

NCOE  
Legislative  
Committee Agenda  
Item 4  
8/20/25



# **NEVADA COMMISSION ON ETHICS**

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## **STRATEGIC PLAN**

***FY25-FY27***

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Cover photo provided by Commissioner Kim Wallin, CPA, CMA, CFM. Table of contents photo provided by Executive Director Ross Armstrong, Esq.

## INTRODUCTION

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The State of Nevada first adopted an Ethics Law in 1975. Since then, the Nevada Commission on Ethics has evolved to meet the changing needs of Nevadans. In developing this strategic plan, we relied on our Mission and Guiding Principles to establish four major priorities for the next few years.

For each strategic focus, we have identified the relevant guiding principles. Additionally, each area of focus aligns with Governor Lombardo's policy matrix of priorities for Nevada over the next three years. By aligning our focus with these elements, we ensure that our guiding principles remain the foundation of our efforts as we move forward in alignment with the rest of the state.

This plan provides guidance to the members of the Commission and its staff and communicates to Stakeholders and the public the future direction of the Commission. It was developed based on feedback from Commissioners and Staff, and was discussed over two public meetings in the spring and summer of 2024. The four areas of strategic focus are:

- Outreach and Education,
- Maintaining the Public's Trust,
- Sufficient Staffing, and
- Technology and Service Improvements.

We invite you to engage with us as we work on the priorities of this plan from now until the end of Fiscal Year 2027.

### Contact Us About Our Strategic Plan

Email: [ncoe@ethics.nv.gov](mailto:ncoe@ethics.nv.gov) ~ Phone: 775-687-5469

Website: [ethics.nv.gov](https://ethics.nv.gov)

# 1. MISSION AND GUIDING PRINCIPLES

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## **Mission**

The Nevada Commission on Ethics, by the authority granted under Chapter 281A of the Nevada Revised Statutes, strives to enhance the public's faith and confidence in government by ensuring that public officers and employees uphold the public trust by committing themselves to avoid conflicts between their private interests and their public duties.

## **Guiding Principles**

1. Our highest priority is to protect the citizens of Nevada by interpreting and enforcing the provisions of the Ethics Law in a fair, consistent and impartial manner.
2. We act with a high degree of integrity, honesty and respect when investigating and adjudicating public complaints alleging ethics violations by public officers and employees.
3. We are committed to providing outreach and education to our Stakeholders (the public and public officers and employees) to enhance their awareness and understanding of ethics requirements and prohibitions under the Nevada Ethics law.
4. Our objectivity, independence and impartiality are beyond reproach. We avoid all personal or professional circumstances or conflicts calling these into question.
5. Our processes ensure all actions, decisions and policies are consistently applied and do not result in advantages or disadvantages to any party to the detriment of another.
6. Our confidential advisory opinions are thoroughly researched and written with the needs of the requestor in mind and consistent with opinion precedent and applicable statutes including legislative intent.
7. We carry out our duties in a rigorous and detailed manner and utilize the resources provided to us wisely and only for the legitimate purposes of the agency.
8. We continuously challenge ourselves to improve the practices and processes of the agency to keep pace with the needs of the individuals we serve and to comply with legislative mandates.
9. We continuously improve our public communication and public access to provide guidance and assistance to those we hold accountable for compliance.
10. We value and respect the opinions and recommendations of our Stakeholders, Staff and Commission Members which guide us in our decision making.

## 2. FOCUS I – OUTREACH AND EDUCATION

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The Commission remains dedicated to its overarching priority of emphasizing outreach and education about the Ethics Law. As part of that commitment, this strategic focus of the Commission will emphasize expanding the reach of its education and outreach efforts as well as developing a concrete plan to execute these efforts.

### **Goal A: Increase the Number of People Receiving Ethics Training Annually**

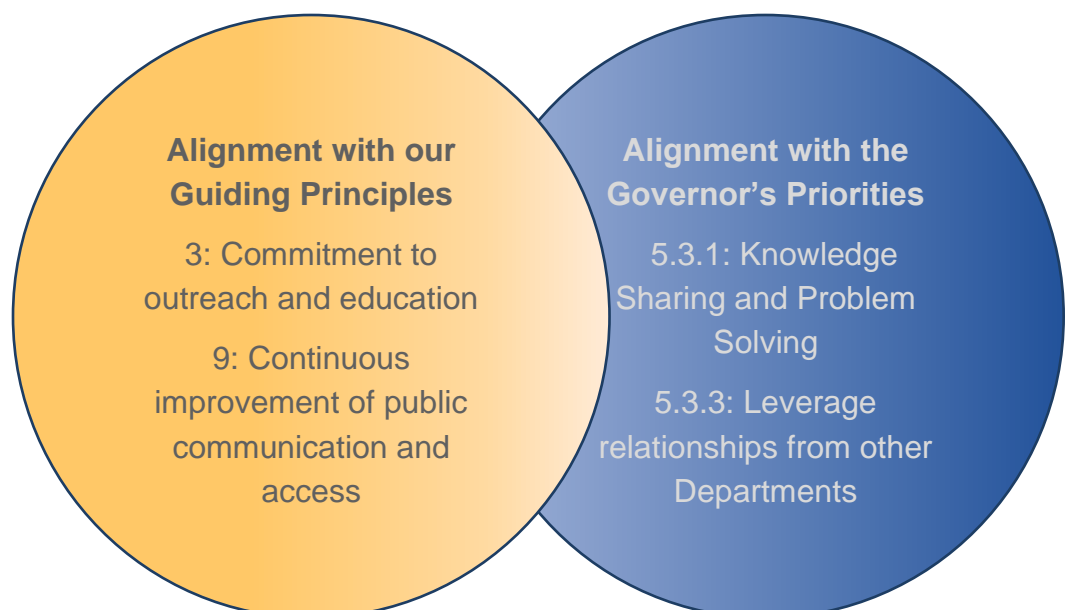
Activities Include:

- Set quarterly goals and categories for number of people receiving training.
- Track number of people receiving training and adjust training approach as needed.

### **Goal B: Adopt an Outreach and Education Plan**

Activities Include:

- Review education and outreach objectives.
- Identify desired strategic partnerships and target audiences.
- Continue to develop current strategic partnerships.
- Develop outreach materials for use.
- Create an action plan to execute the goals of the Outreach and Education Plan.



### **3. FOCUS 2 – MAINTAINING THE PUBLIC’S TRUST IN THE COMMISSION**

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As the Commission enhances its enforcement activities and public awareness of its decisions increase, the Commission strives to maintain the public’s trust in the Commission and its work. The Commissioners and Staff plan to prioritize maintaining the trust of the public by taking consistent action on matters before the Commission and improving communication with the general public and Stakeholders about the importance of the Commission’s work and commitment to its statutory foundation.

#### **Goal A: Develop Case History Information to Ensure Objective and Consistent Recommendations to the Commission**

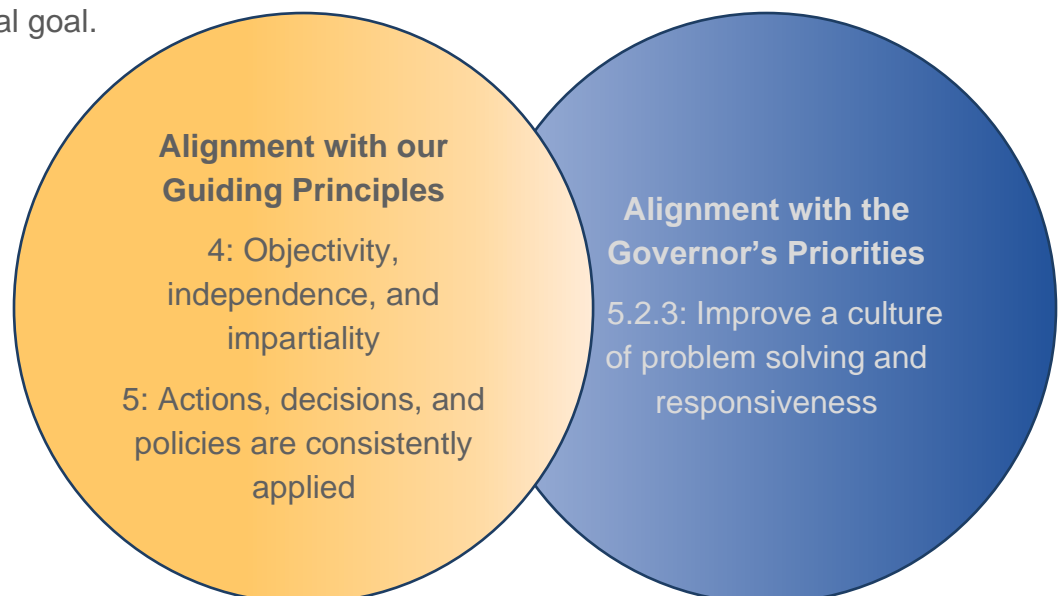
Activities Include:

- Create decision matrices for staff recommendations.
- Compile and publish recent cases by type and result.
- Develop report to showcase consistency and explain deviations.

#### **Goal B: Establish a Public Relations Campaign to Improve the Public’s Understanding of the Commission**

Activities Include:

- Develop a reputation goal for the Commission.
- Align Commission activities to the reputational goal.
- Design a public relations strategy to communicate about the Commission in a way that matches the adopted reputational goal.





## **4. FOCUS 3 – SUFFICIENT STAFFING TO DELIVER THE MISSION OF THE COMMISSION**

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As Nevada has grown, state and local governments have grown to meet the needs of our communities. Since the COVID-19 pandemic, Commission caseloads have shown consistent annual growth. The Commission was successful in adding a position focused on outreach and education during the 2023 Legislative Session. Support for our staff can still be improved and a medium-term outlook of agency needs in terms of staffing will ensure the Commission is able to deliver on its mission going forward.

### **Goal A: Establish a 5-Year Staffing Plan**

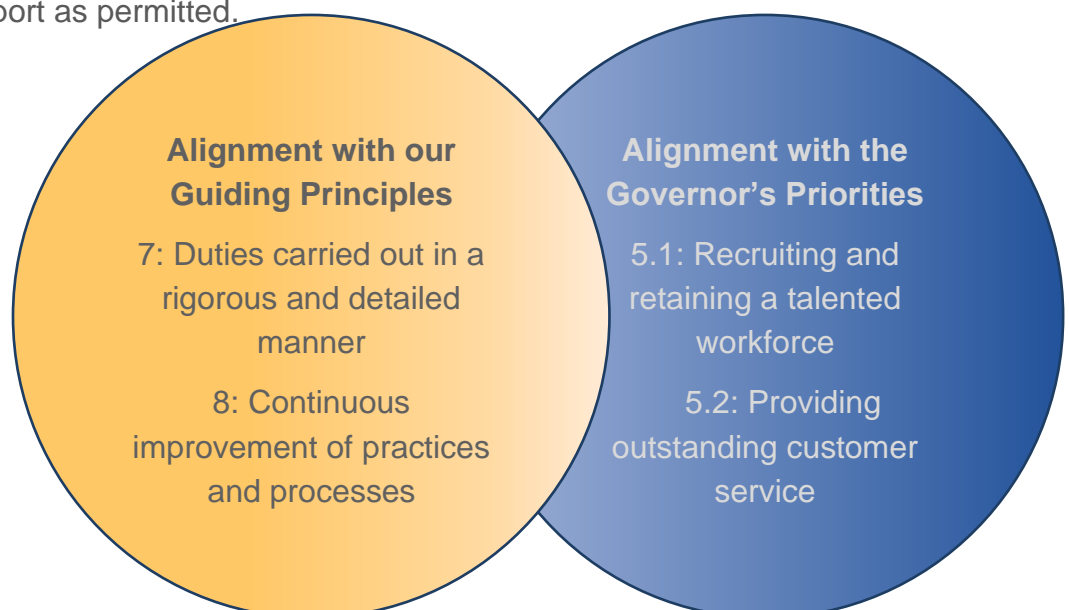
Activities Include:

- Analysis and time study of current workload by position and project anticipated future workload.
- Review of other Ethics Commission staffing structures.
- Determine the need for additional staff to maintain customer services standards and statutory compliance.

### **Goal B: Establish an Internal Staff Support Framework**

Activities Include:

- Research ways that government entities improve staff recruitment and retention.
- Determine what flexibility the Commission has in implementing staff support.
- Implement staff support as permitted.





## 5. FOCUS 4 -TECHNOLOGY AND SERVICE IMPROVEMENTS

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The Commission has made great improvements in the use of technology in order to be responsive to the public and state and local governments. Additional improvements in the technology of the Commission can assist in creating efficiencies, improving accuracy, and engaging the public we serve.

### **Goal A: Acquire an Enhanced Case Management System to Create Efficiencies in Case Processing as Caseloads Continue to Grow**

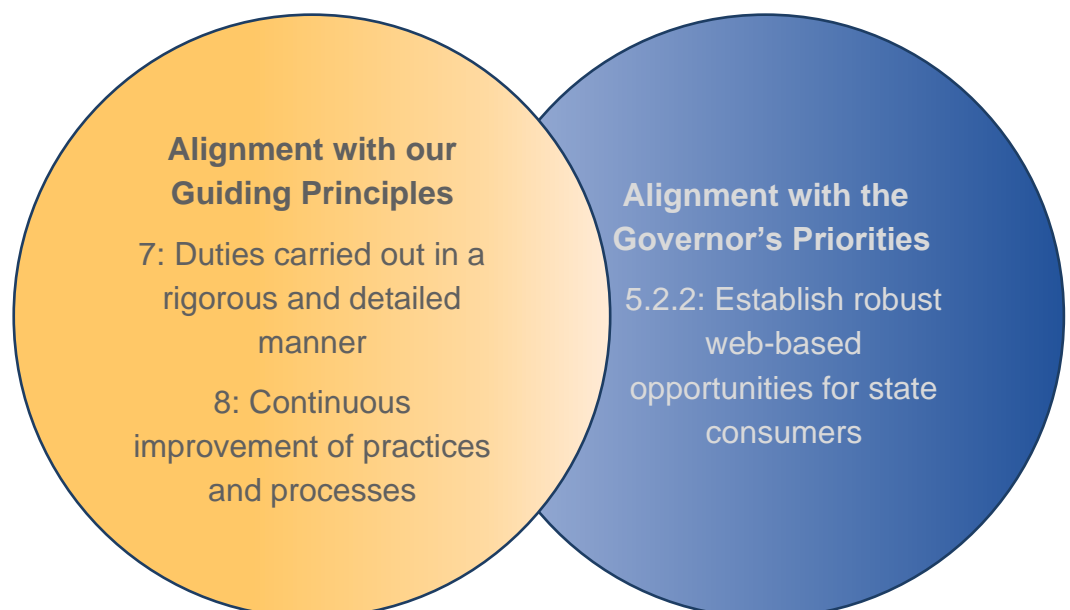
Activities Include:

- Set quarterly goals and categories for number of people receiving training.
- Track number of people receiving training and adjust training approach as needed.

