

Agenda Item 3



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

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS'
LEGISLATIVE SUBCOMMITTEE**

The Commission on Ethics' Legislative Subcommittee held a public meeting on Wednesday, May 4, 2020, at 9:00 a.m. at the following location:

**Nevada State Capitol Building
Guinn Room
101 N. Carson Street, Second Floor
Carson City, NV 89701**

Zoom Meeting Information

<https://us06web.zoom.us/j/87095493812?pwd=R2xNUk5GK3FTMUsrWVc3bHZkbzhhUT09>

Zoom Meeting Telephone Number: 720-707-2699 *

Meeting ID: 870 9549 3812

Passcode: 989739

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics' Legislative Subcommittee. A recording of the meeting is available for public inspection at the Commission's office.

1. Call to Order and Roll Call.

Chair Kim Wallin, CPA, CMA, CFM appeared in-person in the Guinn Room in Carson City and called the meeting to order at 9:00 a.m. Also appearing in-person was Vice-Chair Brian Duffrin. Commissioner James Oscarson appeared via videoconference. Present for Commission staff in Carson City were Executive Director Ross E. Armstrong, Esq., Commission Counsel Tracy L. Chase, Esq., and Executive Assistant Kari Pedroza. Senior Legal Researcher Darci Hayden appeared via videoconference.

2. Public Comment.

There was no public comment.

3. Approval of Minutes of the April 20, 2022 Legislative Subcommittee Meeting.

Vice-Chair Duffrin moved to approve the April 20, 2022 Legislative Subcommittee Minutes as presented. Commissioner Oscarson seconded the motion. The Motion was put to a vote and carried unanimously.

4. Discussion and approval of updated Legislative proposal for the 82nd Legislative Session (2023) to amend NRS Chapter 281A, Nevada's Ethics in Government Law for submission to the full Commission and approval at its May Meeting.

Chair Wallin introduced the Item and asked Executive Director Armstrong for his presentation.

Executive Director Armstrong presented the updated Legislative proposal language and directed the Subcommittee to the additional discussion points document titled *Options for Statutory Language Development* included in the Subcommittee meeting materials (see Attachment A to the minutes).

The Subcommittee Members agreed with the presented revisions and provided detailed direction on the two options for statutory language development. They discussed the alternative language provided for **Issue 1: Language about abuse of power** and agreed that the language included in Alternative 2 was closest to the intent of the abuse of power provision and directed staff to further develop that proposal for consideration at the next Subcommittee Meeting. In addition, they indicated that clarification of definitions would assist in focusing the intent of the proposed language.

The Subcommittee Members discussed the alternative language provided for **Issue 2: Timeframes for Completion** and agreed that Alternative 3 language be revised to provide for one “good cause” extension of any procedural time limit under the authority of the Chair and remove the reference to a specific number of days for the extension.

The Subcommittee Members requested staff include examples illustrating both issues be established and share this information with Legislative Counsel Bureau bill drafters as supplemental material to the Commission’s proposed bill draft.

Commissioner Oscarson moved to direct staff to proceed with the requested revisions to the Legislative proposal for consideration by the Subcommittee at its next meeting on May 12, 2022. Vice-Chair Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

5. 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.

Vice-Chair Duffrin acknowledged Employee Appreciation week and shared his appreciation for Commission staff.

Chair Wallin expressed her appreciation to Commission staff for their hard work.

6. Public Comment.

No public comment.

7. Adjournment.

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

The meeting adjourned at 10:07 a.m.

Minutes prepared by:

[/s/ Kari Pedroza](#)

Kari Pedroza
Executive Assistant

[/s/ Ross Armstrong](#)

Ross Armstrong, Esq.
Executive Director

Minutes approved May 12, 2022:

Kim Wallin, CPA, CMA, CFM
Vice-Chair

Brian Duffrin
Commissioner

James Oscarson
Commissioner

DRAFT

Agenda Item 4

Bill Draft Request Language for the 2023 Legislative Session

General Clean-up and Clarifications – Definitions & Confidentiality

Section 1. NRS 281.5584 is hereby amended to read as follows:

281.5584 “Financial disclosure statement” or “statement” means a financial disclosure statement in the electronic form or other authorized form prescribed by the Secretary of State pursuant to NRS 281.5555 to 281.581, inclusive. ~~[, or in the form approved by the Secretary of State for a specialized or local ethics committee pursuant to NRS 281A.350.]~~

Sec. 2. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 12, inclusive, of this act.

