published opinions constitute administrative precedents with persuasive value. **Sections 29 and 39** of this bill move and recodify within the Ethics Law the existing provision that directs the Legislative Counsel to prepare annotations of the Commission’s published opinions for inclusion in NRS.~~

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

If the requester properly files a request for an advisory opinion, the Ethics Law requires the Commission to render an advisory opinion in the matter within a certain time limit after receiving the request, unless the requester waives the time limit. (NRS 281A.680) **Sections 28 and 42** of this bill revise the Commission’s jurisdiction and procedures regarding a request for an advisory opinion. Under the Ethics Law, the Commission generally has jurisdiction over ethics complaints filed or initiated within 2 years after the alleged violation or reasonable discovery of the alleged violation. (NRS 281A.280) **Section 28** of this bill similarly provides that the Commission’s jurisdiction over a request for an advisory opinion extends only to past conduct occurring within 2 years of the date on which the request is filed. **Section 42** allows the Commission to stay or dismiss the proceedings concerning the request for an advisory opinion under certain circumstances when an ethics complaint is also filed or pending that involves some or all of the same issues or facts and circumstances as the request for an advisory opinion, **or when the requester has not complied with any procedural requirements of this chapter or chapter 281A of the Nevada Administrative Code. **Section 42** requires a requester of an advisory opinion to confirm that he or she will testify truthfully. **Section 42** of this bill further requires the requester to confirm under oath that any written information related to the request is also truthful.** **Section 42** also requires the Commission to render a decision regarding the request for an advisory opinion within the existing time limit, subject to certain exceptions. ~~However, **Section 42** provides the Commission with more time to prepare the written advisory opinion in the matter by requiring the Commission to issue the written advisory opinion within a specified time limit after the decision is rendered. **Section 42** additionally allows the Commission to extend the time limit for good cause, but it must set a specific and reasonable time period for such an extension. **Section 42** further authorizes the Commission to determine which decisions and opinions related to a request for an advisory opinion will be binding on the requester and constitute administrative precedent to be followed in the adjudication and disposition of future requests for an advisory opinion or ethics complaints. **Section 42** confirms that a written advisory opinion related to a request for relief from the strict application of NRS 281A.410, 281A.430 or 281A.550 as well as an advisory opinion related to the past conduct of the requester are not subject to judicial review pursuant to NRS 233B.130. Finally, **Section 42** authorizes the Executive Director and Commission Counsel to issue informal advice to a public officer or employee regarding the application of the statutory ethical standards to a given set of facts and circumstances that is not contrary to a published, precedential opinion of the Commission. Such advice is not binding on the requester or subject to judicial review pursuant to NRS 281A.130 and~~

reliance on such advice protects the public officer or employee from a future finding of a violation of the Ethics Law pursuant to NRS 281A.790(6). Any dispute related to such advice is resolved pursuant to a request for an advisory opinion from the Commission and any decision or opinion of the Commission or advice provided by the Executive Director or Commission Counsel do not divest the Commission of its jurisdiction of an ethics complaint which alleges facts separate from those relied upon to render advice.

Under the Ethics Law, certain materials relating to a request for an advisory opinion are confidential and not public records unless the requester: (1) authorizes the Commission to disclose the materials; or (2) voluntarily discloses the materials to persons other than those specified in the statute. (NRS 281A.685) **Section 43** of this bill clarifies that any authorization given by the requester is limited to the specific materials that the requester authorizes the Commission to disclose. **Section 43** also revises the specified persons to whom the requester may voluntarily disclose the materials without waiving the confidentiality of the materials. **Section 43 confirms that a request for advice from the Executive Director or Commission Counsel receive the same confidentiality protections as a request for an advisory opinion from the Commission.**

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

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

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

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

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

Within 15 days after the Executive Director presents the written recommendation to the review panel, the Ethics Law requires the review panel to determine whether there is just and sufficient cause for the Commission to render an opinion regarding the ethics complaint, unless the subject waives the time limit. **Section 51 extends the time for the panel to issue its determination to 45 days.** If the review panel determines that there is not just and sufficient cause, the Ethics Law requires the review panel to dismiss the matter, but the review panel may issue a confidential letter of caution or instruction to the subject as part of the dismissal. If the review panel determines that there is just and sufficient cause but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action, the Ethics Law authorizes the review panel to approve a deferral agreement between the Executive Director and the subject to defer further proceedings in the matter under the terms and conditions of the deferral agreement. If the subject complies with the terms and conditions of the deferral agreement, the matter must be dismissed. However, if the subject fails to comply with the terms and conditions of the deferral agreement, the deferral agreement may be vacated and further

proceedings conducted in the matter before the Commission. If the review panel does not believe that a deferral agreement is appropriate or if the subject declines to enter into such a deferral agreement, the Ethics Law requires the review panel to refer the matter to the Commission for further proceedings. (NRS 281A.730, 281A.740)

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

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

The Ethics Law requires the Commission to hold the hearing and render an opinion in the matter within ~~a certain time limit~~ 60 days after a referral from the review panel, unless waived by the subject, and the Ethics Law requires the opinion to include findings of fact and conclusions of law. (NRS 281A.745, 281A.765) **Section 53** of this bill requires the Commission to hold a hearing and render a decision in the matter within the existing time limit, unless waived by the subject or extended by the Commission for good cause, with a specific and reasonable time period, ~~but~~ and section 53 provides the Commission with more time to prepare the written opinion in the matter by requiring the Commission to issue the written opinion within a specified time limit after the decision is rendered. **Section 53** additionally allows the Commission to extend the time limit for good cause, but it must set a specific and reasonable time period for such an extension. **Sections 53 and 57** of this bill also clarify that, in addition to including findings of fact and conclusions of law, the written opinion must otherwise comply with the requirements for a final decision under Nevada's Administrative Procedure Act. (NRS 233B.125)

With certain exceptions, the Ethics Law requires, or in some cases allows, the Commission to keep the identity of certain persons who file ethics complaints confidential in order to protect those persons from potential harm, including persons who work for the same public body, agency or employer as the subject of the ethics complaint. (NRS 281A.750) **Section 54** of this bill extends the confidentiality of the requester to persons who worked for the same public body, agency or employer as the subject of the ethics complaint at the time of the alleged conduct, and persons whose identity would otherwise reveal the identity of witnesses who work for the same public body, agency or employer. **Section 54** clarifies that such confidentiality extends to all materials that, if disclosed, would reveal the identity of the confidential requester. **Section 54** also clarifies that the identity of the confidential requester remains protected if the Executive Director does not intend to present the testimony of the confidential requester as evidence in the matter. However, if the Executive Director intends to present the testimony of the confidential requester as evidence in the matter, **section 54** provides that the Executive Director must disclose the name of the confidential requester only as a proposed witness in accordance with the schedule for discovery in the matter.