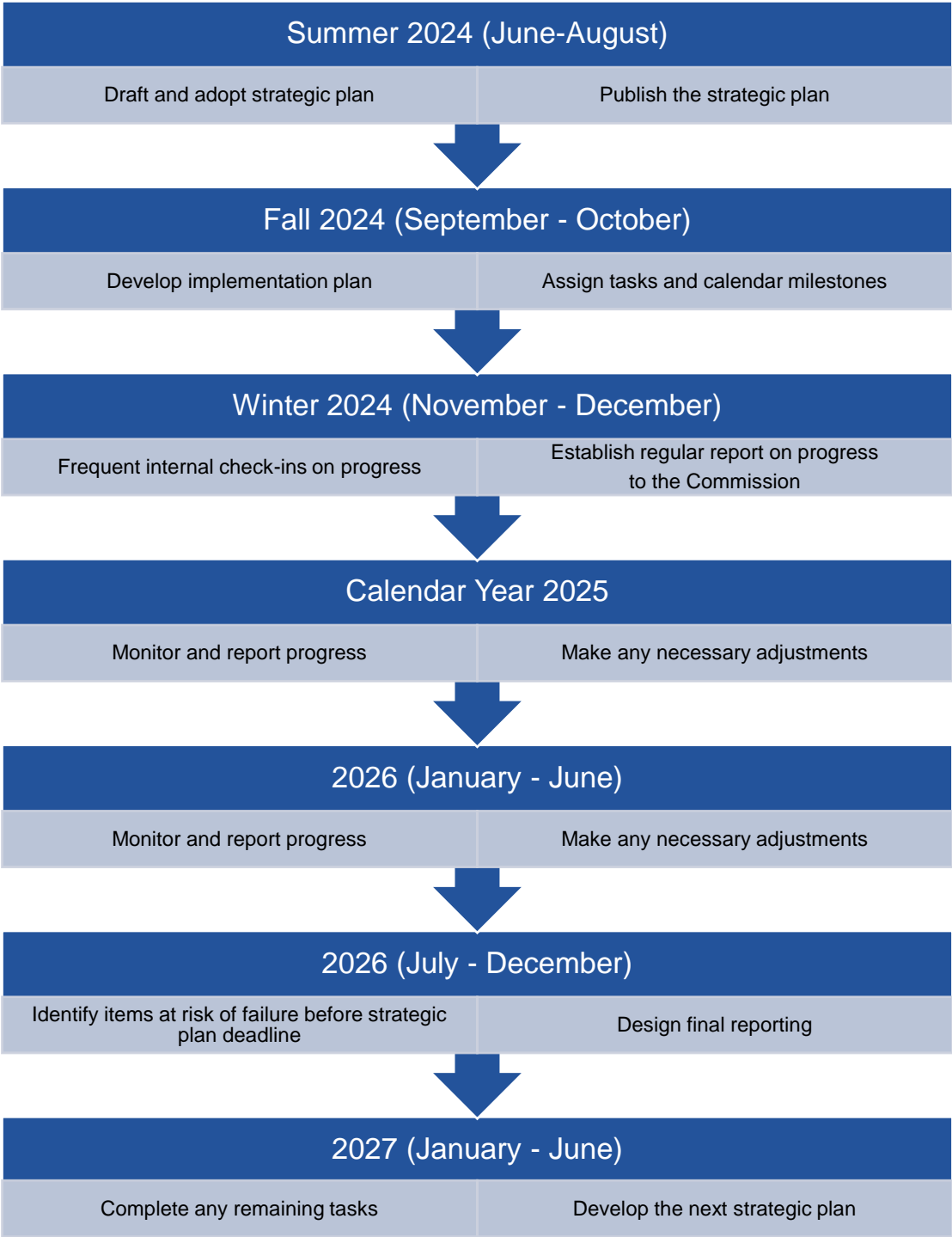
### **Goal B: Evaluate All Current Processes Related to Technology and Customer Service**

Activities Include:

- Document each internal process of the Commission.
- Identify potential technology solutions for processes and reports.
- Develop a priority list for implementation of identified changes.



6. SUCCESS TIMELINE



NCOE  
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Item 5  
8/20/25



# PRESENTATION FOR JOINT COMMITTEE ON LEGISLATIVE OPERATIONS & ELECTIONS

ROSS E. ARMSTRONG, ESQ.  
EXECUTIVE DIRECTOR

FEBRUARY 11, 2025



## WHY AN ETHICS LAW?

- President Nixon and Watergate
  - Scandal Triggered Enactment of Government Ethics Laws
  - Nevada Ethics Law (1975)
  - Federal Ethics in Government Act (1978)

# LEGISLATIVE DECLARATION



“A public office is a public trust and shall be held for the sole benefit of the people”

NRS 281A.020

## COMMISSION'S MISSION



The Nevada Commission on Ethics, by the authority granted under Chapter 281A of NRS, strives to **enhance the public's faith and confidence in government** by ensuring that public officers and public employees uphold the public trust by committing themselves to **avoid conflicts between their private interests and their public duties.**



# STATUTORY AND REGULATORY AUTHORITY



- Chapter 281A Nevada Revised Statutes – Nevada Ethics Law
- Chapter 281A Nevada Administrative Code – Ethics Regulations



# THREE MAJOR FUNCTIONS OF THE ETHICS COMMISSION



Education and Outreach  
about Nevada's Ethics Law



Provide Advisory Opinions to  
public officers and  
employees about Nevada's  
Ethics Law



Receive and process  
Complaints alleging  
violations of Nevada's Ethics  
Law

**Prevention**

**Enforcement**

# WHO MUST COMPLY WITH THE ETHICS LAW? GOVERNMENT OFFICIALS



## Executive Branch

- Full Jurisdiction
- Examples
  - Personnel Commission
  - Department of Transportation
  - Board of Cosmetology

## Legislative Branch

- Limited Jurisdiction
- All conduct except for “core legislative duties”
- Special rules in NRS 281A

## Local Government

- Full Jurisdiction
- Examples
  - Reno City Council
  - Incline Village General Improvement District
  - CCSD

## Judicial Branch

- No jurisdiction



Improper Benefits



Disclosure & Abstention



Cooling Off

## THREE MAJOR ETHICS CATEGORIES



## IMPROPER BENEFITS

### SELECTED EXAMPLES

- Self-dealing contracts
- Government equipment to benefit political campaigns or private business
- Preferences for close family members
- Directing subordinate to benefit your personal interests



## DISCLOSURE & ABSTENTION

### SELECTED EXAMPLES

- Taking government action without being transparent about your conflict of interest
- Voting on funding to benefit your private employer or a non-profit board you sit on
- Health inspector inspecting their daughter's restaurant



## COOLING OFF

### SELECTED EXAMPLES

- Going to work for a vendor of the agency you just left
- Getting paid to consult for a private firm related to work at your previous government agency
- Working for a regulated industry after being a regulator
- \*One Year Cooling Off Period



# LEGISLATIVE HISTORY



1975-1977

- First ethics law enacted
- Ruled unconstitutional
- Fixed in 1977 with two Commissions (Executive and Legislative)

1985

- Separate Executive and Legislative Commissions deemed ineffective → Merged into one

Early 2000s

- Enforcement mechanisms added
- Clarity on disclosure and abstention requirements

2017

- Last major adjustments to the Ethics Law
- Birth of “complaints”

# LEGISLATIVE HISTORY

## ASSEMBLY BILL 65 ~ 2021 LEGISLATIVE SESSION



AB65

Amendment  
777

Legislative  
Approval

Governor  
Veto

### Overarching Goals

- Enhanced and clarified ethical standards of conduct
- Stronger confidentiality protections
- Procedural clarity and streamlining

### Changes

- Removal of Legislative Branch from the Commission's Jurisdiction
- Established Legislative Committees to oversee Legislative Branch conduct

### Veto Message

- Support for major substantive parts of AB65
- Concerns with Amendment 777

# LEGISLATIVE HISTORY

## ASSEMBLY BILL 65 ~ 2023 LEGISLATIVE SESSION



AB66

Amendment  
286

Assembly  
Approval

Senate

### Overarching Goals

- Enhanced and clarified ethical standards of conduct
- Stronger confidentiality protections
- Procedural clarity and streamlining

### Changes

- Removal of Legislative Branch from the Commission's Jurisdiction
- Established 3 Legislative Committees to oversee Legislative Branch conduct

No hearing in the  
Senate

Summary	Revises provisions relating to ethics in government. (BDR 23-264)
Introduction Date	Wednesday, November 16, 2022
Fiscal Notes	Effect on Local Government: No.  Effect on the State: No.
Primary Sponsor	<a href="#">Assembly Committee on Legislative Operations and Elections</a>
Title	AN ACT relating to ethics in government; making various changes relating to the provisions governing ethics in government; enacting the Nevada Legislative Ethics Law; providing penalties; and providing other matters properly relating thereto.
Digest	<p>With certain exceptions, the Nevada Ethics in Government Law (Ethics Law) governs the conduct of public officers and employees and, in certain circumstances, 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 Ethics Commission. (Chapter 281A of NRS) Under the Ethics Law, the Commission is required to 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 17 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 17 also specifies that the Chair and Vice Chair be elected at the first fiscal meeting of each year. Section 8 of this bill authorizes the Chair, with certain exceptions, to grant not more than one extension of any time limit set forth in the Ethics Law, but the Chair cannot grant an extension of any time limit in the statute of limitations. Sections 31, 35 and 37-39 of this bill make conforming changes consistent with the authority of the Chair to grant the authorized extensions. Sections 3-5 of this bill define certain terms relating to proceedings before the Commission and the statutory ethical standards established by the Ethics Law. Sections 10, 14 and 46 of this bill make conforming changes to incorporate these definitions into the chapter. Section 6 of this bill: (1) restates more clearly the existing scope and applicability of the statutory ethical standards to the conduct of current and former public officers and employees; and (2) codifies the existing rule of construction that the standards are cumulative and supplement each other. 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) Section 7 of this bill provides 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 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. Section 107 of this bill makes a conforming change to indicate this additional exception to the Open Meeting Law. The Ethics Law requires public officers to execute and timely file with the Commission written acknowledgments that they have received, read and understood the statutory ethical standards and that they have a responsibility to become familiar with any amendments to those standards. (NRS 281A.500) Section 9 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 are required to file the written acknowledgment of the statutory ethical standards; and (2) submit the list annually to the Commission. Under the Ethics Law, the Commission is authorized to make a decision relating to a matter or proceeding before the Commission and provide a written advisory opinion or written opinion in response to an ethics complaint. (NRS 281A.670-281A.760) Sections 11, 12, 15, 18, 19, 22, 24, 26, 28, 30-32, 34, 36-41 and 47 of this bill make various changes to distinguish between rendering a decision and issuing a written advisory opinion or issuing an opinion in response to an ethics complaint. The Ethics Law prohibits public officers and employees from engaging in certain unethical conduct, including conduct that benefits any persons to whom they have a commitment in a private capacity. (NRS 281A.400, 281A.420) Existing 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 13 of this bill makes technical revisions to the definition of “commitment in a private capacity” that do not change the substantive meaning of the term. 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 the just and sufficient cause for the Commission to render an opinion in a matter, the members of the review panel</p>