Sec. 3. “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. 4. “Party” means, for the purposes of the adjudicatory hearing or other disposition of proceedings before the Commission 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. 5. “Published opinion” means an opinion issued by the Commission that is publicly available on the Internet website of the Commission.

Sec. 6. “Statutory ethical standards” means the statutory ethical standards set forth in the provisions of this chapter.

Sec. 7. 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. 9. 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:

- 1. Any decisions in litigation concerning any judicial action or proceeding related to the request for an advisory opinion or the ethics complaint; or*
- 2. Any delegation of authority to make such decisions in the litigation to the Chair or the Executive Director, or both, pursuant to NRS 241.0357.*

New Ethics Violation – Unwarranted Harm

Sec. 10. 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 cause unwarranted harm or damage to an individual in order to benefit the significant pecuniary or personal interest of the public officer or employee or the significant pecuniary or personal interest of 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.

Acknowledgment Compliance Assistance

Sec. 11. *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 the 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) A county and other political subdivisions within the county except cities, the county clerk;*
- (b) A 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.*

General Clean-up and Clarifications

Sec. 13. 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 3 to 6, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 14. 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. 15. 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. 16. 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,~~ *capacity*” 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. 17. 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 ~~this chapter the statutory ethical standards .~~ ~~set forth in this chapter.~~

Sec. 18. 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. 19. 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.]~~

Vice Chair May Perform Chair Duties

Sec. 20. NRS 281A.210 is hereby amended to read as follows:

281A.210 1. The Commission shall ~~:(a) At~~ *at* its first meeting *of the fiscal year* 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, 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.*

Statutory Authority for Settlement Conferences

Sec. 21. 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~~ after issuance of the review panel determination and 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.

General Clean-up and Clarifications – Litigation & Investigation

Sec. 23. 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 paragraph.
 - (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. 24. 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 ~~to~~ **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 for the Executive Director in 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. 25. 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 ~~and~~ *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.

General Clean-up and Clarifications – Regulations and Manual

Sec. 26. 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~~ *materials* for the use of public officers and employees that ~~explains~~ *explain* 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. 27. 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~~ *Except as otherwise provided in this subsection, upon* the request of the Executive Director, the Chair ~~for, in the Chair's absence, the Vice Chair,~~ *may issue a subpoena during the course of any investigation 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, information, records and documentation regarding personnel records maintained by an agency concerning the conduct of a public officer or employee, including, notwithstanding any other provision of law to the contrary, records otherwise deemed by law to be confidential, that relate to issues under consideration in an ethics complaint. A request by the Executive Director for a subpoena pursuant to this subsection may not include a request for records related to a concurrent, pending criminal investigation where such records are otherwise protected as confidential.*

4. Upon the request of the Executive Director or the public officer or employee who is the subject of an ethics complaint, the Chair ~~for, 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 ~~for, 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, and section 12 of this act, 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 ~~for, 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, and section 12 of this act, that apply to proceedings concerning the ethics complaint.

Limited Use Exception Clarification

Sec. 29. 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:]~~

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 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 ~~and~~, *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.

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.

General Clean-up

Sec. 30. 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:}~~

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.

No Duty To Disclosure Legally Confidential Information

Sec. 31. NRS 281A.420 is hereby amended to read as follows:

281A.420 2. The provisions of subsection 1 do not require ~~{a}~~:

- (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**
- (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~~ *or representation or counseling of a private person for compensation as permitted by NRS 281A.410.*

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.

Cooling Off Limitations

Sec. 33. NRS 281A.550 is hereby amended to read as follows:

281A.550 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.