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

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

The Ethics Law establishes various requirements regarding the disposition of ethics complaints and the imposition of remedies and penalties. (NRS 281A.765- 281A.790) Under the Ethics Law, there are two types of violations: (1) willful violations that require proof of specific mental elements showing that the subject of an ethics complaint committed the violations intentionally and knowingly; and (2) other violations that do not require proof of those specific mental elements. (NRS 281A.170) To determine whether violations are willful, the Ethics Law requires the Commission to: (1) consider a

nonexclusive list of aggravating and mitigating factors, as well as any other reasonably related factors; and (2) ensure when it applies those factors that the disposition of the matter bears a reasonable relationship to the severity of the violations. (NRS 281A.775) For any violations, whether or not willful, the Ethics Law authorizes the Commission to impose certain remedies, such as training, a remedial course of action or public admonishment. (NRS 281A.785) However, for willful violations, the Ethics Law also authorizes more severe remedies and penalties, such as substantial civil penalties and public reprimand or censure. In some cases involving willful violations, the Ethics Law further requires the Commission to seek removal of certain public officers through court proceedings or to submit the matter to the appropriate House of the Legislature for consideration of additional remedies and penalties against certain public officers, including removal through impeachment or expulsion. (NRS 281A.785, 281A.790)

~~Sections 22, 59, 61 and 62 of this bill eliminate the category of willful violations and revise and clarify some of the existing remedies and penalties under the Ethics Law. First, section 22 of this bill defines the term “violation” to provide that all violations of the Ethics Law require proof of specific mental elements showing that the subject of an ethics complaint committed the violations intentionally and knowingly. If the Commission determines that such violations have been proven, sections 59, 61 and 62 of this bill require the Commission to determine which of the less or more severe remedies and penalties to impose against the subject for those violations by: (1) considering the existing nonexclusive list of aggravating and mitigating factors, as well as any other reasonably related factors; and (2) ensuring when it applies those factors that the disposition of the matter bears a reasonable relationship to the severity of the violations. Section 62 of this bill also clarifies that in determining whether the subject has committed one or more violations, each separate act or event that constitutes a violation must be treated as a separate violation that is cumulative to all other violations, whenever committed, without regard to the sequence of the violations or whether the violations are established in the same or separate proceedings. Section 62 additionally revises the types of violations that authorize or require the Commission to pursue judicial removal proceedings or to refer the matter to the appropriate House of the Legislature or the appropriate public employer for possible disciplinary action. Finally, as part of the existing remedies and penalties, the Commission may express its official disapproval, reproof or condemnation of violations by using public admonishment, reprimand or censure depending on the degree of willfulness or severity of the violations. (NRS 281A.785) Section 61 of this bill eliminates public admonishment and censure as potential sanctions but retains public reprimand as the Commission’s means for officially rebuking violations.~~

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

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill proposed to be retained in this amendment.

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

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

Sec. 2. “Chair” means:

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

Sec. 3. “Party” means, for the purposes of the adjudication

and disposition of proceedings concerning an ethics complaint pursuant to this chapter:

- 1. The Executive Director or his or her designee; and*
- 2. The public officer or employee who is the subject of the ethics complaint.*

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

Sec. 5. "Statutory ethical standards" means the statutory ethical standards set forth in the provisions of this chapter.

Sec. 6.

1. The provisions of this chapter establish statutory ethical standards to govern the conduct of:

- (a) Public officers and employees; and*
- (b) Former public officers and employees in situations where the statutory ethical standards apply to the conduct of former public officers and employees after the end of any period of public service or employment.*

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

Sec. 7. (Deleted by amendment.) – Add Back

1. Except as otherwise provided in this section, every public officer or employee of the State or one of its political subdivisions, regardless of whether he or she is otherwise subject to the provisions of this chapter, shall cooperate with the Commission in any lawful investigations or proceedings of the Commission and furnish information and reasonable assistance to the Commission or its authorized representative, except to the extent that the public officer or employee is entitled to:

(a) Any right, privilege or immunity recognized by law, other than any common law privilege or immunity abrogated pursuant to NRS 281A.185; or

(b) Any confidentiality or other protection recognized by law.

2. If a public officer or employee is entitled to any protection pursuant to paragraph (a) or (b) of subsection 1, that protection extends only to matters within the scope of the protection, and the public officer or employee shall comply with the provisions of subsection 1 to the fullest extent possible regarding all matters outside of the scope of the protection.

3. Before a public officer or employee is required to comply with the provisions of subsection 1 and during the course of any investigations or proceedings of the Commission or its authorized representatives, the public officer or employee is entitled to be represented by and consult with legal counsel, including, without limitation, the legal counsel of his or her public body, agency or employer.

Sec. 8. (Deleted by amendment.) – Keep Deletion (Sheriff to serve process)

Sec. 9. (Deleted by amendment.) – Add Back

1. In addition to the provisions of NRS 241.0357, in carrying out the provisions of this chapter, the Commission may delegate authority to the Chair or the Executive Director, or both to make any decisions in litigation concerning any judicial action or proceeding in which the Commission or any member or employee of the Commission is a party in an official capacity or participates or intervenes in an official capacity.

2. During any period in which proceedings concerning a request for an advisory opinion or an ethics complaint are confidential pursuant to this chapter, the provisions of chapter 241 of NRS do not apply to any meeting or hearing held by the Commission or any deliberations or actions of the Commission involving:

(a) Any decisions in litigation concerning any judicial action or proceeding related to the request for an advisory opinion or the ethics complaint; or

(b) Any delegation of authority to make such decisions in the litigation to the Chair or the Executive Director, or both, pursuant to subsection 1.

Sec. 10. (Deleted by amendment.) –Keep Deletion (Prohibited personal benefit for public action taken within immediately preceding year)

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

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

Sec. 11.5. For Discussion – This was added in when fees for Acknowledgment Forms were amended out – consistent with NRS 281A.500 and similar language for FDS with SOS.