generally cannot participate in any further proceedings of the Commission relating to the matter. (NRS 281A.220) However, the Ethics Law allows the members of the review panel to authorize the development of and approve a deferral agreement in the proceedings. (NRS 281A.730) Section 18 of this bill also allows one or more members of a review panel to participate as mediators or facilitators in any settlement negotiations with the consent of the parties during a specified period. The Ethics Law requires the Commission to appoint and prescribe the duties of the Commission Counsel, who is the legal advisor to the Commission and generally acts 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 20 of this bill: (1) 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; and (2) clarifies that the Commission Counsel does not represent the interests of the Executive Director of the Commission in a judicial action or proceeding in which the Executive Director is named as a party to the action or proceeding based on the conduct of the Executive Director in his or her official capacity as a party to an adjudicative proceeding. The Ethics Law sets forth the jurisdiction of the Commission to investigate and take action regarding an alleged violation of the Ethics Law in any proceeding commenced by an ethics complaint if the ethics complaint is filed or initiated within 2 years after the alleged violation or reasonable discovery of the alleged violation. (NRS 281A.280) Section 21 of this bill similarly provides that the Commission has jurisdiction to gather information and issue an advisory opinion regarding past conduct that has occurred within 2 years before the date on which the request for an advisory opinion is filed. The Ethics Law authorizes the Commission to impose certain penalties, fees and costs against a person who prevents or interferes with, or attempts to prevent or interfere with, any investigation or proceeding under the Ethics Law or the discovery of a violation of the Ethics Law. (NRS 281A.790) Section 21 of this bill provides that the Commission has jurisdiction to investigate and take appropriate action regarding such an alleged violation in any proceeding commenced by a written notice of the charges within 2 years after the alleged violation or reasonable discovery of the alleged violation. Existing law requires the Commission to publish a manual explaining the Ethics Law. Section 22 of this bill replaces this requirement with a requirement to publish materials to educate public officers and employees on the Ethics Law. Section 23 of this bill: (1) authorizes the administration of oaths by a member of the Commission when appointed by the Chair to preside over any meetings, hearings or proceedings or by a certified court reporter; (2) authorizes the Chair to issue a subpoena during the course of an investigation for certain information; and (3) provides that any court proceeding commenced relating to a subpoena is deemed good cause for the Chair to grant an extension of the time limits that apply to proceedings concerning ethics complaints. The Ethics Law 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. The Ethics Law also contains certain 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 25 of this bill revises these prohibitions and limited-use exceptions in several ways. First, one of the existing requirements for the limited-use 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. (NRS 281A.400) Section 25 clarifies the exception by providing that the limited use must be authorized by a written policy which was adopted before the limited use occurs. Second, one of the existing requirements for the limited-use exceptions is that the limited use for personal purposes must not create the appearance of impropriety. (NRS 281A.400) Section 25 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. 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 entity in which they have a significant pecuniary interest or any person to whom they have a commitment in a private capacity. (NRS 281A.400) Section 25 also adds to the statutory ethical standards a prohibition against public officers and employees using their position or power in government to take actions or compel a subordinate to take any actions that would cause unwarranted harm or damage to another person 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. 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 27 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 under the terms of a contract or as a matter of law, such as a result of an attorney-client relationship, if they: (1) disclose all nonconfidential information and describe the general nature of the contract or law; 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 27 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. 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 28 provides that: (1) 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; and (2) the “cooling-off” period applies when certain current and former public officers and employees are or were in positions to materially affect or influence the awarding, renewing or amending of certain contracts by their employing agencies because they had the authority or responsibility to recommend, advise, negotiate, develop, draft, revise, review or approve any material terms of the contracts. In certain situations where current or former public officers and employees are alleged to have violated the “cooling-off” period, section 45 of this bill provides that the Commission must consider certain factors relating to the comparative value of the contract under the given set of facts and circumstances in assessing the severity of the violation and any penalties. Under the Ethics Law, the Legislative Counsel is required to prepare annotations to the Commission's published opinions for inclusion in the Nevada Revised Statutes. (NRS 281A.290) Sections 22 and 29 of this bill move and recodify this requirement. The Ethics Law authorizes a public officer or employee to file with the Commission a request for an advisory opinion to: (1) seek guidance relating to the propriety of his or her 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 16 of this bill deletes duplicative provisions from the definition of a “request for an advisory opinion.” Section 30 authorizes the Commission to request additional information relating to the request for an advisory opinion from the requester or his or her legal counsel. 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 33 of this bill requires the requester to acknowledge his or her waiver of confidentiality in the request. Section 33 also 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 filed by a specialized or local ethics committee or a person or initiated by the Commission on its own motion. (NRS 281A.710) Section 34 of this bill authorizes the Executive Director to conduct a preliminary investigation into the propriety of the conduct of a public officer or employee to determine whether the Commission has jurisdiction and whether the Commission should initiate an ethics complaint on its own motion. 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 35 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 35: (1) 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; and (2) 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. 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. (NRS 281A.720) Section 36 authorizes the Executive Director to grant, under certain circumstances, one or more extensions of the time limit to submit the response, 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 36 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 or any other law that provides such authority. Under the Ethics Law, a review panel is required to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. (NRS 281A.730) Section 38 of this bill requires that, after the review panel makes its determination, the review panel must serve a written notice of its determination on the public officer or employee who is the subject of the ethics complaint. The Ethics Law establishes various requirements regarding the adjudication of ethics complaints referred to the Commission for further proceedings. (NRS 281A.745-281A.760) Section 39 requires: (1) the Executive Director to issue a formal notice of charges to the subject of the ethics complaint regarding the allegations to be presented at an adjudicatory hearing; and (2) 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 period, unless waived by the subject, and requires the opinion to include findings of fact and conclusions of law. (NRS 281A.745, 281A.765) Section 39: (1) 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 period after the decision is rendered; and (2) clarifies 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) Section 43 of this bill makes a conforming change related to the contents of a written opinion. 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. (NRS 281A.750) Section 40 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, or if revealing the identity of the requester would otherwise reveal the identity of witnesses who work for the same public body, agency or employer. Section 40 also clarifies that: (1) such confidentiality extends to all materials that, if disclosed, would reveal the identity of the confidential requester; and (2) 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 40 requires the Executive Director to 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 is authorized to 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 41 requires any written discovery request to be submitted in accordance with the schedule for discovery in the matter. Section 41 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, but provides an exception if any of the materials are declared confidential by another law. 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 42 of this bill generally exempts the Commission's actions concerning the ethics complaint from the Open Meeting Law. However, section 42 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 and, with respect to certain dispositions of ethics complaints and in determining whether a violation is willful, the Ethics Law requires the Commission to treat comparable situations in a comparable manner. (NRS 281A.785, 281A.790) Sections 44 and 45 of this bill require the Commission to carry out that duty to the extent practicable based on the given set of facts and circumstances. Section 47 clarifies that, based on a finding that a violation of the Ethics Law has been proven, the Commission is authorized to impose certain penalties using any manner in which the Commission is authorized to dispose of the matter. Section 48 of this bill makes technical conforming changes to the description of current and former public officers and employees in the Ethics Law. Section 108 of this bill addresses the applicability of certain provisions of sections 2-48 of this bill to various proceedings before the Commission. Sections 9, 9.5, 13.5, 15.5, 15.7, 25-27.5 and 48 of this bill remove legislative officers and employees from the jurisdiction of the Ethics Law, and sections 50-105 of this bill enact the Nevada Legislative Ethics Law (Legislative Ethics Law) to govern legislative officers and employees and, in certain situations, former legislative officers and employees after the end of their period of legislative service or employment. Sections 52-71 of this bill establish various definitions applicable to the Legislative Ethics Law. In particular, section 67 of this bill defines "legislative officer" as any current or former: (1) member of the Senate, Secretary of the Senate or officer of the Senate; (2) member of the Assembly, Chief Clerk of the Assembly or officer of the Assembly; or (3) officer of the Legislature, the Legislative Counsel Bureau or the Legislative Department of the State Government. However, the term does not include the Lieutenant Governor when acting in his or her official capacity as the President of the Senate. Section 65 of this bill defines "legislative employee" as any current or former employee, assistant, attache, intern or other staff employed with reference to the legislative duties of a Legislator or the Legislative Department, regardless of whether the position is paid or otherwise compensated. Under the Nevada Constitution, the Houses of the Legislature have adopted Standing Rules that establish various ethical standards for Legislators and other legislative officers and employees. (Nev. Const. Art. 4, § 6; Senate Standing Rule No. 23; Assembly Standing Rule No. 23; Joint Standing Rules Nos. 30-39) Section 73 of this bill provides that the Legislative Ethics Law supplements such Standing Rules and, to the extent that there is a conflict between the Standing Rules and the Legislative Ethics Law, the Standing Rules govern the conflict. Sections 51 and 72-76 of this bill set forth additional standards governing the interpretation, application and administration of the Legislative Ethics Law. Sections 77-83 of this bill establish legislative ethical standards which are similar to existing ethical standards for public officers and employees but which are tailored to the specific ethical demands of the Legislative Department. Existing law establishes general ethical standards to which public officers and employees are bound. (NRS 281A.400) Section 77 of this bill establishes similar provisions for the purpose of legislative officers and employees. Existing law restricts public officers and employees from representing or counseling private persons before certain public agencies. (NRS 281A.410) Section 78 of this bill establishes similar provisions for the purpose of legislative officers and employees. Existing law prohibits public officers and employees from taking certain actions relating to contracts between governmental entities and any business entity in which the public officer or employee has a significant pecuniary interest. (NRS 281A.430) Section 79 of this bill establishes similar provisions applicable to legislative officers and employees. Existing law prohibits a public officer or employee from accepting or receiving an honorarium under certain circumstances. (NRS 281A.510) Section 80 of this bill establishes similar provisions for the purpose of legislative officers and employees. Existing law prohibits a public officer or employee from requesting or otherwise causing a governmental entity to incur certain expenses or make expenditures to support or oppose ballot questions or candidates under certain circumstances. (NRS 281A.520) Section 81 of this bill establishes similar provisions prohibiting legislative officers and employees from engaging in such acts with regard to the Legislative Department. Existing law establishes certain "cooling-off" periods for public officers and employees relating to soliciting or accepting employment from certain entities under certain circumstances. (NRS 281A.550) Section 82 of this bill establishes similar provisions relating to legislative officers and employees. Existing law authorizes the



Attorney General or the appropriate district attorney to void certain grants, contracts or leases entered into in violation of the Ethics Law and authorizes the Attorney General to take other actions to redress certain violations. (NRS 281A.540) Section 83 of this bill authorizes the Attorney General or appropriate district attorney to take similar actions to redress certain violations of the Legislative Ethics Law. To carry out and enforce the Legislative Ethics Law, sections 84-95 of this bill create the Senate Commission on Ethics (Senate Commission), Assembly Commission on Ethics (Assembly Commission) and Joint Commission on Ethics (Joint Commission), provide for the appointment and terms of their respective members and prescribe standards for their management, governance and proceedings. Section 109 of this bill directs the appointment and terms of the initial members of each Commission. Under section 87 of this bill, the Senate Commission has jurisdiction to: (1) hear ethics complaints brought against legislative officers and employees of the Senate; and (2) hear requests brought by such persons for advice on the legislative ethical standards. Under section 91 of this bill, the Assembly Commission has jurisdiction to: (1) hear ethics complaints brought against legislative officers and employees of the Assembly; and (2) hear requests brought by such persons for advice on the legislative ethical standards. Under section 95 of this bill, the Joint Commission has jurisdiction to: (1) hear ethics complaints brought against legislative officers and employees other than the officers or employees of the Senate or Assembly; and (2) hear requests brought by such persons for advice on the legislative ethical standards. Section 97 of this bill authorizes the Senate Commission, Assembly Commission and Joint Commission, as applicable, to conduct investigations and hold hearings to carry out the Legislative Ethics Law. Section 98 of this bill provides that all proceedings of the Senate Commission, Assembly Commission or Joint Commission, as applicable, relating to the character, alleged misconduct, professional competence or physical or mental health of any person on matters regarding the legislative ethical standards and the materials relating thereto are confidential, unless the person subject to the proceedings waives such confidentiality. Section 106 of this bill makes a conforming change to the Public Records Law. Section 99 of this bill provides that a member of the Senate Commission, Assembly Commission or Joint Commission, as applicable, is disqualified from serving during the consideration of a matter if: (1) the member is the subject of the ethics complaint; (2) the member requested the advice on the issue under consideration; or (3) a reasonable person in the member's situation could not exercise independent judgment on the matter. Section 100 of this bill authorizes an individual to file with the Legislative Counsel an ethics complaint against a legislative officer or employee. Section 100 requires the Legislative Counsel to review the ethics complaint and consult with the Chair of the Senate Commission, Assembly Commission or Joint Commission, as applicable, to determine whether the Commission has jurisdiction over the complaint and whether an investigation is warranted in the matter. Finally, section 100 requires that: (1) if it is determined that the Commission does not have jurisdiction or an investigation is not warranted, the Legislative Counsel must send a written notice of such a determination to the individual who filed the ethics complaint; or (2) if it is determined that the Commission has jurisdiction and an investigation is warranted, the Legislative Counsel must send a written notice of the determination and a copy of the ethics complaint to the person who is subject to the ethics complaint. Section 74 of this bill requires the ethics complaint to be filed within 2 years after the alleged violation or reasonable discovery of the alleged violation. If the Senate Commission, Assembly Commission or Joint Commission, as applicable, holds an adjudicatory hearing on an ethics complaint, section 101 of this bill establishes various procedural and evidentiary requirements for the adjudicatory hearing, including the burden and standard of proof. Section 102 of this bill requires the Senate Commission, Assembly Commission or Joint Commission, as applicable, to dismiss an ethics complaint if the Commission finds that the violation of the legislative ethical standards has not been proven. Alternatively, if the Senate Commission, Assembly Commission or Joint Commission, as applicable, finds that a violation of the legislative ethical standards has occurred, sections 102-104 of this bill authorize the Commission to: (1) issue a letter of caution or instruction to the legislative officer or employee; (2) admonish, reprimand or censure the legislative officer or employee; (3) impose civil penalties on the legislative officer or employee; or (4) take any other reasonable actions that the Commission determines will remedy the violation or deter similar violations, including referring the matter to the appropriate House for review and consideration. Section 105 of this bill also requires the Senate Commission, Assembly Commission or Joint Commission, as applicable, to refer the matter to the Attorney General or the district attorney, as appropriate, if the Commission believes that the violation of the legislative ethical standards constitutes a crime. Section 110 of this bill provides for the transition of jurisdiction for ethics proceedings brought against legislative officers and employees.

## Most Recent History Action

(Pursuant to Joint Standing Rule No. 14.3.3, no further action allowed.)

(See full list below)

## Upcoming Hearings

None scheduled

## Past Hearings

<a href="#">Assembly Legislative Operations and Elections</a>	<a href="#">Feb 09, 2023</a>	<a href="#">4:00 PM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned
<a href="#">Assembly Legislative Operations and Elections</a>	<a href="#">Feb 21, 2023</a>	<a href="#">4:00 PM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard
<a href="#">Assembly Legislative Operations and Elections</a> (Work Session)	<a href="#">Apr 13, 2023</a>	<a href="#">4:00 PM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Amend, and do pass as amended

## Final Passage Votes

<b>Assembly Final Passage</b>	( 1st Reprint )	Apr 25, 2023	Yeas: 37, Nays: 5
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## Conference Committees

None scheduled
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## Bill Text

<a href="#">As Introduced</a>	<a href="#">Reprint 1</a>
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## Adopted Amendments

<a href="#">Amendment 385</a>
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## Bill History

Date	
Nov 16, 2022	Prefiled. Referred to Committee on Legislative Operations and Elections. To printer.
Dec 01, 2022	From printer.
Feb 06, 2023	Read first time. To committee.
Apr 24, 2023	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 385.) To printer.
Apr 25, 2023	From printer. To engrossment. Engrossed. First reprint. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 37, Nays: 5.) To Senate.
Apr 26, 2023	In Senate. Read first time. Referred to Committee on Legislative Operations and Elections. To committee.
May 20, 2023	(Pursuant to Joint Standing Rule No. 14.3.3, no further action allowed.)



## ASSEMBLY BILL 66

### SECTION BY SECTION ANALYSIS

Section Number	Description
1	Introductory bill language.
2	Defines “Chair” to now include Vice Chair automatically when the Chair is unable to act.
3	Defines “party” as the Executive Director or Subject of the Complaint.
4	Defines “published opinion”.
5	Defines “statutory ethical standards”.
6	Clarifies application of the Ethics Law and confirms the Commission can consider whether more than one violation of the Ethics Law applies to a given set of facts.
7	Creates consistency between the Ethics Law and the Open Meeting Law related to litigation direction on judicial review and maintains the confidentiality of an Advisory Opinion requester.
8	Allows the Chair to grant one extension of time for good cause for deadlines found in the Ethics Law.
9	Requires government entities to submit to the Commission a list of public officers in their agency who are required to submit an Acknowledgment of Ethical Standards.
10	Conforming changes.
11	Clean-up of rendering vs. issuing an opinion.
12	Clean-up of rendering vs. issuing an opinion.
13	Clean-up of definitions of commitment in a private capacity.
14	Conforming changes.
15	Clean-up of rendering vs. issuing an opinion.
16	Streamlines definition of “Request for Advisory Opinion”.
17	Clarity on election of Chair and Vice Chair and their duties.
18	Statutory authority for Review Panel member to oversee a settlement conference and clean-up of rendering vs. issuing an opinion.
19	Clean-up of rendering vs. issuing an opinion.
20	Clarifies representation by Commission Counsel and litigation determinations.