General Clean-up

Sec. 34. NRS 281A.665 is hereby amended to read as follows:

281A.665 *1. The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the published opinions of the Commission.*

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.~~ duties.*

~~2.~~*(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.*

General Clean-up and Clarification – Advisory Opinions

Sec. 35. 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 public officer or employee may file with the Commission a request for an advisory opinion to:*

(a) 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) Request relief pursuant to NRS 281A.410, 281A.430 or 281A.550.

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 requester and his or her legal counsel.

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 in writing, signed~~ under oath, that any facts provided to the Commission for consideration of the request for an advisory opinion is truthful.

Sec. 38. 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. which request must confirm that requester is waiving the rights to confidentiality established in NRS 281A.685. 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. 39. NRS 281A.700 is hereby amended to read as follows:~~

~~281A.700 The provisions of NRS 281A.700 to 281A.790, inclusive, and section 12 of this act apply to proceedings concerning an ethics complaint.~~

~~Sec. 40. _____~~

General Clean-up and Clarification – Complaint and Investigation

Sec. 41. 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.~~ ~~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 81A.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.

Notice of Investigation to Replace Copy of Complaint

Sec. 42. 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 *one or more* extensions

for good cause shown and sets a specific and *reasonable time period for such* an extension.

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 through records requests, subpoenas or other legal methods.

Sec. 43. 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 an extension is granted pursuant to Section XYZ of this bill.* ~~(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. If the presiding officer grants such an extension, the presiding officer 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. 44. 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 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 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. 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.

General Clean-up and Clarification – Panel and Commission Proceedings

Sec. 45. 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 ~~[, the]:~~:

(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. [H] 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.] case to the Commission.~~

~~3.] 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 on or before the date of the next meeting of the Commission that is held after the date on which the decision is rendered, unless the Chair 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.~~

Requester Confidentiality

Sec. 46. 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 ~~3.5~~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 ~~and worked for the same public body, agency or employer 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 public body, agency or employer.~~

(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 ~~and~~ 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*

General Clean-up and Clarification – Investigative File

Sec. 47. 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]~~ **Unless otherwise declared confidential by law, 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, **including, without limitation, information, records and documentation obtained pursuant to subsection 3 of NRS 281A.300,** 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. 48. 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.]~~ **(a)** Any meeting or hearing held by the Commission to receive information or evidence concerning an ethics complaint; and

~~[2.]~~ **(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.

General Clean-up and Clarification – Disposition

Sec. 49. 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. 50. 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, **deferral agreement**, 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. 51. 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:

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

- (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. 52. 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.]~~

Sec. 53 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 *may issue an opinion or resolve the case by any method available in this chapter, including, without limitation, approval of a stipulation, consent order, agreed settlement, or deferral agreement*, 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.

~~Sec. 55. NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section..... and section 12 of this act~~

Sec. 56. NRS 241.016 is hereby amended to read as follows:

241.016 3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 239C.420, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 288.590, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388D.355, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 414.270, 422.405, 433.534, 435.610, 442.774, 463.110, 480.545, 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.

Sec. 57. 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. 58. 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 ~~October 1, 2023~~ ~~July 1, 2021~~, whether or not the conduct at issue in such proceedings occurred before ~~October 1, 2023~~ ~~July 1, 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 ~~October 1, 2023~~ ~~July 1, 2021~~, and are still within the jurisdiction of the Commission and pending before the Commission on ~~October 1, 2023~~ ~~July 1, 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 ~~October 1, 2023~~ ~~July 1, 2021~~.

2. The amendatory provisions of sections 10, 16, 29, 30, 31 and 33 of this act do not apply to any conduct occurring before ~~October 1, 2023~~ ~~July 1, 2021~~.

Effective Date

Sec. 59. This act becomes effective on ~~October 1, 2023~~.

Time Extensions

New Section – Extension Language

Upon the request of the Executive Director, the Chair may issue one extension of procedural time limits in this Chapter for good cause shown.