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

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

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

(b) *The Director of the Legislative Counsel Bureau for a public officer of the Legislative Department of the State*

Government; and

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

2. For an elected public officer of:

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

(b) The city, the city clerk;

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

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

Sec. 12. (Deleted by amendment.) – Keep Deletion – (Fees for Acknowledgment Forms)

Sec. 13. (Deleted by amendment.) – Keep Deletion (State/Local agency Counsel for Advisory Request)

Sec. 14. (Deleted by amendment.) – Keep Deletion – But add new Language re: referrals of ethics complaints

~~Notwithstanding any other provisions of NRS 281A.700 to 281A.790, inclusive:~~

~~1. If a State Legislator is the subject of an ethics complaint and the Commission determines, at any time during the proceedings concerning the ethics complaint, that any allegations in the ethics complaint involve actions of the Legislator that are not within the jurisdiction or authority of the Commission pursuant to paragraph (b) of subsection 2 of NRS 281A.020 but are within the jurisdiction or authority of the Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission may authorize the Executive Director to file a complaint with the House alleging a breach of legislative ethical standards pursuant to the applicable Standing Rules of the Legislative Department of the State Government.~~

~~2. If the Executive Director files a complaint with the Legislator's own House pursuant to this section:~~

~~(a) The Executive Director shall submit to the House all information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the allegations in the complaint filed with the House; and~~

~~(b) The complaint filed with the House and all information, communications, records, documents or other materials that are related to the allegations in the complaint filed with the House are confidential and are not public records pursuant to chapter 239 of NRS, unless those materials become publicly available in a manner authorized by the applicable Standing Rules of the Legislative Department of the State Government.~~

FOR BDR SUBCOMMITTEE DISCUSSION

1. After the resolution of an ethics complaint, the Commission may provide any information obtained during the course of an investigation of an ethics

- complaint to:
- (a) The Attorney General or appropriate district attorney for the purpose of prosecuting a criminal action in this State;
 - (b) Any Federal law enforcement agency investigating a federal criminal violation by a public officer or employee;
2. If the Commission declines to accept jurisdiction or direct the Executive Director to conduct an investigation of an ethics complaint pursuant to NRS 281A.7??, and the Executive Director reasonably believes the alleged conduct may be properly addressed within the jurisdiction of another state or local agency:
- (a) The Executive Director may refer all or a portion of the information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the allegations in the ethics complaint to that state or local agency. Such a referral must not include a copy of any ethics complaint or reveal the identity of the requester of any such ethics complaint
3. All information, communications, records, documents and other materials that are related to the allegations in an ethics complaint that are provided to another agency pursuant to this section are confidential and are not public records pursuant to chapter 239 of NRS, unless those materials become publicly available in a manner authorized by applicable State law.

NOTE: Potential legal implications to be addressed by Commission Counsel. BDR Subcommittee asked for authority to refer an ethics complaint to other agencies, including Auditors, NERC, etc.

Sec. 15. NRS 281A.030 is hereby amended to read as follows:
281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.032 to 281A.170, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 281A.032 is hereby amended to read as follows:
281A.032 “Adjudicatory hearing” means a hearing held by the Commission pursuant to NRS 281A.745 to receive evidence *and render a decision* concerning an ethics complaint. ~~and render an opinion in the matter.~~

Sec. 17. NRS 281A.033 is hereby amended to read as follows:
281A.033 “Advisory opinion” means an advisory opinion ~~rendered~~ *issued* by the Commission pursuant to NRS 281A.670 to 281A.690, inclusive.

Sec. 18. NRS 281A.065 is hereby amended to read as follows:
281A.065 “Commitment in a private capacity” ~~;~~ *with respect*

~~to the interests of another person.]~~ means a *private* commitment, interest or relationship of a public officer or employee to: ~~{a person:}~~

1. ~~{Who is the}~~ *The* spouse or domestic partner of the public officer or employee;
2. ~~{Who is a}~~ *A* member of the household of the public officer or employee;
3. ~~{Who is related to}~~ *A relative of* 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 employer of* 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}~~ *A person with* whom the public officer or employee has a substantial and continuing business relationship; or
6. ~~{With}~~ *A person with* whom the public officer or employee has any other *private* commitment, interest or relationship that is substantially similar to a *private* commitment, interest or relationship described in subsections 1 to 5, inclusive.

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

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

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

281A.135 1. “Opinion” means an opinion ~~{rendered}~~ *issued* by the Commission in accordance with the provisions of this chapter.

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

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

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

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

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

Sec. 22. **Keeping Willful Violations in Chapter**

NRS 281A.170 is hereby amended to read as follows:

281A.170 ~~{“Willful violation”}~~ *“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.775, that the public officer's or employee's act or failure to act has not resulted in a sanctionable violation of this chapter.]~~

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

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

~~[(b) Meet]~~

2. If the Chair is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Vice Chair shall exercise the powers and functions and perform the duties of the Chair concerning that particular matter. If the Chair and Vice Chair are prohibited from acting on a particular matter or are otherwise unable to act on a particular matter, another member of the Commission who is designated in accordance with the regulations of the Commission shall exercise the powers and functions and perform the duties of the Chair concerning that particular matter.

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

~~[2.]~~ *4.* 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.]~~ *5.* 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.]~~ *6.* The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.

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

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

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

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

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

(a) One or more members of the review panel may, with the

consent of the parties, participate as mediators or facilitators in any settlement negotiations between the parties that are conducted before an adjudicatory hearing in the matter.

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

Sec. 25. (Deleted by amendment.) Add Back

NRS 281A.230 is hereby amended to read as follows:
281A.230 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 be an attorney who is licensed to practice law in this State and 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.]

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

281A.240 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 ethics complaints and requests for advisory opinions pursuant to this chapter.

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

(d) ~~Submit~~ **Present** recommendations to the review panel regarding whether there is just and sufficient cause for the

Commission to render *a decision and issue* an opinion in a matter.

(e) 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.

(f) 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~~ *the published* 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.

(g) 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.

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

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each *written* opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission ~~and~~ *or as required pursuant to this chapter*, the appropriate findings of fact and conclusions as to *the* relevant *statutory ethical* 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. *Except as otherwise provided in this section or directed by the Commission, in litigation concerning any judicial action or proceeding in which the Commission or any member or employee of the Commission is a party in an official capacity or participates or intervenes in an official capacity, the Commission Counsel shall represent and act as legal counsel to the Commission or any member or employee of the Commission in the action or proceeding.*

4. *The provisions of subsection 3 do not apply to litigation*

concerning any judicial action or proceeding in which the Commission:

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

(b) Employs outside legal counsel.