21	Time limit on past conduct for purposes of Advisory Opinion jurisdiction, clarity of investigation language with respect to cooling off cases, various language clarifications.
22	Clarifies duties of the Commission. Specifically: <ul style="list-style-type: none"> <li>• Clean up of acknowledgment terms</li> <li>• Modernization of Ethics Manual to materials</li> </ul> Moves annotations requirement to Sec. 29. Clean-up of rendering vs. issuing an opinion.
23	Clarifies process of oaths and subpoenas to include permission to gather confidential personnel records as part of an ethics investigation.
24	Clean-up of rendering vs. issuing an opinion.
25	Amended the ethical standards to <ul style="list-style-type: none"> <li>• Require that a policy for purposes of the limited use exception must be a written policy and in place prior to the alleged conduct of the violation</li> <li>• Clarify Legislator use of property, time, equipment limitations</li> <li>• Establish an ethical standard that prohibits a public officer or employee to cause “unwarranted harm” to someone in order to benefit their significant pecuniary or personal interest</li> </ul>
26	Clean-up of rendering vs. issuing an opinion.
27	Clarifies that a public officer is not required to disclose confidential information (that is confidential due to contract or law) in certain circumstances. Also align abstention requirement to disclosure requirement when individual has represented an entity before a public body within the previous year.
28	Clarifies cooling off requirements to <ul style="list-style-type: none"> <li>• Clearly exclude non-management level staff from the state executive branch regulated industry cooling off requirements</li> <li>• Include contracts managed and administered, not just awarded, within the one-year timeframe for the vendor cooling off requirements</li> <li>• Allow a person submitting an advisory opinion request about cooling off restrictions to engage with a potential employer to get information necessary for the advisory opinion without that action being deemed “Seeking” employment for purposes of the cooling off restrictions</li> </ul>
29	Language clean-up, adding section removed from Sec. 22.
30	Clarifies advisory opinion process to allow Commission to ask for additional information at all stages of the process.
31	Clean-up of rendering vs. issuing an opinion. Extension of 45-day period by the Chair permitted.
32	Clean-up of rendering vs. issuing an opinion.
33	Clarifies that if an Advisory Opinion Requester requests a public hearing for the Commission to consider their request that confidentiality is waived.

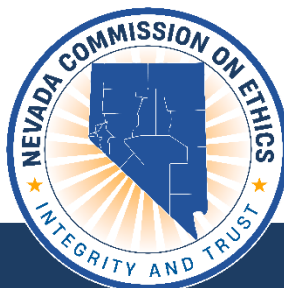
34	Language clean-up and clarification that the Executive Director may do some initial investigatory work to assist the Commission in determining jurisdiction or whether it should initiate its own Complaint.
35	Clarifies language on jurisdictional determination and allows Chair to extend time. Also clarifies language about the Complaint by Motion process.
36	Clarifies that the Response in a Complaint from the subject should address the allegations in the notice of complaint and not necessarily the Complaint itself. Clean-up of rendering vs. issuing an opinion.
37	Clean-up of rendering vs. issuing an opinion.
38	Clean-up of rendering vs. issuing an opinion.
39	Clarifies obligations of the Executive Director and Commission related to adjudicatory hearings and written opinions.
40	Broadens confidentiality protections to former coworkers. Enhances confidentiality protections to ensure the identity of an individual who has met the legal threshold is not otherwise revealed through public records requests or avenues of seeking information about the protected individual.
41	Discovery timeline clarification language and confidentiality protections for certain documents that may be used in a Complaint case. Clarifies timeframe for when certain documents become public record.
42	Clarifies applicability of the Open Meeting Law to adjudicatory hearings.
43	Language clean-up.
44	Express statutory authority for a Commission-approved deferral agreement.
45	Clarifies requirement to treat similar cases similarly.
46	Conforming changes.
47	Clean-up of rendering vs. issuing an opinion and ability to impose penalties.
48	Conforming changes.
49	Conforming changes.
50	Effective date details.

Submitted by:

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**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Eighty-Second Session  
February 21, 2023**

The Committee on Legislative Operations and Elections was called to order by Chair Michelle Gorelow at 4:01 p.m. on Tuesday, February 21, 2023, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Michelle Gorelow, Chair  
Assemblywoman Brittney Miller, Vice Chair  
Assemblyman Rich DeLong  
Assemblywoman Jill Dickman  
Assemblyman Reuben D'Silva  
Assemblywoman Cecelia González  
Assemblyman Brian Hibbetts  
Assemblyman Cameron (C.H.) Miller  
Assemblywoman Daniele Monroe-Moreno  
Assemblyman Richard McArthur  
Assemblywoman Sabra Newby  
Assemblyman Steve Yeager

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

Bryan Fernley, Committee Counsel  
Haley Proehl, Committee Policy Analyst  
Shuruk Ismail, Committee Manager  
Kristi Howard, Committee Secretary  
Garrett Kingen, Committee Assistant

**OTHERS PRESENT:**

Francisco V. Aguilar, Secretary of State  
Mark Wlaschin, Deputy for Elections. Office of the Secretary of State  
Janine Hansen, State Chairman, Independent American Party  
Lynn Chapman, State Vice President, Nevada Families for Freedom  
Kim Wallin, Chair, Commission on Ethics  
Ross E. Armstrong, Executive Director, Commission on Ethics  
Nick Schneider, Government Affairs Analyst, Vegas Chamber

**Chair Gorelow:**

[Roll was taken. Committee rules and protocol were explained.] I will open with the hearing on Assembly Bill 64.

**Assembly Bill 64: Makes changes to civil penalties for certain violations relating to campaign finance reports. (BDR 24-410)**

**Francisco V. Aguilar, Secretary of State:**

I am joined today by my Deputy for Elections, Mark Wlaschin, to present Assembly Bill 64. This bill proposes to amend the fee schedule specifically relating to certain contribution and expense reports contained within *Nevada Revised Statutes* (NRS) Chapter 294A. At its core, this bill is intended to provide relief to candidates for local office who wanted to serve their community and wanted to see their name on the ballot but may not have realized they could become liable for thousands of dollars in fines. I know we all recognize the importance of transparency and understand how critical these campaign finance reports are to the public and press. This bill does not suggest that these reports are not important, but recognizes that many individuals who want to get involved at the local level may view one or more potential \$10,000 fines as a deterrent. It does have a chilling effect. I will now turn the presentation over to Deputy Wlaschin to discuss the details and reasons for this bill.

**Mark Wlaschin, Deputy for Elections, Office of the Secretary of State:**

Candidates for office are required to file financial reports. These required reports include contribution and expense (C&E) reports that must be filed during an election year on a quarterly basis, typically April 15, July 15, October 15, and on January 15 of the year immediately following the election. When a candidate fails to file a C&E on time, the fee schedule pursuant to NRS 294A.420, subsection 3, requires a fine that accumulates each day. The fine is \$25 for each of the first seven days. It then becomes a \$50 fine each day from the



eighth to the fifteenth days and becomes a \$100 daily fine starting on the sixteenth day. The maximum fee is met on the 110th day. At this point, that candidate owes \$10,000. Each of the four C&E reports is considered independently. If a candidate fails to file all four C&E reports, we are statutorily required to levy a total of \$40,000 in fines.

Existing law allows that a civil penalty imposed against the public officer who by law is not entitled to receive compensation for his or her office or a candidate for such an office must not exceed a total of \$100, but only if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods. In other words, if the public officer is a volunteer or the candidate is running for a public office that is a volunteer position and they do not receive or expend any funds during that period, then their maximum fee for each late report cannot exceed \$100. Those reports which reflect zero-dollars contributed and zero-dollars expended are referred to as zero-dollar reports. These are mostly filed by public officers and candidates running a grassroots or word-of-mouth campaign in county or city races where they do not plan to expend or receive any funds.

Assembly Bill 64 proposes to expand the universe of public officers and candidates who would be eligible for a maximum fine of \$100, from just volunteer positions who submit zero-dollar reports, to include anyone who files a zero-dollar report. This would ensure that a fine was levied reflecting the importance of the reports and the importance of transparency, but without deterring individuals from entering public service.

As an example, in the 2022 election cycle, there were 1,231 candidates who filed for office. Those candidates each had to file four C&E reports, totaling a little under 5,000 total reports. Just under 10 percent of the reports were filed late, a total of 432. Of those, 70 percent, or 303, were filed by candidates filing zero-dollar reports. These candidates had an average assessed fine of \$1,845. Seven candidates received \$10,000 fines, although they had raised no money and spent no money. One of them received two \$10,000 fines. Again, this would not apply to anyone who received any contribution or made any expenditure during the reporting period. For context, I could not find a single member of our state Legislature or any constitutional officer who has filed a zero-dollar report late.

Finally, this is but one of our efforts to enhance the campaign finance process. We have already instituted an automated email reminder, which led to a significant increase in compliance. We have additional plans in the works to further enhance transparency. If the system works better for you, it might make things easier on us. We remain available for questions.

**Chair Gorelow:**

Are there any questions from Committee members?

**Assemblyman Yeager:**

I have just a couple of questions, and one of them is based on some of the information we just received. We heard that there were sometimes substantial fines against people who ultimately filed zero-dollar reports, but I noted in the statute that there is the ability for the Secretary of State to waive fines. I guess I am being generous, but I wondered if you could shed some light on whether, in those circumstances, we could assume that those people did not know they had to file. Are those fines usually waived or do they end up getting paid? I am asking about those examples where large fines were levied against candidates who filed zero-dollar reports but missed their deadline.

**Mark Wlaschin:**

Thank you for the question, Speaker Yeager. Regarding the waiver process specifically, we have standardized and enhanced what the waiver process looks like. Both in statute and in regulation, there are very strict requirements to meet the waiver. We have a group of individuals who meet on a weekly basis to assess and discuss waiver requests. This group includes a member from the Office of the Attorney General, to ensure this is not an independent discussion. We want to make sure that there is consistency and have even developed a matrix lined up with the statute regulation to make sure the fines are levied appropriately.

When we looked at the maximum fine and the history of the legislative intent of those statutes that relate to campaign finance, though, there was really no indication that the maximum fine of \$10,000 was created with an intent, so the Office of the Secretary of State could eliminate that completely in any situation. Therefore, that ultimately results in the reason for this bill. I will say the waiver process is used, and we take that very seriously so that we do not deter folks from running for office while at the same time not negating the effect of the statutes.

**Assemblyman Yeager:**

Ultimately, we all want the person to file, and that is when we assume the financial transparency starts. I understand the philosophy behind the bill, and I think it essentially sets up a system that makes sense. What do we do in the situation where someone is just not filing? How does your office become aware of this? In such a case, I would assume that fines accrue because the quarterly reporting dates are easy to track. I know that you must base fines accrued on what is in statute, but what is your remedy if someone ultimately just does not file? How do you ensure that this person is a zero-dollar reporter versus somebody else who raised money?

**Mark Wlaschin:**

If an individual does not file, again, we ultimately identify that as quickly as possible and attempt to remediate that, typically through contacting them. Oftentimes we use whatever contact information they have provided in the Aurora campaign finance disclosure system, which sometimes is their campaign account, and oftentimes was not being monitored. We do try to contact them. We have a small staff, so tracking down 1,231 individuals or those that do not file every 90 days can be challenging, but we do try to get in touch with individuals to

identify first and foremost that they are aware that they need to be filing. When somebody does find out that they missed a deadline, the first step is always compliance. They must file a report first; then we discuss the waiver process and begin to build an understanding of their situation.

**Chair Gorelow:**

Are there any other questions from Committee members?

**Assemblywoman Dickman:**

I think we have all probably looked at other people's C&E reports. When they do not file, do you really assess those huge fines? If so, are they collected?

**Secretary Aguilar:**

We are trying to find a balance between those individuals who are sophisticated candidates, and those candidates who might need this assistance. Sophisticated candidates are those who can run a real campaign and have an organized team who possesses the knowledge to file these reports. With A.B. 64 our goal is trying to address individuals who do not necessarily understand the system or its intent. These candidates do not have intent not to file but lack awareness and sophistication in the political game. Our goal is to make sure we are as inclusive as possible and find a balance between those who are trying to engage in the process and the system and those who are taking advantage of the system. Yes, there are fines assessed. Sometimes they are imposed and sometimes we continue to try to find that balance.

**Assemblywoman Dickman:**

Are the fines hard to collect?

**Mark Wlaschin:**

They can be. We do set up payment schedules, which have gone as low as \$20 a month. Again, we attempt to recognize everyone's unique situation across the state, but yes, we do collect fines.

**Chair Gorelow:**

Are there any other questions?

**Assemblywoman Monroe-Moreno:**

Secretary of State Aguilar, thank you for your kind remarks regarding sophisticated candidates. I have a comment, not a question. When you file to run for office, you also must sign an affidavit. Shame on the person who does not read it and did not know what they were getting into. I do not feel sorry for the person who does not file their documentation and whatever fines that they received, because they signed on the dotted line. These people are running for office to represent the citizens of this state. We hope that everyone who decides to run for office is honorable, honest, and ethical. I do not mind the fines getting assessed to them. I feel it should be fair, but I do appreciate your comment that maybe there

is a lack of knowledge. I just feel that people should be held accountable for reading what they sign.

**Chair Gorelow:**

You mentioned that you do notify candidates, and I know I have received those emails reminding me to submit. If someone does not submit, how do you contact them? Is it only via email? Do you see someone who has been missing the reporting period for a while and decide to give them a call? I know you are short-staffed, so I was hoping you could walk me through the process used when people are not filing their reports.

**Mark Wlaschin:**

The way we notify individuals varies based on the information candidates put into Aurora. If candidates leave only an address, then that is the only way we can reach out to them. Most candidates leave an email address with a phone number we can use as a follow-up contact. Our goal when it comes to compliance is to be uniform. We want to contact everyone in the alphabet who is out of compliance.

Typically, our contact is through email. There are additional notifications that go out to warn candidates of noncompliance as well. Receiving a notice of noncompliance is usually the best way to encourage individuals to reach out to our office. After that, the first step is to get them into compliance. Once that report has been filed, there is usually a level of alarm at the fees, depending on where the individual is at or what their role is in the state. We then explain the fee schedule and point them towards the statutes and regulations that allow for waivers so that they can assess them. If they qualify, or feel that they qualify, we explain that they can provide their explanation to us in writing. At this point, we will put it through the waiver process.

**Chair Gorelow:**

We will now hear testimony in support of Assembly Bill 64.

**Janine Hansen, State Chairman, Independent American Party:**

We have had as many as 50 candidates in the past. Many of our candidates, especially those running for local office, have never run before and are unfamiliar with the process. We must hold their hand through many of the things that they need to do. We have taken it upon ourselves to remind people by text or call them on the phone when their reports are due. Many of them, especially in local offices, do not have big campaigns. They do not spend anything or receive any donations. We feel that this change in the law would be very helpful for people who are just starting out and trying to get involved in the process, whatever their party might be. I do believe they need to read everything, but we know that is just the nature of many human beings. They do not always understand or remember all the deadlines. I think it is important that we have some compassion and understanding and provide less work for the Secretary of State's Office. What do we gain by imposing these fines on people who have spent or received no money? Thousands of dollars? What we are assured of is that they will never participate again. We think A.B. 64 is very reasonable and compassionate. The Independent American Party goes on the record in support.

**Chair Gorelow:**

Is there anyone else who would like to come to the table in support? I do not see anyone. Is there anyone to testify in support in Las Vegas? [There was no one.] Do we have any callers in support?

**Lynn Chapman, State Vice President, Nevada Families for Freedom:**

We are in support of A.B. 64. In the past we have encouraged people to run for office, knowing that they have never run before. Most really do not understand the process. For some it is a scary situation. We should be encouraging candidates and helping them out, not discouraging them from running. Large fines levied against people who miss a reporting deadline when they have raised and spent no money will be a deterrent. For that reason, we are in support of this bill. Let us please continue to help our candidates and keep people running for office.

**Chair Gorelow:**

Are there any other callers in support? [There were none.] Is there testimony in opposition in Carson City, Las Vegas, or on the phone? [There was none.] Is there testimony in neutral in Carson City, Las Vegas, or on the phone? [There was none.] Secretary of State Aguilar, would you like to make final comments?

**Secretary Aguilar:**

We are trying to present an issue we are facing within our office. Assessing fines is not a fun task, nor a fun part of the job. While I understand accountability and want to continue to hold candidates accountable, I feel we need to understand and be realistic about what we are trying to accomplish here.

**Chair Gorelow:**

With that I would like to close the hearing on Assembly Bill 64 and open the hearing on Assembly Bill 66. I would like to welcome Ross Armstrong, Executive Director of the Commission on Ethics and Kim Wallin, Chair of the Commission on Ethics.

**Assembly Bill 66: Revises provisions relating to ethics in government. (BDR 23-264)**

**Kim Wallin, Chair, Commission on Ethics:**

I will be giving a brief introduction on the overview of the Assembly Bill 66 and the jurisdiction of the Commission on Ethics. I am joined in the audience by my Vice Chair, Brian Duffrin, if there are additional questions. The Commission on Ethics (NCOE) has jurisdiction over the Executive Branch, both the state and local governments, boards, and commissions. The Commission on Judicial Discipline has jurisdiction over judges. The NCOE has very limited jurisdiction over the legislators.

When Assembly Bill 496 of the 78th Session was passed in 2015, it removed almost all the jurisdiction of the NCOE over legislators. The only oversight that we have now regarding the legislators is misuse of government property, self-dealing contracts, and honorariums. We also provide advisory opinions to the legislators. We rarely have any complaints against

the legislators. When we do, we do not have jurisdiction over them because of legislative immunity. We had one case last session that was dismissed because of legislative immunity. The last time we had a complaint filed against a legislator prior to 2021 was in 2014. As you can see, the NCOE has very limited jurisdiction over legislators, and we rarely receive any complaints because of the limited jurisdiction.

Assembly Bill 66 has four main provisions: to improve the confidentiality protections of the requester, to improve due process for those who have had a complaint filed against them, to clarify our ethical standards, and to provide procedural clarity and streamlined processes which will help the commission to operate more efficiently.

Thank you for your consideration of A.B. 66. I will turn the presentation over to NCOE Executive Director Armstrong,

**Ross E. Armstrong, Executive Director, Commission on Ethics:**

Assembly Bill 66 is more than a housekeeping bill, but it is also far less than a total overhaul of the Nevada Ethics in Government Law. It comes from experiences in the last several years of processing ethics cases of all types. In the interim, the NCOE established a legislative subcommittee that met three times and had public meetings to discuss and adopt these proposals. The proposals we bring to you today are primarily rooted in the language of Assembly Bill 65 of the 81st Session. Language and proposed changes are based on experiences where we have hit issues in the processing of cases and realized that we could do a better job.

I will be referencing the handout titled "Summary of Key Provisions" [[Exhibit C](#)]. As I walk you through the major changes in the bill, the first set of changes really seeks to better protect the confidential information not only of people accused of ethics violations, but those who are filing complaints and asking us to look at a particular issue.

Under the section titled "Confidentiality and Due Process Protections" [page 1, [Exhibit C](#)], the first issue on the sheet refers to providing an advisory opinion process where individuals can ask for advice to deal with a potential ethical situation. One of the main topics that we get questions about has to do with the cooling-off period between an employee's former and future employer. We have cooling-off provisions that state you cannot seek or accept certain employment with individuals. The question that is often asked is, When do you cross this line? The solution we are prepared to offer is to provide an advisory opinion to a potential employer to ensure that an ethics law has not been violated. We are prepared to thoroughly research and provide the best ethical advice in our advisory opinion. This is noted in section 28, subsection 6.

The next change refers to the current law which asks somebody who is accused of an ethics violation to respond to the complaint. Responses are generally submitted by lay people who are not working in ethics law. These responses normally contain a lot of information and complaints that are not relevant to the actual ethics issue. In addition, a complaint response is information. Section 36 and section 39 create a notice of investigation and notice of

charges process to enhance protections for confidential requesters and to provide clarity to the subject of a complaint on what issues to address in the response and adjudicatory hearing. Our intent is to offer guidelines as to what types of information a response should contain.

Next, when someone files an ethics complaint, they are entitled to confidentiality protections if there is a bona fide threat of physical harm to themselves or their family or they are currently working at the same agency that the subject of the complaint works at. What we seek to do in section 40 is to expand confidentiality protection to someone who has recently departed an agency if they file a complaint against someone at the agency they just left. With this change, they may be less fearful of retaliation. Our solution expands the confidentiality protections for the complaint requester to add former coworkers in certain circumstances

In section 41, we seek to make some changes to ensure protection of certain materials from public disclosure including any information that could disclose the identity of a requester after confidentiality protections are applied. In addition, in A.B. 66, section 41, we want to clarify that information obtained by subpoena in the investigatory file is confidential. We want to ensure safety as well as confidentiality.

Continuing to "Enhances and Clarifies Ethical Standards" [page 2, [Exhibit C](#)], the focus is on changes to the actual substantive ethics rules and the standards contained in A.B. 66. I want to start with an example of what a cooling-off period could refer to. There are two things that the cooling-off law does: it prohibits who you can work for, and no matter who you work for, it prohibits what type of activities you can do. For example, if you are a regulating agency, you cannot go to work for the industry that you regulated during the cooling-off period. Currently, that applies to all individuals in that regulating industry.

In section 28, subsection 3, what we seek to do is narrow regulatory industry cooling-off provisions to apply only to management-level public officials, or those who have a more robust role in that regulatory process. It narrows cooling-off provisions so as to not capture, for example, a receptionist processing applications or licenses as they come in.

Second, current Ethics Law cooling-off provisions only consider the awarding of a contract for purposes of cooling off and have not kept up with modern contracting activities. As a solution, in section 28, subsection 5, we offer a clarification of vendor cooling-off prohibitions to include government activities of implementing, managing, or administering contracts. Currently, if a vendor has a contract of more than \$25,000 within the last year, you cannot go work for that vendor. That applies to everybody under the Ethics Law, including state and local governments, not just state Executive Branch governments. What we know is that contract processes have changed over time and current law just says, if a contract has been awarded within the last year, that is what triggers the cooling-off provisions. The changes in this particular provision would expand that to include individuals who had process over the management of that contract and the renewal of that contract. It is not just that moment of awarding that single contract. If you were involved in that contract within the last year, it can trigger that cooling-off requirement, which more accurately

reflects how we manage contracts these days. It requires that you have a substantial involvement in managing that contract.

Section 25, subsection 7 clears up the matter of public officials claiming informal or unwritten policies as a defense to improperly use public time, equipment, or facilities. We have a limited-use exception, but we have run into issues in cases where someone says as a defense that written policies do not have to be in place or have made up policies on the fly. Our solution is to revise section 25, subsection 7, to state that the policy cited in defense of a complaint inquiry must have been in writing at the time of the conduct in question. That policy must be in writing at the time of the alleged misconduct to use the advantages of the limited use exception.

Some public officers have commitments in a private capacity which are confidential in nature, such as attorney-client, but current law requires disclosure of those confidential relationships. In section 27, subsection 2, our solution is to clarify that disclosure requirements do not require the public officer or employee to disclose information confidential by contract of law so long as the individual abstains from the matter. We had one person make an inquiry who had recently been hired as the defense attorney for someone who was coming before their board. This would allow that attorney to reveal that they had a confidential relationship with someone involved in this matter, so they were not going to participate. With this change, they would still be in compliance with the Ethics Law.

We have an ethics standard about not being able to receive unwarranted benefit from a public position, but there is nothing in our ethical standards that says a public position cannot be used to cause unwarranted harm. The current focus is all about benefits. In some of the cases we have seen, unwarranted harm had been caused, but we had no way to prosecute it. Examples of individuals who use their public position to cause unwarranted harm to others might include a person who oversees the licensing department and with no legal basis denies a license to someone. Maybe the individual oversees an investigatory agency and wants to investigate a person and use their public power to cause unwarranted harm. We currently can do nothing, but it is not good government and not ethical government.

Section 25, subsection 11 allows us to establish the "unwarranted harm" standard, which prohibits a public official from using their position to create unwarranted harm to someone.

Procedural clarity and streamlining [page 3, [Exhibit C](#)] allows us to address housekeeping-type provisions in the law. These will allow us to effectively pursue litigation or defend litigation when it comes forward. These include litigation authority delegation, in section 7 and section 20; extension of deadlines for good cause allowed by Chair but limited to once per deadline in section 8; duties of the Chair to the Vice Chair or other designated commissioner when the Chair is unable to act in section 17; express statutory authority to allow a review panel commissioner to oversee a settlement conference in section 18; statute of limitations for advisory opinions set to two years similarly to complaint cases in section 21; and confidentiality waiver for advisory hearings when requester requests a public hearing in section 33.



One of the most helpful additions to A.B. 66 is to get statutory authority to allow a review panel commissioner to serve as a settlement conference chair in section 18. Currently, once a review panel is completed, under the law the review panel commissioner is conflicted off the main commission hearing. Our position is that by allowing a review panel commissioner to chair a settlement conference, we can more efficiently process cases. In all sorts of legal realms, we have seen where having a settlement conference before gearing up for a full-blown hearing can get the parties together where maybe they could not on their own. The addition to section 18 would address this and allow legislative authorization.

The other important change from this section is that we want to set a statute of limitations for complaints of two years in section 21. We do not currently have a limit on the time frame for someone to ask for an advisory opinion. If you think you might have violated the Ethics Law in 1987, it does not make much sense to come ask us now, but we cannot say no. We would still process that complaint without that change.

Under "reoccurring language clean-up" [page 3, [Exhibit C](#)] we would like to change the word "rendered" to "issued" and "submitted" to "presented" for clarity on date calculation. That is really the bulk of our presentation. We have a handful of things that focus on confidentiality and enhancing the process for protecting the confidentiality of people who file complaints. Under the current process it can be murky for those who have been accused of an ethics violation to move forward. I am happy to answer any questions about A.B. 66.

**Chair Gorelow:**

Committee members, are there any questions?

**Assemblyman Yeager:**

I was not on this Committee last session, and this obviously is a very involved bill. It may be the longest digest I have ever seen on one of our bills. If you covered this question, I apologize. We had a bill very similar to this bill last session in front of this Committee that was amended and then vetoed. Can you give me a sense of how this version of the bill that is in front of us is different from the original version of the bill that was in front of us last session? I think I heard you say there was some work done in the interim. Could you highlight that for me again?

**Ross Armstrong:**

In the hearing last year there were some concerns from the Committee, primarily regarding unlimited extensions which were allowed in the bill. There was also a requirement that the Executive Director be an attorney. We have removed the provision that the Executive Director has to be an attorney. In terms of the extensions, we revised section 8 to allow the Chair to do one extension for good cause. Some of the language around that unwarranted harm in section 25, subsection 11 has been added. We were concerned that it focused only on the abuse of power, and we wanted more robust, less murky, language. We already had this unwarranted benefits provision, so it made sense to use that similar analysis for the unwarranted harm provisions we felt needed to be added.

In the last bill there was a process envisioned where folks could call up the Executive Director of the Commission Council and request, in a very informal manner, an advisory opinion. We would still be required to file formal documentation, however. When we looked at it in the interim, given the increase in our caseload compared to historic numbers, we did not think we would have the resources to be able to man an ethics hotline. In brief, these are the biggest changes to last session's bill.

**Assemblywoman Newby:**

I have a question on section 28, subsection 5, regarding contracts and the inability to get employment from a company that got some sort of a contract. In subsection 5, it does not seem to link any actions by that individual to getting the contract or having anything to do with the contract. It only states that the agency has a contract with this company. I was hoping you could clarify that. That is my first question. My second question is that the amount of \$25,000 is exceptionally low. I think department heads can sign for \$50,000 or \$100,000 contracts just in the daily operations of a large government. Have you thought of adjusting that amount at all?

**Ross Armstrong:**

In section 28, the key language talks about their involvement and being materially involved and is in subsection 5. Subsection 5 establishes that standard rule. Then there are additional rules that the Executive Director would have to present to show a violation which includes the \$25,000. In subsection (b) is the one-year time period, and subsection (c) talks about the public officer or employee who, while in that position, materially affected or influenced the awarding of the contract or its implementation, management, and administration. They would have to have a material impact on the administration of that contract for that to apply. As to the \$25,000 limit, we have not taken a look at changing that. We have jurisdiction over governments all over Nevada; for some of our governments, \$25,000 is actually a large chunk of their budget, so we have not looked at an adjustment in that value.

**Chair Gorelow:**

Seeing no other questions, we will now hear testimony in support of A.B. 66. We will start in Carson City.

**Nick Schneider, Government Affairs Analyst, Vegas Chamber:**

The Vegas Chamber is in support of A.B. 66. The Vegas Chamber has been a longtime advocate for increased government transparency, accountability, and governance reform. We believe that A.B. 66 will help strengthen the role of the Commission on Ethics, which in turn increases the trust in our government. Section 25, in particular, provides a greater degree of uniformity in applying prohibitive language to all public officers. Section 34 onwards provides an effective mechanism for the Executive Director to conduct public officer conduct investigations. We urge your support of A.B. 66.

**Chair Gorelow:**

Would anyone else like to come up to the table in support of A.B. 66? Seeing no one, we will go to Las Vegas. I still see no one there. Are there any callers in support? [There were none.] Is there anyone in Carson City who would like to testify in opposition to A.B. 66? [There was no one.] In Las Vegas? [There was no one.] Are there any callers? [There were none.] Is there anyone in Carson City who would like to testify in neutral? [There was no one.] Are there any callers for neutral? [There were none.]

Executive Director Armstrong and Chair Wallin, would you like to come up for final remarks?

**Ross Armstrong:**

I will just say that ethical government is essential for good government, and good government has the potential to do great things for the people of the state of Nevada. We believe these changes will help us enhance ethical government across the state.

**Kim Wallin:**

I just want to echo those same comments. I think that Nevada does a very good job with their ethics laws and this bill will only improve it and make it better.

[[Exhibit D](#), [Exhibit E](#), and [Exhibit F](#) were submitted but not discussed and will become part of the record.]

**Chair Gorelow:**

With that I will close the hearing on A.B. 66. Next, we will introduce a bill draft request (BDR), BDR R-897.