5. The Commission Counsel shall not represent and act as legal counsel to the Executive Director for any judicial action or proceeding in which the Executive Director is named as a party based upon conduct in the official capacity of the Executive Director as a party to an adjudicatory proceeding.

6. 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.

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

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

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

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

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

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

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

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

state or local agency,

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

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

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

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

Sec. 29. NRS 281A.290 is hereby amended to read as follows:
281A.290 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 an ethics complaint or a request for an advisory opinion with the Commission;

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

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

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

2. Prescribe, by regulation, forms and procedures for the submission of ~~[-statements of acknowledgment]~~*acknowledgments of the statutory ethical standards* filed by public officers pursuant to NRS 281A.500, maintain files of such ~~[-statements]~~*acknowledgments* and make the ~~[-statements]~~*acknowledgments* available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition *of decisions and the issuance* 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.

6. Publish ~~a manual~~ **training materials** 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.]~~

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

281A.300 1. The Chair ~~and Vice Chair~~ **or a member** of the Commission **appointed by the Chair to preside over any meetings, hearings and proceedings** may administer oaths **or direct a certified court reporter or other authorized person to administer oaths.**

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

3. Upon the request of the Executive Director, the Chair ~~or, in the Chair's absence, the Vice Chair,~~ may issue a subpoena to compel the participation of a potential witness and the production of any books and papers during the course of any investigation, **including, without limitation, for information, records and documentation regarding personnel records maintained by an agency regarding the conduct of a public officer or employee, including records otherwise deemed by law to be confidential, that relate to issues under consideration in an ethics complaint. Such records will be maintained by the Commission as confidential records protected by the investigatory file pursuant to NRS 281A.755. See NAC 284.726 for confidential State personnel records. Using word "agency" to capture records of state and local government agencies. NRS 281A.035 defines "agency" to include a state and local agency. May want to include an exception for confidential criminal records?**

4. Upon the request of the Executive Director or the public officer or employee who is the subject of an ethics complaint, 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 any books and papers for any hearing before the Commission. 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.

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

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

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

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

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

7. If the public officer or employee fails or refuses to respond to the Executive Director's written request pursuant to subsection 5 to voluntarily participate or 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 written request, the Chair ~~[or, in the Chair's absence, the Vice 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 limits set forth in NRS 281A.700 to 281A.790, inclusive, that apply to proceedings concerning the ethics complaint.

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

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

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

(c) The witness has failed or refused to participate, attend, testify or produce the books and papers as required by the subpoena, or has failed or refused to answer questions propounded to the witness, and asking for an order of the court compelling the witness to participate, attend, testify or produce the books and papers as required by the subpoena.

9. 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 participated, attended, testified or produced the books or papers as required by the subpoena. A certified copy of the order must be served upon the witness.

10. If ~~[it appears to]~~, *at the hearing to show cause*, the court *finds* that the subpoena was regularly issued pursuant to this section ~~[.]~~ *and that the witness has not proven a reason recognized by law for the failure to comply with its provisions*, the court shall enter an order that the witness comply with the subpoena, at the time and place fixed in the order, and participate, attend, 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.

11. Any court proceeding commenced pursuant to this section is deemed good cause for the Commission to grant an extension of the time limits set forth in NRS 281A.700 to 281A.790, inclusive, that apply to proceedings concerning the ethics complaint.

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

281A.350 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 *a decision and issue* an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its *code of* ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct ~~[or]~~, *but the committee may* refer the request to the Commission ~~[.]~~ *if the response to the request requires the Commission to interpret the statutory ethical standards and apply those standards to the given set of facts and circumstances. If the request is referred to the Commission, it shall be deemed to be a request for an advisory opinion filed by the public officer or employee with the Commission pursuant to NRS 281A.675.* Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's ~~[inquiry]~~ *request* to that committee *first* instead of the Commission.

~~(c) Require the filing of financial disclosure statements 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 financial disclosure statement 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 financial disclosure statement pursuant to the provisions of subsection 1.~~

(this should be moved to NRS 281 – Financial Disclosure Statements/SOS)

~~3.~~ **2.** A specialized or local ethics committee shall not attempt to interpret *the statutory ethical standards* or render *a decision and issue* an opinion regarding the statutory ethical standards.

~~4.~~ **3.** Each request for an opinion submitted *by a public officer or employee* to a specialized or local ethics committee, each hearing held *by the committee* to obtain information on which to ~~[base]~~ *render a decision and issue* an opinion, all deliberations *by the committee* relating to ~~[an]~~ *the decision and* opinion, each ~~[opinion]~~ *decision* rendered *and opinion issued* by ~~[a]~~ *the* committee and any motion relating to the *decision and* opinion are confidential unless:

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

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

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

281A.400 ~~[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 the public officer or employee or any person to whom the public officer or employee 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 *any* 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. 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 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.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, 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 any person to whom the public officer or employee 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 any person to whom the public officer

or employee has a commitment in a private capacity. This subsection subsection does not prohibit:

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

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

(I) *Authorized by a written policy which was adopted before the use occurs by 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~~; *or*

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

(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~~ *to* benefit *a significant personal or pecuniary interest* of the State Legislator or any ~~other~~ person ~~;~~ *to whom the State Legislator has a commitment in a private capacity.* This paragraph does not prohibit:

(1) A limited use of ~~state~~ *governmental* property ~~and resources~~, *equipment or other facility* 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 *legislative* 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 any person to whom the public officer or employee 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 the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the use of the public officer's or employee's official position.

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

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

281A.410 ~~[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 files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; 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. For the purposes of subsection 3, the request for an advisory opinion, *the decision rendered*, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

5. 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.

Sec. 34. NRS 281A.420 is hereby amended to read as follows:
281A.420 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;
- (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; or

(d) Which would reasonably be related to the nature of any representation or counseling that the public officer or employee provided to a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410, without disclosing information concerning the gift or loan, the significant pecuniary interest, the commitment in a private capacity to the interests of the other person or the nature of the representation or counseling of the private 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, upon the person to whom the public officer or employee has a commitment in a private capacity or upon the private person who was represented or counseled by the public officer or employee. 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 ~~fa~~:

(a) A public officer to disclose:

~~(a)~~-(1) Any campaign contributions that the public officer

reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or

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

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

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

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

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 ~~[(or)]~~; or

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

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 *or representation or counseling of a private person for compensation as permitted by NRS 281A.410* 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 ~~[(or)]~~ *or has represented or counseled a private person for compensation as permitted by NRS 281A.410*, 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 duty of the public officer to make a proper disclosure at the time the matter is considered and in the manner required by subsection 1.

(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 makes a proper disclosure at the time the matter is considered and 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 ~~or~~ *representation or counseling of a private person for compensation as permitted by NRS 281A.410.*

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~~ *a matter* 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 *the* State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of *the* 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.

Sec. 35. Delete Section

~~NRS 281A.430 is hereby amended to read as follows:~~

~~281A.430 1. [Except] *Notwithstanding the provisions of NRS 281.221 and 281.230, and except as otherwise provided in this section and NRS 218A.970 and 332.800, a public officer or employee shall not, directly or through a third party, perform any existing contract, negotiate, bid on or enter into [a] any contract or*~~

~~modify or renew any contract if:~~

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

~~(1) The public officer or employee; or~~

~~(2) Any business entity in which the public officer or employee has a significant pecuniary interest [.] ; or~~

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

~~(1) The public officer or employee; or~~

~~(2) 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.] Except as otherwise provided in subsections 3 to 6, inclusive, a public officer or employee may perform an existing contract, negotiate, bid on or enter into a contract or modify or renew a contract with an agency in which the public officer or employee serves, or a related agency as described in paragraph (b) of subsection 1, if:~~

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

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

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

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

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

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

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

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

~~3. A full or part time faculty member or employee of the Nevada System of Higher Education may perform an existing contract, negotiate, bid on or enter into a contract or modify or~~

~~renew 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 *perform an existing contract, negotiate, bid on or enter into a contract or modify or renew a contract* with an agency pursuant to this [subsection] *section* 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 files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; 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.~~

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

Sec. 36. NRS 281A.500 is hereby amended to read as follows:

281A.500 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. If a public officer is serving in a public office and executes and files the acknowledgment for that office as required by the applicable provisions of this section, the public officer shall be deemed to have satisfied the requirements of this section for any other office held concurrently by him or her.

8. 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.

9. 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.

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

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

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

12. As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

Sec. 37. Delete Section

~~NRS 281A.510 is hereby amended to read as follows:~~

~~281A.510 1. [A] Except as otherwise provided in this section, 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 *public* officer or employee does not derive any financial benefit is deemed not to be accepted or received by the *public* officer or employee for the purposes of this section.~~

~~3. This section does not prohibit:~~

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

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

~~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] *his or her* 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] *domestic partner of the public officer or employee or any assistant of the public officer or employee* for transportation and for lodging and meals while the public officer or [public] employee is away from [the officer's or employee's] *his or her* 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] *his or her* public office or employment.~~

~~(c) A fee for a speech related to the *public* officer's or employee's profession or occupation outside of [the officer's or employee's] *his or her* 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 public 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 penalties provided by law, a public officer or [public] employee who violates the provisions of this section shall forfeit the amount of the honorarium.~~

Sec. 38. NRS 281A.550 is hereby amended to read as follows:
281A.550 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 Nevada Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the Nevada 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 Nevada 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 **current or** former public officer or **management-level public** employee of a board, commission, department, division or other agency of the Executive Department of *the* State Government ~~;~~ ~~except a clerical employee,~~ shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted **or administered** by the board, commission, department, division or other agency, **as applicable, during the public officer's or employee's period of public service or employment or** for 1 year after the termination of ~~the former public officer's or employee's~~ **his or her period of public** service or ~~period of~~ employment, if:

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

(b) ~~During~~ **Within** the immediately preceding year ~~;~~ ~~the former~~ **during the public officer's or employee's period of public service or employment or within the year immediately preceding the termination of the public officer's or employee's period of public service or employment, the** 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 *current or former* ~~public officer who was a~~ member of a board, commission or similar body of the State if:

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

(b) The ~~former public officer~~ *member* 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 *current or 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, *or was implemented, managed or administered by the State or political subdivision, as applicable, during the public officer's or employee's period of public service or employment or* for 1 year after the termination of ~~the officer's or employee's~~ *his or her period of public* service or ~~period of~~ employment, if:

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

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

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

6. A current or former public officer or employee may file a request for an advisory opinion pursuant to NRS 281A.675 concerning the application of the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and *the Commission may* determine whether relief from the strict application of those provisions is proper. *For the purposes of submitting all necessary information for the Commission to render a decision and issue an advisory opinion in the matter, a current or former public officer or employee may request information concerning potential employment from any business, industry or*

other person without violating the provisions of subsection 3 or 5, as applicable. 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.

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

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

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

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

(b) Any other *current or* former public officer or employee governed by this section,
↪ is employed by or is soliciting or accepting employment from a business, industry or other person described in this section if any oral or written agreement is sought, negotiated or exists during the restricted period pursuant to which the personal services of the public officer or employee are provided or will be provided to the business, industry or other person, even if such an agreement does not or will not become effective until after the restricted period.

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

Sec. 39. Delete Subsection 1

NRS 281A.665 is hereby amended to read as follows:

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

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

~~3.~~ 2. The ~~Commission's~~ opinions *of the Commission* may include guidance to a public officer or employee on questions

whether:

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

~~2.] duties.~~

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

~~4.] (d)~~ The public officer or employee possesses special knowledge which is an indispensable asset of ~~the public officer's or employee's public~~ *his or her public body*, agency *or employer* and is needed by it to reach a sound decision.

~~5.] (e)~~ 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.

Sec. 40. (Deleted by amendment.) - Keep Deletion (References citation to Sec. 13, which is being deleted)

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

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

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

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

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

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

2. The request for an advisory opinion must be:

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

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

3. *At any time after a request for an advisory opinion is filed with the Commission, the Commission may request additional information relating to the request for an advisory opinion from*

~~the following persons:~~

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

~~(b) If the requester filed the request for an advisory opinion pursuant to paragraph (a) of subsection 1 and is not represented by the legal counsel of his or her public body, agency or employer, the supervisory head or the legal counsel of that public body, agency or employer, but the Commission shall not disclose the name or position of the requester or the subject matter of the request for an advisory opinion in making such a request for additional information.~~

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

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

(b) Declare by oath or affirmation that he or she will testify truthfully regarding the matter or confirm under oath that any written facts provided to the Commission for consideration of the request for an advisory opinion is truthful.