**BDR R-897**—Directs the Joint Interim Standing Committee on Growth and Infrastructure to conduct a study of the laws administered by the Nevada Transportation Authority and the Taxicab Authority. (Later introduced as [Assembly Concurrent Resolution 3](#).)

This measure is sponsored by the Sunset Subcommittee of the Legislative Commission and directs the Joint Interim Standing Committee on Growth and Infrastructure to conduct a study of the laws administered by the Nevada Transportation Authority and the Taxicab Authority. Please recall that a vote in favor of introducing a BDR does not imply a commitment to support the measure later. All this action does is allow the BDR to become a bill and enter the legislative hearing process. Again, it does not imply commitment to support final passage. I will entertain a motion to introduce BDR R-897.

ASSEMBLYWOMAN MILLER MOVED FOR COMMITTEE  
INTRODUCTION OF BILL DRAFT REQUEST R-897.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Gorelow:**

We will now go to public comment. [There was none.] Does anyone from the Committee have further comments? [There were none.] As a reminder, our next meeting will be Thursday, February 23, 2023, at 4 p.m. Again, I wish everyone safe travels, and with that we are adjourned [at 4:48 p.m.].

RESPECTFULLY SUBMITTED:

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Kristi Howard  
Committee Secretary

APPROVED BY:

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Assemblywoman Michelle Gorelow, Chair

DATE: \_\_\_\_\_

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a document titled "[Assembly Bill 66](#): Summary of Key Provisions," presented by Ross E. Armstrong, Executive Director, Commission on Ethics.

[Exhibit D](#) is a document titled "Nevada Ethics Law Basics," submitted by Ross E. Armstrong, Executive Director, Commission on Ethics.

[Exhibit E](#) is a document titled "Nevada Commission on Ethics Quick Reference Guide," submitted by Ross E. Armstrong, Executive Director, Commission on Ethics.

[Exhibit F](#) is a document titled "[Assembly Bill 66](#): Section by Section Analysis," submitted by Ross E. Armstrong, Executive Director, Commission on Ethics.

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Eighty-Second Session  
April 13, 2023**

The Committee on Legislative Operations and Elections was called to order by Chair Michelle Gorelow at 4:09 p.m. on Thursday, April 13, 2023, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Michelle Gorelow, Chair  
Assemblywoman Brittney Miller, Vice Chair  
Assemblyman Rich DeLong  
Assemblywoman Jill Dickman  
Assemblyman Reuben D'Silva  
Assemblywoman Cecelia González  
Assemblyman Brian Hibbetts  
Assemblyman Richard McArthur  
Assemblyman Cameron (C.H.) Miller  
Assemblywoman Daniele Monroe-Moreno  
Assemblywoman Sabra Newby  
Assemblyman Steve Yeager

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Haley Proehl, Committee Policy Analyst  
Bryan Fernley, Committee Counsel  
Shuruk Ismail, Committee Manager



Kristi Howard, Committee Secretary  
Garrett Kingen, Committee Assistant

**OTHERS PRESENT:**

Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada  
Bryan Wachter, Senior Vice President, Retail Association of Nevada  
Will Adler, representing Sierra Cannabis Coalition  
Daniel Stewart, representing Pisos  
Hana Fahmi, representing Nevada Public Health Association  
Isaac Hardy, representing Urban Consortium  
Briana Padilla, Executive Director, Chamber of Cannabis  
Hadhinah Felice, Board Member, Chamber of Cannabis  
Patty Belanger, Private Citizen, Las Vegas, Nevada  
Jason Greninger, Chief Executive Officer, Atlas Alchemy  
Will Pregman, Director of Communications, Battle Born Progress  
Oscar Williams, Private Citizen, Reno, Nevada  
Joy Trushenski, Private Citizen, Carson City, Nevada

**Chair Gorelow:**

[Roll was called. Rules and protocol were explained.] We are going to start with a hearing on Assembly Joint Resolution 8. We also have a work session on our agenda today. With that, let us get started. As I mentioned, we are going to start with A.J.R. 8. When the presenters are ready, you may begin.

**Assembly Joint Resolution 8: Urges the Congress of the United States to deschedule marijuana as a schedule I controlled substance. (BDR R-615)**

**Assemblywoman Brittney Miller, Assembly District No. 5:**

I am presenting today along with Assemblyman Reuben D'Silva, and Athar Haseebullah, Executive Director of the American Civil Liberties Union of Nevada. We are here to present Assembly Joint Resolution 8, which urges Congress to deschedule marijuana as a schedule I controlled substance. Assembly Joint Resolution 8 builds upon decades of Nevada law and reflects the will of the people in the majority of states across the country. The people of Nevada have enshrined the right to use both medicinal and recreational cannabis in our *Nevada Constitution*. It has been legalized for medical use in 37 other states and for recreational use in 20 other states. Despite widespread support for legalization, cannabis remains a schedule I controlled substance. Federal scheduling places state legal cannabis businesses in a difficult position.

What most people do not realize about me is that I also have a banking background. I was a trainer for two major banks, both here in Nevada and back in Michigan. As a trainer, I actually trained on all of the state—and more importantly, federal—regulations pertaining to banking. I can personally attest to the challenges that we have when it comes to the schedule I classification of marijuana. What happens is this burden is pressed upon

businesses specifically. Cannabis is still federally illegal. Therefore, distributors are locked out of traditional banking and financial institutions that understandably are unwilling to risk criminal prosecution. Businesses lose out on the many services and protections offered by the banking institutions that could really simplify their efforts. This means that a cannabis business is forced to operate with large amounts of cash on hand which creates a variety of safety risks for employees, owners, and consumers.

It is time for our booming cannabis industry to be freed from the burdens of outdated laws based more on narrative than facts. It is time for Congress to support the will of the people, if not the states. So far this session, there have been many bills presented that include the use of cannabis and hemp. Our businesses are medical facilities, those in agriculture and farming. Those who work with animals are demonstrating that there are multiple ways to use cannabis and hemp to further assist Nevadans. This resolution urges Congress to remove cannabis from the list of schedule I controlled substances, which would allow Nevada businesses to operate with greater safety and financial security. At this time, I would like to turn it over to my copresenter, Assemblyman D'Silva.

**Assemblyman Reuben D'Silva, Assembly District No. 28:**

Thank you, distinguished colleagues, for allowing us to present this bill before you today. This is a pressing issue, and it is hampering an industry that is rapidly growing in our state. I remember back in 2016 knocking on doors to get that ballot initiative passed, and we are still a long way from really allowing this industry to thrive, not just here in our state but at the national level.

One of the most important things here is the fact that cannabis is a schedule I controlled substance. I want to get to my written remarks before we get to the technical aspects of this bill. Under the Controlled Substances Act, schedule I drugs are those which have no accepted medical use and a high potential for abuse. Despite medical research that has confirmed cannabis's many beneficial medical uses, it is still classified as a schedule I substance. Assembly Joint Resolution 8 urges Congress to correct that error and remove cannabis from schedule I. In states where cannabis is legalized for medical use, cannabis is prescribed to treat a wide variety of debilitating medical conditions, including cancer, multiple sclerosis, HIV/AIDS, epilepsy, and glaucoma. Despite widespread medical use and low potential for abuse, patients are unable to receive prescription health insurance coverage for medical marijuana due to federal scheduling. Without health insurance coverage, costs are astronomical. In order to purchase medical marijuana, patients must first obtain a state medical marijuana registry card which can cost as much as \$350 and must be renewed regularly. Once the card is obtained, monthly costs for medical marijuana range from \$50 to \$1,500. Assembly Joint Resolution 8 urges Congress to acknowledge the medicinal value of cannabis by removing it from schedule I. This in turn should allow patients to receive prescription health insurance coverage for medical marijuana, helping relieve the financial burden placed on patients. At this time, I want to invite Mr. Haseebullah to go into the more technical specificities and aspects of this bill.



**Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada:**

As executive director for the American Civil Liberties Union (ACLU) of Nevada as well as a civil rights lawyer, I am very familiar with cannabis policy both at the statewide level and at the national level. I am going to go over the technical specifics of this resolution. I will also mention there is finally, on my end, only one amendment [[Exhibit C](#)] in place as I know of right now, which is to add a slew of bipartisan cosponsors. Since I submitted this proposed amendment yesterday, there have been seven additional cosponsors who have expressed a desire to sign on. Again, we think this is a very bipartisan-smart approach, and I will go through what this looks like.

As Assemblyman D'Silva mentioned, schedule I substances at the federal level are defined as substances with a high potential for abuse and having no currently accepted medical use. Assembly Joint Resolution 8 seeks to shift Congress and urge Congress to support legislation removing cannabis from the schedule I list. The schedule I controlled substances list contains the most significant, severe drugs that are out there. Heroin is on schedule I. When we looked at schedule II where there is some medical value, what drugs are on schedule II? Fentanyl, methamphetamine, cocaine, and Xanax are all on schedule II. What are the barriers for being on schedule I? You cannot bank normally.

We have cleared up many misperceptions, and I am showing up today to congratulate Nevada on being a leader in a space and not finishing last. We are actually one of the pioneer states in the country that have shifted away from this. Three decades ago in 1998 as mentioned in the resolution, Nevada had back-to-back ballot initiatives that subsequently inscribed the medical value associated with cannabis into Article 4 of the *Nevada Constitution*. As a constitutionalist, we put that forward, first and foremost. This has already been determined to be the will of the voters. Regardless of people's personal decisions or views on cannabis, whether or not it has medical value has been fully enshrined into the *Nevada Constitution*.

During the last year, the ACLU brought forth litigation around this issue at the state level. Cannabis is not on the schedule I list in the state of Nevada, but it is on the schedule I list federally, and that single barrier has forced businesses to operate in a cash capacity. You are talking about tens of millions of dollars that are being forced to be utilized in the cash capacity. Nobody really has an understanding or justification as to why methamphetamine, cocaine, and fentanyl are on schedule II and cannabis is on schedule I, but everybody has theories, right? It is clear that it has become an issue.

This resolution in and of itself is straightforward and it reads as is. The reason why we encourage you to support it is because there is a series of states that are now doing this across the country as the cannabis marketplace has opened up to make sure that it is pulled off schedule I, in part because of the banking aspect, but also in part because of the medical value that has already been determined by most states to exist. The overwhelming majority of states now have either provision in place for recreational cannabis use, but more importantly for medical cannabis use, which is something that is the precursor to falling within the definition of schedule I.

Again, I am happy to share the names of the additional cosponsors from this morning. I can also send that via email, but it has really run the gamut. If there are other folks who are willing to come on, it sends a powerful message. Does Congress actually have to do this? No. However, if multiple states are currently engaged in pushing resolutions like this, it creates more momentum for doing it. Delaware is an example, since our language quite clearly mirrors most of their language. The other thing is that this makes Nevada's position clear. It does not impact the actual law here in the state of Nevada, but it makes the position clear that cannabis has medical value and we are seeking its pull from schedule I at the federal level so that our banks can open up, so that we do not have to continue to have businesses operating with heavy amounts of cash, or placing money in whatever capacity they need to, whatever mechanism they can, to have it transported elsewhere to be able to bank. This creates a more consistent environment.

The one thing that has come up in questions pretty consistently is, Does the resolution specifically bar Congress or does it appear that Congress should not move it to another schedule? In Nevada we did not need to put it on another schedule because there is a comprehensive regulatory regime that is associated with cannabis. Nevada's Cannabis Compliance Board now is dealing with it, so it is not treated in the same fashion. That has not been done at the federal level but maybe they will do it at the federal level. That is up to them to decide, right? But at the minimum, removing it from schedule I will allow the banking apparatus and other elements there to be able to open up so that things become normalized in that regard. With that, I am happy to answer any questions.

**Assemblywoman Brittney Miller:**

Can I just stress something before we go into the questions? When we say large amounts of cash, I want you to imagine your local liquor store, convenience store, your 7-Eleven or gas station, or something like that. What if all of their transactions in business had to be conducted by cash only? I mean, most of us do not even carry cash. We use credit cards, right? Most of us do not even write checks anymore to pay bills. But imagine if every transaction for that business that week was done in cash, and then that physical cash had to be transported somewhere by someone to a specific place, and it was not going to the bank. I will not go into more detail about this because I do not want to put people more at risk. I already understand how vulnerable this is, so the last thing I want to do is tell the public or give anyone any kind of ideas. It is a serious issue—if anything, just for the actual safety of everyone involved in this business. Those who work there, those who have to transport it, those whom the money is delivered to, have to count it and be accountable for it. We all appreciate our banks and financial institutions because of the safety, security, and protection they offer us. That is what we want to offer to our legitimate cannabis businesses as well. With that, I believe we are open for questions.

**Chair Gorelow:**

Thank you very much for the presentation. Committee members, are there any questions?

**Assemblywoman Dickman:**

I have a comment and a question. I do not think it is any big secret that I was not in favor of legalizing recreational marijuana, but the people have spoken. It is a legitimate business, and the money issue and the fact that they have to deal in cash, is huge. The other thing I never really thought of was what you brought up about the fact that it cannot be paid for by insurance for medical use. I mean, that is just wrong because I know it works for a lot of people. Is the only way we can get those things to happen is by taking it off schedule I?

**Athar Haseebullah:**

Yes. And in the state of Nevada, cannabis is not only not on schedule I based on the court order that we had, but also not on any schedule because it is regulated by the Cannabis Compliance Board (CCB), so there is a regime in place. It becomes an issue at the federal level. When you have preemption on certain issues, it still poses challenges on that front because we run into conflicts between state law and federal law. I think a lot of times what many people in our space do is we tend to focus on criminal justice reform issues and people being convicted and incarcerated under certain issues, right? Sometimes that happens at the federal level as well, but one thing that is not focused on is the other elements. The number of federal charges pursuant to or versus state charges when it comes down to cannabis under scheduling status is minor, but the impact that it has on other elements, including banking and insurance reimbursements on something medical, is rather more vast. From that standpoint, just from the definition, the fact is that our state has already codified the medicinal value of cannabis, as have dozens of states at this point. It really makes very little sense for its maintenance on the schedule I list, particularly as we are having conversations about the impact of a schedule II substance within this very building right now.

**Assemblyman D'Silva:**

I think an excellent example of this, and it really hinges upon the actual resolution here urging Congress itself to deschedule cannabis or remove it from schedule I, is the fact that one of our biggest health care providers, the Department of Veterans Affairs, cannot utilize cannabis for medicinal purposes. That is because it is a federally controlled substance. There is a ton of data out there, a ton of research that this could be a huge boon for vets, particularly those who are suffering from things like post-traumatic stress disorder. The sole barrier for that has been the fact that this is a schedule I substance. That is not even mentioning all the other federally provided health care apparatuses that we have in place. That is just one example of how this simple inhibition is hampering not just the growth of an industry, but also the actual allocations of health care benefits. That is another thing that I would point out to you specifically regarding health care and medicinal purposes.

**Assemblywoman Dickman:**

I really appreciate your getting those things on the record, and that is why I am one of those names on that amendment.

**Assemblywoman Newby:**

I am not yet on this bill, but I would like to be added if I could. I was reading over the supporting documents on this bill, and there was a letter in support of A.J.R. 8 from

Kevin Dick from the Washoe County Health District [[Exhibit D](#)]. He goes into a discussion of prescribing marijuana and insurance coverage as well. At the end, he writes, "Without a schedule change insurance companies cannot cover treatment," which we talked about, "or medications, and the effective medicine is not accessible at pharmacies." What I am wondering is, if it is off the schedule I, if this works, then can doctors prescribe it, not just recommend it? And can individuals have it covered by their insurance? Does that mean that it would possibly move to pharmacies in terms of distribution outside of our regulatory setup that we have?

**Athar Haseebullah:**

This is unlikely in the state of Nevada. The reason why is because, as I mentioned, when the CCB came into place and there was the advent of recreational cannabis in the state of Nevada, there was a shift away from pharmaceutical intervention in that way. One thing that has happened is that inpatient facilities or hospital settings, for instance, could end up modifying that, especially if they are subject to a public contract. Oftentimes what ends up happening is that there is interference with a public contract in large part because there is still a federal prohibition where cannabis is still listed as a schedule I at the federal level. At the state level there has been a shift beyond that, and we recognize enforcement has not necessarily come down in that same exact manner. As it stands right now, it is unlikely for pharmacies within Nevada to carry it. It may end up happening. It is something probably for them to discuss, but it has actually been intervened upon.

The bigger issue becomes when we look at states that have not yet legalized medical cannabis, and there are a few of them left. What do they do? Normally they would end up going through the process of having it in a pharmacy, and especially a state that does not or has not yet considered recreational cannabis where dispensaries are not available. The only opportunity to receive it would either be through a pharmacy at that point in those states, or alternatively to purchase it through some other means that may not necessarily be lawful and may not be regulated in the same manner.

**Assemblywoman Brittney Miller:**

I will add to that regarding those "other means." I think that Nevadans and especially veterans—I do not want to speak for veterans when I have a veteran right next to me—but it continues to be consistent what he said about veterans who would prefer that they use this instead of all of the pharmaceuticals for certain issues they have. Remember when we are looking at things federally, "other means" may be doctors in the state who would prefer to prescribe cannabis for certain issues. If you are in a state and yet it is available in how many other states, they are not even able to order it over the Internet at that point. This way everyone would also have that freedom too. That is why it is so important, again, if there are still states where it has not been legalized, to make it accessible to everyone, including doctors and patients who would want to utilize it.

**Assemblywoman Monroe-Moreno:**

This, as you said, will not force Congress to make any changes, but it is encouraging them. Do you know of any other legislative bodies that are doing the same thing and sending a message to Congress to do this?

**Athar Haseebullah:**

Yes, Delaware is currently considering a mirroring legislation. There are a couple of other states that are not yet that far along in their session, or they have full-time legislative sessions where they are working through that. Nevada is a pioneer in this space right now. We are also the first state to fully deschedule cannabis. It can be a court order but rooted in the same principles that the actual definition for schedule I requires that a substance have no medical value for use and treatment. Our voters in this state three decades ago made that clear by way of referendum, and it has been enshrined in the *Nevada Constitution*. These other states that are considering it now, the hope would be that as we continue to take steps, our timeline is sort of similar right now to Delaware's. It starts to create the momentum and bandwidth there.

The other thing is that it becomes a powerful tool for Congress to look at and ask where the state falls on an issue. I know sometimes resolutions in this building do not always get viewed with the same sort of credibility unless it is modifying the *Nevada Constitution*. This is a powerful way of actually demonstrating the power behind a resolution, because it gives the official position of the State of Nevada through the Legislature to share that this is what we want Congress to be able to do so our banks can open up and we can have normalcy and the other elements we have just spoken about.

**Assemblywoman Monroe-Moreno:**

I am not going to ask you to identify them individually, but have you had conversations with our federal delegation members to see if they are in support of this resolution?

**Athar Haseebullah:**

I have, or their staffs. I recognize that they are also busy. Those who have responded to me, without naming them, have said, yes, they were encouraging of it. They did support it. Obviously, one of the things we were mindful of was, they do not necessarily need it, but it does provide them some level of cover to go back and say, Hey, this is what my constituents want, and someone from an Assembly district or Senate district across the state of Nevada has suggested this is what we wanted. Again, from our vantage point at the ACLU's end, you are a representative body, and you represent different stakeholders based on different population size. It becomes more powerful to have each of these communities really share that this is what we want, is off schedule I.

Again, to go in a different direction, but the biggest thing from our vantage point is the schedule I element. If it was just up to the ACLU, we would have said, Let us make the argument to just deschedule as a whole. But we also recognize there are other elements Congress may want to consider. We do not know what those are and that might end up being what happens, but there is no possible way that anyone can reconcile what the definitions are

currently for cannabis versus what the definition is for schedule I—any attempt to reconcile it unless they say that the *Nevada Constitution* is entirely incorrect, the voters were incorrect, and our science is incorrect.

**Chair Gorelow:**

It does not say what we want to deschedule it to. You mentioned schedule II was fentanyl, methamphetamines, and some pretty scary things to even be in II. In your crystal ball, where would you see this actually going or where would you like to see it going?

**Athar Haseebullah:**

If I had my crystal ball, this would be descheduled completely because it has been utilized in many states at this point in a business capacity, which is kind of inconsistent. It is not treated in the same way as a scheduled substance by most states at this point, right? Regardless of whether it falls on their state scheduling order, it is not treated that way, which is why we are treating it in a different fashion. Our position is if they pull it off schedule I, it is not asking for rescheduling; it is asking for descheduling from schedule I specifically. It is not saying add it to schedule II, schedule III, or schedule IV. It is not saying what they should do afterwards. Assembly Joint Resolution 8 is just making a declaration that the notion that it remains on schedule I is incorrect. Any legislation that pulls it off schedule I is what should happen and what ought to happen based on the conflicting language and standards associated with that definition versus the actual implications of reality with respect to the use of cannabis in 2023.

**Assemblyman DeLong:**

This resolution makes a lot of sense, particularly from the business aspect. Having those dispensaries operating in cash does not make any sense. For them not to have banking opportunities or other financial instruments available is discouraging business in the state, which is not good. I would like to be added to the list.

**Athar Haseebullah:**

I am keeping a running tab. I think we are up to 30 individuals now.

**Assemblywoman Brittney Miller:**

I think we have 63 spots available total.

**Assemblyman D'Silva:**

You are absolutely right, Assemblyman DeLong. It is inhibiting business in big ways. Before Assemblywoman Miller resurrected this bill, and I want to thank her for bringing this bill back, we were having several conversations with many stakeholders, including the State Board of Pharmacy folks who were even apprehensive about having this conversation. But the stake of the Board's entire argument was the fact that at the federal level, this was something that was a schedule I substance. The mere fact of removing that from schedule I will prevent that argument. The marijuana control act with Senator Cory Booker as the

sponsor is another way to prohibit that sort of an argument to be made. This will allow us to make this a bankable substance and allow monies that have been accrued through the cannabis industry to be spread more evenly throughout the country.

One more point I want to make is the fact that when it comes to the idea of resolutions, that is one of the greatest ways we as a state can show the federal government that in our own little corner of the country, we are making an official statement that this is the official status of this state. This is our official belief, and it is something we should be able to convey to the federal government. Hopefully, if we pass this resolution and all 63 members of the Legislature have signed on to it, we will be making a very strong statement.

**Assemblywoman Brittney Miller:**

This session I have seen so many innovative, different forms of legislation come forward to use cannabis and marijuana that I would not have thought of. I know we are not supposed to link one piece of legislation to another, but just the innovative ways that cannabis can be used: for animals, for agriculture, for all different types of activities, as well as medicinal. Again, the question always comes up, What about the feds? We should not have to continue to worry about the feds when the people of Nevada have spoken. I think this eliminates all of that fear and allows freedom to move forward with all other types of innovative ideas and strategies.

**Assemblywoman González:**

I always laugh when people talk about checks because I never had to write a check before I ran for office. In the conversation nationally, I feel like everywhere I go we are in a coin shortage, or it is cashless. I think that nationally we are moving away from just dollars in general. How would this impact the way we collect taxes? How does that work? Does it make it more streamlined? What does that look like?

**Athar Haseebullah:**

With respect to tax collection in the state, when you are operating cash businesses it becomes challenging from an accounting perspective. From our vantage point, this may give the ability to make sure that is more sound. I have spoken to a slew of different owners of cannabis, in either dispensary facilities or cultivation facilities, about the way they handle their money. They should be able, at this point, to open up a bank account like anyone else. We are talking about an \$8 billion industry at a minimum, and probably far larger than many other segments as a whole. Despite that, they find themselves in positions where each of these businesses is now forced to divert extraordinary resources to better understanding what the collection process might look like, not only for the income they are receiving and attempting to bank, but how they are managing their taxes, how they are keeping their books, and what the end result ends up looking like in terms of how they are reporting back.

And thank you for being cosponsors. I will apologize to the Committee. I tried my best to keep track of everyone who came on as a cosponsor, so if I missed anybody, chalk it up to our heart. I think we had most everybody who had responded from the Committee

specifically, and the rest of the Legislature to come in as a cosponsor. If I got anything wrong, I am sure Assemblywoman Brittney Miller here will tap me momentarily and tell me I was wrong.

**Chair Gorelow:**

Would you like us to do a hand count?

**Athar Haseebullah:**

That would be lovely. I did not want to ask, but I appreciate your asking.

**Chair Gorelow:**

Would anyone else like to sign up to cosponsor Assembly Joint Resolution 8? Put your hand up if you want to be on. [Chair Gorelow and Assemblymen DeLong, Dickman, González, Cameron (C.H.) Miller, Monroe-Moreno, Newby, and Yeager raised their hands.]

Committee members, are there any other questions or comments?

**Assemblywoman Brittney Miller:**

I would like to say that I have been in this building, and it is weird to think that now we are the veterans and in our fourth session. We are Nevadans. We try to work together. We try to meet where we can on many, many issues, but this truly has become such a bipartisan initiative and effort. I just really want to tell our colleagues who have a different letter in front of their political party, thank you so much, because again, it really is putting Nevadans first, business first, and operating as one state as well. We are all here to represent one state, and I really appreciate it.

**Chair Gorelow:**

With that, we will go on to testimony in support for Assembly Joint Resolution 8.

**Bryan Wachter, Senior Vice President, Retail Association of Nevada:**

We represent many businesses, especially in the marijuana industry, but also a lot of businesses that do business with the federal government. When you are doing business with the federal government, they require you to follow the rules that the federal government has. It has made it challenging for several of our businesses to have this dichotomy with state law and federal law. We appreciate your using your authority as a Legislature to request that Congress make some changes and deschedule it. We are very supportive of the effort and we urge its support.

**Will Adler, representing Sierra Cannabis Coalition:**

Assembly Joint Resolution 8 takes the right stance in asking Congress to do the same thing that the majority of Nevadans did in decriminalizing cannabis. Legalization is a long-overdue topic when it comes to the federal government, and the descheduling of it has been a sluggish one when it comes to what happens in federal politics. Many cannabis businesses and employers suffer to this day with a bifurcated legal status of cannabis being legal at the state level but illegal federally. That has a lot of implications for the business



owners and the employees who work in our businesses. Today, yes, you might be able to get some banking or some access to a bank account, but you cannot actually get a loan or actually do a good depository system with your employees today. This has impacted a lot of our employees getting a mortgage because they have to claim cannabis as their primary income source. A lot of banks will not actually bank them a loan for their future and getting a house because it is still federally illegal. It is a complex issue that does have a long and tepid history, but Sierra Cannabis Coalition would like to have you support A.J.R. 8 and what it would do for streamlining the legality of cannabis.

**Daniel Stewart, representing Pisos:**

I am here on behalf of Pisos, which is a licensed medicinal and recreational cannabis company. I urge strong support for this measure. I have represented a lot of different cannabis companies and companies that do business with cannabis companies that are regularly trying to figure out how to navigate this quagmire. I can go on with the horror stories, things like payroll companies absconding with millions in cash without paying any of the employment taxes on the employees who they thought they were going to because the money was in cash. I know people who have used the federal government to launder their money. They will overpay their taxes and then get a refund; now they have a check that is clean, and they go and take it to the bank account. Whatever your feelings on legalized cannabis, operating under this fiction helps no one and it puts a lot of people in very serious jeopardy. Thank you very much to the sponsors and everyone who has added their names to this. This is a great effort.

**Hana Fahmi, representing Nevada Public Health Association:**

I am here today on behalf of Nevada Public Health Association. From a public health perspective, descheduling marijuana would allow for increased regulation oversight by standardizing doses and the sales of the product. It will also allow for research to be conducted at the federal level which can tell us more about how marijuana impacts the body and the brains of people who are using the substances. Nevada Public Health Association urges the Committee's passage of this measure.

**Isaac Hardy, representing Urban Consortium:**

I am representing the Urban Consortium, which is made up of Reno, Sparks, Las Vegas, Henderson, and North Las Vegas. I will keep it brief. We are in support of A.J.R. 8, and we urge the Committee's support as well.

**Chair Gorelow:**

Is there anyone else in Carson City who would like to come to the table in support? Seeing no one else, we will go to Las Vegas for testimony in support of A.J.R. 8.

**Briana Padilla, Executive Director, Chamber of Cannabis:**

I am here for you today in my official capacity as the executive director of the Chamber of Cannabis, Nevada's largest and most diverse business trade organization for the cannabis industry, to convey our strong support of A.J.R. 8. Comprised of more than 62 businesses and 400 industry professionals, the Chamber creates a more conscientious, inclusive, and

thriving industry by moving commerce forward, restoring justice, and positively impacting our community. Assembly Joint Resolution 8 does exactly that by calling for the descheduling of cannabis.

As we all know by now through scientific, anecdotal, personal, and economic examples, cannabis is far from a dangerous drug with no medical use. Instead, we have seen our industry and this plant not just change hearts and minds, we have seen them heal hearts and minds; in some instances, quite literally. By legalizing cannabis in Nevada not just once but multiple times through the passing of medical and recreational cannabis, dispensary delivery, and most recently, consumption lounges, Nevadans have spoken. What these laws all prove is one thing: Nevadans demand and deserve access to a safe, well-regulated, and competitive cannabis industry.

By passing A.J.R. 8, you affirm the status quo that our citizenry has already called for and you put the onus on our federal government to do the same. It is high time the cannabis industry and the tens of thousands of patients, professionals, and community members who support it received the same protections, benefits, and resources that every other industry gets. While the war on drugs has failed, it will never be over until we see the cannabis plant fully decriminalized through descheduling. I have also submitted a letter [[Exhibit E](#)] to the Committee on behalf of our organization supporting this crucial piece of legislation. [Additional written testimony was also submitted, [Exhibit F](#).]