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

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

2. The Commission shall render a *decision concerning* the *request for an* advisory opinion within 45 days after receiving ~~the request~~ a written confirmation from the Requester of the truth and accuracy of the proposed findings of fact to be submitted to the Commission for consideration of the request, unless ~~[the]~~:

(a) *The* requester waives this time limit ~~[~~ 2.]; ~~or~~

(b) The Commission determines that there is good cause to extend this time limit and sets a specific and reasonable time period for such an extension; or

~~(c) The Commission stays or dismisses the proceedings concerning the request for an advisory opinion because:~~

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

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

(d) The Requester has not complied with any applicable procedural requirements related to the request for the advisory opinion as set forth in this chapter or chapter 281A of the Nevada Administrative Code.

3. *If the Commission renders a decision concerning the*

request for an advisory opinion pursuant to this section, the Commission shall issue a written advisory opinion ~~within 90 days after the date on which the decision is rendered, unless the Commission determines that there is good cause to extend this time limit and sets a specific and reasonable time period for such an extension~~ for any decision which the Commission determines will:

- (a) Be binding upon the requester with regard to the future conduct of the requester; or*
- (b) Constitute administrative precedent with persuasive value that the Commission may consider and follow in the adjudication and disposition of any request for an advisory opinion or ethics complaint.*

4. If the Commission issues a written advisory opinion ~~[rendered by the Commission]~~ to a requester who filed the request for an advisory opinion pursuant to paragraph (a) of subsection 1 of NRS 281A.675 and the advisory opinion relates to the propriety of the present or future conduct of the requester, the advisory opinion is:

- ~~(a) Binding upon the requester with regard to the future conduct of the requester; and~~*
- ~~(b) A final decision that is subject to judicial review pursuant to NRS 233B.130.~~*

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

5. If the Commission issues a written advisory opinion to a requester who filed the request for an advisory opinion pursuant to paragraph (b) of subsection 1 of NRS 281A.675, or which related to the public officer's or employee's past conduct, the advisory opinion is not a final decision that is subject to judicial review pursuant to NRS 233B.130.

6. Upon the request of a public officer or employee, the Executive Director or Commission Counsel may advise a public officer or employee regarding the application of the statutory ethical standards to a given set of facts and circumstances. Such advice may not be contrary to a published opinion of the Commission or otherwise expand a precedential interpretation of the Commission in a published opinion. The Executive Director shall keep a written record of any advice offered to a public officer or employee pursuant to this subsection. 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 violation of this chapter pursuant to subsection 6 of NRS 281A.790 if the public officer or employee establishes by sufficient evidence that he relied upon the advice of the Executive Director or Commission Counsel pursuant to this subsection before he acted or failed to act. Any advice rendered by the Executive Director

or Commission Counsel pursuant to this subsection is not binding on the public officer or employee and is not subject to judicial review pursuant to NRS 233B.130. Any dispute regarding the advice rendered by the Executive Director or Commission Counsel may be resolved through the filing of a request for an advisory opinion with the Commission pursuant to subsection 1.

7. Any decision rendered or advisory opinion issued by the Commission in response to a request for an advisory opinion or advice provided by the Executive Director or Commission Counsel pursuant to this section does not divest the Commission of its jurisdiction to initiate or accept jurisdiction of an ethics complaint and direct the Executive Director to conduct an investigation of the ethics complaint pursuant to NRS 281A.710 and 281A.715 if the ethics complaint alleges facts that are supported by sufficient evidence which are different from the facts relied upon by the Commission, Executive Director or Commission Counsel, as applicable, in rendering advice pursuant to this section.

Sec. 43. NRS 281A.685 is hereby amended to read as follows:
281A.685 1. Except as otherwise provided in this section, the following materials are confidential and are not public records pursuant to chapter 239 of NRS:

(a) A request for an advisory opinion or a request for the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680;

(b) The *decision rendered and the* advisory opinion ~~[rendered]~~ *issued* by the Commission in response to the request for an advisory opinion or the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680;

(c) Any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request for an advisory opinion or the request for the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680; and

(d) Any information, communications, records, documents or other materials in the possession of the requester of the request for an advisory opinion or the request for the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680 that are related to the request and, if disclosed by the requester, would reveal the existence, nature or content of the request, *the decision rendered* or the advisory opinion issued by Commission or the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680.

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

3. The provisions of subsection 1 do not apply to any

materials in the possession of the Commission or its staff that are related to the request if the requester of a request for an advisory opinion or the request for the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680:

(a) Acts in contravention of *the decision rendered or* the advisory opinion issued by the Commission or the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680, in which case the Commission may disclose the request, *the decision rendered*, the advisory opinion or the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680 and any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request;

(b) Authorizes the Commission, in writing, to make the request, *the decision rendered*, the advisory opinion, the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680 or any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request publicly available ~~{}~~, *except that any disclosure of materials pursuant to this paragraph is limited to the specific materials that the requester authorizes the Commission, in writing, to make publicly available;* or

(c) Voluntarily discloses, in any manner, the request, *the decision rendered*, the advisory opinion, the advice of the Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680 or any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request, except to:

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

(2) *The legal counsel of the requester* ~~{}~~ *to facilitate legal representation when the requester is not represented by the legal counsel of his or her public body, agency or employer;*

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

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

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

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

(a) Any meeting or hearing held by the Commission to receive information or evidence concerning a request for an advisory

opinion; and

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

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

Sec. 45. (Deleted by amendment.) Add Back

(Makes a citation to Section 14 – we are adding new Section 14 for referral of Ethics Complaints)

Sec. 45. NRS 281A.700 is hereby amended to read as follows:
281A.700 The provisions of NRS 281A.700 to 281A.790, inclusive, and section 14 of this act apply to proceedings concerning an ethics complaint.

Sec. 46. (Deleted by amendment.) Keep Deletion (State/Local Legal counsel representation in ethics complaint)

Sec. 47. NRS 281A.710 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

2. To assist the Commission in making its determination pursuant to subsection 1 whether it has jurisdiction in the matter and whether an investigation is warranted in the matter, the Executive Director may conduct a preliminary investigation to obtain additional evidence concerning the allegations in the ethics complaint.

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

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

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

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

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

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

Sec. 49. NRS 281A.720 is hereby amended to read as follows:

281A.720 1. If the Commission directs the Executive Director to investigate an ethics complaint pursuant to NRS 281A.715, ~~for if the Commission initiates an ethics complaint on its own motion pursuant to NRS 281A.710,~~ the Executive Director

shall investigate the facts and circumstances relating to the ethics complaint to determine whether the Executive Director believes that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter in order to present a written recommendation to the review panel pursuant to NRS 281A.725.

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

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

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

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

4. The public officer or employee is not required in the response submitted pursuant to this section or in any proceedings before the review 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 proceedings before the review panel.

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

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

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

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

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

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

- (a) Set forth the factual and legal basis for the recommendation;
- (b) State whether the Executive Director believes that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter; and
- (c) If the Executive Director believes that a disposition of the matter without an adjudicatory hearing is appropriate under the facts and circumstances, state any suggested disposition that is consistent with the provisions of this chapter, including, without limitation, whether the Executive Director believes that the conduct at issue may be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement.

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

281A.730 1. Except as otherwise provided in this section, the review panel shall determine whether there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter within ~~15~~ **45** days after the Executive Director ~~[provides]~~*presents to* the review panel ~~[with]~~the recommendation required by NRS 281A.725. The public officer or employee who is the subject of the ethics complaint may waive this time limit. *The review panel shall serve on the public officer or employee who is the subject of the ethics complaint a written notice of its determination.*

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

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

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

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

- (a) Approve a deferral agreement proposed by the Executive Director and the public officer or employee instead of referring the ethics complaint to the Commission for further proceedings in the

matter; or

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

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

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

~~[7.]~~ 8. If the review panel determines that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter and reasonably believes that the conduct at issue may not be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement, the review panel shall refer the ethics complaint to the Commission for further proceedings in the matter.

Sec. 52. Delete Section

~~NRS 281A.740 is hereby amended to read as follows:~~

~~281A.740 1. In proceedings concerning an ethics complaint, the Executive Director and the public officer or employee who is the subject of the ethics complaint may develop a deferral agreement to defer further proceedings in the matter under the terms and conditions of the deferral agreement. *A deferral agreement must be developed within any time limit specified by the review panel, or any extension thereof, pursuant to NRS 281A.730.*~~

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

~~3. A deferral agreement must:~~

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

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

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

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

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

~~6.—The Executive Director shall:~~

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

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

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

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

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

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

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

281A.745 1. If the review panel refers an ethics complaint to the Commission for further proceedings in the matter pursuant to NRS 281A.730 or if the Commission vacates a deferral agreement and conducts further proceedings in the matter pursuant to NRS 281A.740:

(a) The Executive Director shall issue a formal notice of charges to the public officer or employee who is the subject of the ethics complaint regarding the allegations to be presented at an adjudicatory hearing; and

(b) The Commission shall hold an adjudicatory hearing and render ~~[an opinion in the matter]~~ a decision concerning the ethics complaint within 60 days after the date on which the review panel refers the ethics complaint to the Commission or the Commission vacates the deferral agreement, as appropriate, unless the public officer or employee who is the subject of the ethics complaint waives this time limit, or the Commission determines that there is good cause to extend this time limit and sets a

specific and reasonable time period for such an extension.

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

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

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

3. *At the adjudicatory hearing:*

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

(b) *The Commission shall:*

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

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

~~—3.]~~ *case to the Commission.*

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

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

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

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

~~(b) On or before the date of the next meeting of the Commission that is held after the date on which the decision is rendered,~~

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

7. *The written opinion issued by the Commission must include findings of fact and conclusions of law and otherwise comply with the requirements for a final decision set forth in NRS 233B.125.*

Sec. 54. NRS 281A.750 is hereby amended to read as follows:

281A.750 1. Except as otherwise provided in this section and NRS 281A.755, all information, communications, records, documents or other materials in the possession of the Commission, the review panel or their staff that are related to an ethics complaint are confidential and are not public records pursuant to chapter 239 of NRS until:

(a) The review panel determines whether there is just and sufficient cause for the Commission to render *a decision and issue*

an opinion in the matter and serves *the* written notice of its determination on the public officer or employee who is the subject of the ethics complaint ~~§~~*pursuant to NRS 281A.730*; or

(b) The public officer or employee who is the subject of the ethics complaint authorizes the Commission, in writing, to make the information, communications, records, documents or other materials that are related to the ethics complaint publicly available,

↳ whichever occurs first.

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

(a) Shall keep the identity of the requester confidential if he or she 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 ethics complaint, **or worked for the same agency during the time of the alleged conduct at issue? Or if revealing the identity of the requester would reveal the identity of witnesses who work for the same agency?**

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

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

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

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

4. *If the Commission keeps the identity of the requester of an ethics complaint confidential ~~§~~*pursuant to this section and the Executive Director does not intend to present the testimony of the requester as evidence for consideration by the Commission at**

the adjudicatory hearing or in rendering a decision and issuing an opinion in the matter, the Commission shall not render *a decision and issue* an opinion in the matter unless there is sufficient evidence without the testimony of the requester to consider the propriety of the conduct of the public officer or employee who is the subject of the ethics complaint. *The provisions of this subsection do not abrogate or otherwise alter or affect the confidentiality of the identity of the requester of the ethics complaint.*

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

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

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

2. ~~[At any time after being served with written notice of the determination of the review panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter.]~~ *In accordance with the schedule for discovery provided to the parties pursuant to NRS 281A.745*, the public officer or employee who is the subject of the ethics complaint may submit a written discovery request to the Commission for a list of proposed witnesses and a copy of any portion of the investigative file that the Executive Director intends to present as evidence for consideration by the Commission at the adjudicatory hearing or in rendering *a decision and issuing* an opinion in the matter.

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

4. For the purposes of this section:

(a) The investigative file includes, without limitation:

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

(2) Any recommendation concerning the ethics complaint prepared by the Executive Director pursuant to NRS 281A.725 and

~~submitted~~ **presented** to the review panel during the course of the investigation and any proceedings before the review panel; and

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

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

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

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

~~1.1~~ **(a)** Any meeting or hearing held by the Commission to receive information or evidence concerning an ethics complaint; and

~~2.1~~ **(b)** Any deliberations *or actions* of the Commission on such information or evidence.

2. *The Commission shall take final action concerning an ethics complaint in a public meeting or hearing. The Commission shall provide public notice of the meeting or hearing, and the meeting or hearing must be open to the public and conducted in accordance with the regulations of the Commission, but the meeting or hearing is not subject to the provisions of chapter 241 of NRS.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The extent of any financial gain resulting from the violation or alleged 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 or the review panel, as appropriate, may consider other factors in the disposition of the matter if they bear a reasonable relationship to the determination of the severity of the violation or alleged violation.

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

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

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

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

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

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

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

(b) May be considered in deciding the appropriate action to be

taken on any subsequent ethics complaint involving the public officer or employee, unless the letter is not relevant to the issues presented by the subsequent ethics complaint.

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

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

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

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

(2) Attend and complete training.

(3) Follow a remedial course of action.

(4) Issue a public apology.

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

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

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

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

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

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

~~—(c) Censure a public officer or employee if it is determined that the public officer or employee has willfully violated any provision of this chapter and there is evidence that the willful violation~~

~~involved bad faith, malicious intent or knowing or reckless disregard of the law or there are no substantial mitigating factors pursuant to NRS 281A.775 for the willful violation, or if such a censure is imposed as part of the terms and conditions of a deferral agreement. A censure is a formal written condemnation of the conduct of the public officer or employee.~~

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

Sec. 62. NRS 281A.790 is hereby amended to read as follows:
281A.790 1. In addition to any other penalties provided by law and in accordance with the provisions of NRS 281A.775, the Commission may impose on a ~~[public officer or employee]~~ **current** 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 **or any additional violation** of this chapter.

2. ~~[In]~~ **For the purposes of this section, in determining whether a current or former public officer or employee has committed one or more violations of this chapter, each separate act or event that constitutes, or course of conduct that the Commission interprets to constitute a single violation of this chapter must be treated as a separate violation that is cumulative to all other violations by that person, whenever committed, without regard to the sequence of the violations or whether the violations are established in the same proceedings concerning the same ethics complaint or in separate proceedings concerning separate ethics complaints.**

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

(a) Impose on the person committing such an act a civil penalty not to exceed 5,000 ~~[:]~~, **unless a greater civil penalty is authorized by subsection 1; and**

(b) If appropriate under the facts and circumstances, assess

against the person committing such an act an amount equal to the amount of attorney's fees and costs actually and reasonably incurred *as a result of the act* by the *Commission or any* current or former public officer or employee ~~[as a result of]~~ *who is a subject of the investigation or proceedings and who is harmed or prejudiced by* the act.

~~[3.]~~4. If the Commission finds that a violation of ~~[a provision of]~~ this chapter by a ~~[public officer or employee]~~ *current* 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.]~~5. In addition to any other penalties provided by law, if ~~[a proceeding results in]~~ *the Commission issues* an opinion *in which it finds* that:

(a) ~~[One or more willful violations of this chapter have been committed by a]~~ 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 ~~[.]~~ *has committed one or more violations of this chapter and the Commission has imposed civil penalties of \$5,000 or more for at least one of those violations,* 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]~~ A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution ~~[.]~~ *has committed one or more violations of this chapter and the Commission has imposed civil penalties of \$5,000 or more for at least one of those violations,* 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]~~ A public officer, other than a public officer described in paragraphs (a) and (b), ~~has committed one or more violations of this chapter,~~ the ~~[willful]~~ violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) ~~[May]~~ *Except as otherwise provided in subparagraph*

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

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

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

~~[5.]~~6. Notwithstanding any other provision of this chapter, any act or failure to act by a ~~[public officer or employee]~~ *current* or former public officer or employee relating to this chapter is not a ~~[willful]~~ *(keep deletion here want to protect against any violation, not just 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 Executive Director or Commission Counsel pursuant to subsection 6 of NRS 281A.680 or the legal counsel *employed or* retained by his or her public body, agency or employer; and

(b) The advice of the Executive Director, Commission Counsel or legal counsel, as applicable, 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 Executive Director, Commission Counsel or legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee would not be contrary to the provisions of this chapter as interpreted ~~[by]~~ *in the published opinions of* the Commission.

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

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

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

~~7.1~~ 8. 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 *current or former* 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.

~~8.1~~ 9. The imposition of a civil penalty pursuant to ~~subsection 1, 2 or 3~~ *any provision of subsections 1 to 4, inclusive*, is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

~~9.1~~ 10. A finding by the Commission that a *current or former* public officer or employee *or any other person* 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.

Sec. 63. (Deleted by amendment.) Add Back – (Makes citation reference to section 14 which is being added back in to this bill)

NRS 239.010 is hereby amended to read as follows: 239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085,

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696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
710.159, 711.600, **section 14 of this act**, sections 35, 38 and 41 of
chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391,
Statutes of Nevada 2013 and unless otherwise declared by law to
be confidential, all public books and public records of a
governmental entity must be open at all times during office hours

to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity Senate Amendment No. 526 to Senate Bill No. 129 Page 54 can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 64. (Deleted by amendment.) Add Back – (Makes citation references to section 9 which is being added back in to this bill)

Sec. 64. NRS 241.016 is hereby amended to read as follows:
241.016

1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345,

287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170,

696B.550, 703.196 and 706.1725, and **section 9 of this act**, which:
(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding, **≧** prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

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

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

(a) Shall apply the amendatory provisions of this act which govern the procedures applicable to administrative proceedings arising under chapter 281A of NRS to any such proceedings that are within the jurisdiction of the Commission and are commenced on or after July 1, ~~2019~~ **2021**, whether or not the conduct at issue in such proceedings occurred before July 1, ~~2019~~ **2021**.

(b) May apply the amendatory provisions of this act which govern the procedures applicable to administrative proceedings arising under chapter 281A of NRS to any such proceedings that were commenced before July 1, ~~2019~~ **2021**, and are still within the jurisdiction of the Commission and pending before the Commission on July 1, ~~2019~~ **2021**, unless the Commission determines that such an application would be impracticable, unreasonable or unconstitutional under the circumstances, in which case the Commission shall apply the procedures in effect before July 1, ~~2019~~ **2021**.

2. The amendatory provisions of sections 11, 18, 32 to 35, Inclusive, 37 and 38 of this act do not apply to any conduct occurring before July 1, ~~2019~~ **2021**.

Sec. 67. This act becomes effective on July 1, ~~2019~~ **2021**.

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