**Hadhinah Felice, Board Member, Chamber of Cannabis:**

I am a board member of the Chamber of Cannabis and a patient myself. I am testifying in support of A.J.R. 8. I, too, was there knocking on the door for people to vote to legalize recreational cannabis in 2016. Medical cannabis has been shown to have a wide range of benefits for patients suffering from a variety of medical conditions including chronic pain, anxiety, and epilepsy. However, despite growing evidence of its medical potential, the federal government still classifies cannabis as a schedule I drug, making it difficult for researchers to conduct studies and for patients to access it. Allowing medical cannabis research and investments would enable further exploration of the medical potential of cannabis, and, most importantly, to develop new treatments for patients like me.

Descheduling cannabis in Nevada would remove unnecessary legal barriers. The state has already established a thriving cannabis industry with a well-regulated market for both medical and adult use. Descheduling cannabis would allow for greater growth in the industry, creating more jobs, and generating tax revenue for the state. Cannabis does not belong in schedule I drugs.

**Patty Belanger, Private Citizen, Las Vegas, Nevada:**

I am a cannabis patient, but first and foremost I am a certified health educator, certified wellness educator, and am certified in kinesiology. I am an author in nursing magazines for cannabis. I have been fighting, with a patient-to-patient group, and I now also represent an integrated practitioners association. I want to redirect all of our attention back to how this became a schedule I, which was a deception and manipulation by the lobbyists for lumber

and textile industries. The cannabinoid system that we have in our body was taken out of the medical books and medical training curriculums. If you are going to go back to what is originally honest, that would be that it never belonged as a schedule I to begin with. It is an herb from the ground. In Exodus in the Bible, it was actually in the anointing oils. I was actually producing a documentary called *Divine Compassionate Medicine*.

I myself came from an absolutely horrific childhood. If I had known that this was medicine all the 23 years that I believed the propaganda against it, my parenting would have been different. Things for my children would have been different. Because I was diagnosed with post-traumatic stress disorder and attention deficit hyperactivity disorder and drugged my whole childhood, that destroyed my immune system. I have overcome lupus, goiters, and Graves' disease. I have survived two heart attacks. I am 60 years old and have never dyed my hair because I have dealt with my health all naturally from the earth, and this is from the earth. It is from God. It does not belong in any federal government's hands in any way.

**Jason Greninger, Chief Executive Officer, Atlas Alchemy:**

We are also a member of the Chamber of Cannabis. It was a pleasure meeting all our legislators in Carson City on Monday with our Chamber of Cannabis. I want to thank you all for such a wonderful reception and opportunity to communicate about our cannabis industry. As requested by some members, I sent all of you an amalgam of hundreds of peer-reviewed experimental data on our endocannabinoid system and cannabis [[Exhibit G](#)]. The link was to *Physical Review*, the source for peer review data.

In summary, we have an endogenous cannabinoid system that makes 150 endogenous cannabinoid keys. Your body uses these keys to manage equilibriums throughout your body, including diet, sleep, stress, pain, anxiety, sugar, and more. All our cell membranes have up to 37 types of receptors for these cannabinoid keys. Many of you have heard of CB1 or CB2 receptor in school. That "C" stands for cannabinoid. These keys are considered retroactive neurotransmitters, which means they create change in the nucleus of the cell, out. We make our own endogenous THC and it is called anandamide. "Ananda" means bliss. Cannabis makes 144 known phytocannabinoids and they are true mimics of our own endogenous keys for cellular equilibrium. Only seven plants are known to make cannabinoids.

We have an incredible opportunity to help Nevada to unlock the door to that library first and be the example, leading the industry in adult and medical use, and lead the industry in understanding how these molecules can help and harm us humans. The schedule I prevents that research and funding for that research. I support A.J.R. 8 and thank you for your time and consideration. I am happy to answer any questions you have on endocannabinoid systems or deep medical questions regarding receptor processes.

**Chair Gorelow:**

Is there anybody else in Las Vegas who would like to testify in support of A.J.R. 8? Seeing no one, we will move to callers in support.

**Will Pregman, Director of Communications, Battle Born Progress:**

We are absolutely in support of the resolution. Simply ditto previous remarks related to the economic and health benefits that cannabis offers. Please pass the resolution.

**Oscar Williams, Private Citizen, Reno, Nevada**

I am in support of this proposal because this is an old discussion. I am a little older than some people in the room; back when I was in college, I actually had a debate class about legalizing marijuana. I took the pro stance, and it came down to this one main fact. I have actually thought about it repeatedly since. It comes down to one main fact: you can go to the store, you can buy aspirin, take a bunch of aspirin, and die. In Nevada you can now go to a dispensary, buy marijuana, and consume all you want, but you are not going to die. Yes, marijuana is treated like fentanyl, and it is just simply misclassified. There are so many medical benefits and things that we do not know, and it has been impugned because it has been classified in such a way for whatever reason. Here we have an opportunity to encourage the change that is long due.

[[Exhibit H](#) was submitted but not discussed and will now become part of the record.]

**Chair Gorelow:**

Since there are no other callers in support at this time, we will close testimony in support of A.J.R. 8. We will now open testimony in opposition to Assembly Joint Resolution 8.

**Joy Trushenski, Private Citizen, Carson City, Nevada:**

I oppose A.J.R. 8 because the Centers for Disease Control and Prevention's website gives harmful side effects of marijuana eating and smoking; lung cancer is one. Smoking it can cause disorientation, mental deterioration, lethargy, anxiety, depression leading to suicide, hallucinations, and addiction. Long-term use can cause schizophrenia. Also using marijuana can lead to a progression to more addictive drugs. Now, I have supported medical use of marijuana as directed by a doctor, but I have always opposed recreational use because there are these harmful effects that everybody ignores but they are real. I ask you to reconsider your support of A.J.R. 8. It is more. You should think of it—not so much about the money but about the people. Sometimes people choose the wrong thing. When it passed and became legalized, I think that was the wrong move. I know I am in the minority, but I thought I would express my opinions today.

**Chair Gorelow:**

Is there anyone else in opposition to A.J.R. 8 in Carson City? Seeing no one, we will go to Las Vegas. Is there anyone in Las Vegas who would like to testify in opposition to A.J.R. 8? Seeing no one in Las Vegas, we will go to callers in opposition. [There were none.]

We will close testimony in opposition and move to testimony in neutral. Seeing no one in Carson City or Las Vegas, we will move to callers in neutral. [There were none.]

Would the sponsors of Assembly Joint Resolution 8 like to make some final comments?

**Assemblywoman Brittney Miller:**

We really appreciate this and all of the comments and the questions that highlight just how necessary this is. I personally want to thank everyone, especially those of you who have a different letter in front of your political name. I think that when Americans and Nevadans really look at what is going on in political institutions and especially in the legislative bodies, what they really want is for us to be working together and not to let letters and titles divide us. They use the term, "working across the aisle."

Nevada is able to stand up as an example of a beacon on so many issues. I know we cannot always, but we really want to demonstrate our bipartisanship and to let Nevadans know that we are up here working together, working across the aisle, working for good policy, working to represent their will and their demand.

We are now up to 37 signers. I believe I caught four more during the presentation. That speaks to the willingness and the partnership that we have as legislators here. I thank you and I urge you to support Assembly Joint Resolution 8.

**Assemblyman D'Silva:**

Thank you for listening to the presentation. Do not panic; it is organic. I urge your support.

**Chair Gorelow:**

Thank you both very much. I am going to go to Assemblyman Yeager, as Speaker, and see if he would like to waive the 24-hour rule.

**Assemblyman Yeager:**

Given that we are one day away from our committee passage deadline, I am willing to waive Joint Standing Rule No. 57.4, which requires a 24-hour waiting period between introduction and final passage. You have my permission, if you would like, to work session this matter.

**Assemblywoman Brittney Miller:**

I am sorry for being so out of decorum right now, but I wanted to let you know that a third amendment of signers [[Exhibit C](#)] was sent to you so that you would have all the amendments in order to work session the bill.

**Chair Gorelow:**

Let us take just a brief recess while I confer with my Committee members. [Recessed at 5:09 p.m.] [Reconvened at 5:11 p.m.] I will close the hearing on Assembly Joint Resolution 8 and open the work session on Assembly Joint Resolution 8.

**[Assembly Joint Resolution 8](#): Urges the Congress of the United States to deschedule marijuana as a schedule I controlled substance. (BDR R-615)**

**Chair Gorelow:**

I am going to ask for a motion to accept the third amendment [[Exhibit C](#)] which should have additional sponsors. It looks like the list of sponsors includes the original sponsors,

Assemblymen D'Silva and Brittney Miller. Additional sponsors include Assemblymen Yeager, Monroe-Moreno, Cameron (C.H.) Miller, Gallant, O'Neill, González, Dickman, Mosca, Brown-May, Carter, Anderson, Orentlicher, Torres, Peters, Nguyen, La Rue Hatch, Thomas, Summers-Armstrong, Cohen, Taylor, Considine, Newby, DeLong, Gorelow, and Watts. Additional sponsors include Senators Nguyen, Hammond, Spearman, Doñate, Harris, Ohrenschall, Flores, Stone, and Neal.

Did I miss anyone? Please add Assemblyman McArthur too.

**Brian Fernley, Committee Counsel:**

As the Legal Division, Legislative Counsel Bureau, is preparing the amendment, if other members who have not had a chance to be added and want to be added, we can add that through drafting of the amendment, if that is the Committee's desire.

**Chair Gorelow:**

Do I have a motion to amend and do pass Assembly Joint Resolution 8?

ASSEMBLYWOMAN MONROE-MORENO MADE A MOTION TO  
AMEND AND DO PASS ASSEMBLY JOINT RESOLUTION 8.

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

Committee members, is there any further discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman D'Silva. With that, we will move on to the rest of our work session. Ms. Proehl will walk us through the work sessions, starting with Assembly Bill 66.

**Assembly Bill 66: Revises provisions relating to ethics in government. (BDR 23-264)**

**Haley Proehl, Committee Policy Analyst:**

As nonpartisan staff I can neither advocate for or against any measure that comes before you today. The first measure that comes before you in work session today is Assembly Bill 66.

[Read from Exhibit I.] Assembly Bill 66 was heard by this Committee on February 21, 2023. The measure makes various changes to the administrative functions and procedural operations of the Commission on Ethics. The measure addresses matters relating to requests for advisory opinions, "cooling-off" periods, ethical standards of conduct, ethics complaints, and the application of Nevada's Open Meeting Law (OML) to the activities of the Commission.

The measure distinguishes between rendering a decision and issuing a written opinion and provides extra time to the Commission for issuing written opinions. In addition, the Commission may request additional information needed to issue an advisory opinion from the requester and his or her legal counsel. Certain materials and hearings are confidential and exempt from the OML. However, the Commission may hold an open hearing upon the waiver of confidentiality and must take final action on an ethics complaint in a public meeting. Additionally, the measure sets a two-year statute of limitations on past conduct for the purpose of advisory opinion jurisdiction.

The measure revises the filing of ethics complaints, including permitting certain extensions for investigations and issuing opinions as well as setting forth the circumstances under which a complaint may be dismissed. Assembly Bill 66 clarifies the participation of a subject in an investigation and enhances the protections of the identity of a person who files an ethics complaint, including a person serving as a witness. Finally, the measure revises existing standards of conduct relating to cooling-off provisions, misuse of government resources, disclosures and abstentions, and government contracts.

There are two amendments for this measure. There are documents attached for both.

The first [pages 2-6, [Exhibit I](#)] comes from the Commission on Ethics in response to concerns from the City of Henderson regarding expanding cooling-off requirements with respect to vendors of government agencies. The amendment proposes to: (1) clarify that the Chair may not extend the Commission's two-year statute of limitations; (2) narrow the contract activity that triggers a cooling-off requirement; and (3) allow the Commission to consider the contract amount compared to the agency's total budget or the vendor's total revenue when determining the level of seriousness of an ethics violation.

The second amendment [page 7, [Exhibit I](#)], proposed by this Committee is based on an amendment to the 2021 version of this bill, which is Assembly Bill 65 of the 81st Session. The amendment would create a new chapter on legislative ethics in Title 17 of *Nevada Revised Statutes* and enact separate ethics provisions for the Legislative Branch. The document that is associated with the second amendment [page 7] provides a little bit of information about Assembly Bill 65 of the 81st Session, which is also available on the Nevada Electronic Legislative Information System (NELIS). There is also an additional exhibit [[Exhibit J](#)] provided with this meeting on NELIS, which is an excerpt of minutes from a meeting in 2021 that discussed the amendment to A.B. 65 of the 81st Session. It provides a little more detail and information on exactly what the amendment does.

**Chair Gorelow:**

Committee members, are there any questions or comments? Seeing none, I will entertain a motion to amend and do pass Assembly Bill 66.



ASSEMBLYMAN CAMERON (C.H.) MILLER MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 66.

ASSEMBLYMAN DELONG SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Yeager:**

I appreciate the second amendment, the one that aligns with what this body did in 2021. I realized the fate of that bill was a governor's veto, but I still believe that process was more justified that the Legislative Branch would have its own say over ethical matters that come before its body. I think that is an important recognition of the separation of powers. With that amendment, I will be supporting the measure. I would not have been supporting it without that amendment that showed up similar to 2021. I just wanted to put that on the record, and hopefully the bill will be met more favorably this time should it get through our house, through the Senate, and over to the Office of the Governor.

**Chair Gorelow:**

Are there any other comments? [There were none.]

THE MOTION PASSED UNANIMOUSLY.

I am going to assign the floor statement to Assemblywoman Newby. The next bill we will do a work session on is Assembly Bill 190.

**Assembly Bill 190: Revises provisions relating to elections. (BDR 24-293)**

**Haley Proehl, Committee Policy Analyst:**

[Read from Exhibit K.] Assembly Bill 190 was heard in this Committee on March 30, 2023. It requires title companies and certain apartment associations and property management companies to distribute voter registration forms to persons who complete a real estate transaction or sign a lease at the time of closing or at the signing of the lease. The Secretary of State must prescribe by regulation the content of and instructions for completing such voter registration forms, which must allow a person to register to vote, update his or her voter registration, or cancel his or her voter registration.

Assemblywoman Kasama proposed the attached amendment [pages 2-3, Exhibit K], which eliminates the requirement for a title company and certain apartment associations and property management companies to distribute voter registration forms and instead provides that any title company, apartment association, or property management company may distribute such voter registration forms.

**Chair Gorelow:**

Committee members, are there any questions? Seeing none, I will entertain a motion to amend and do pass Assembly Bill 190.



ASSEMBLYMAN HIBBETTS MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 190.

ASSEMBLYMAN D'SILVA SECONDED THE MOTION.

Committee members, is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BRITTNEY MILLER VOTED NO.)

I will assign the floor statement to Assemblywoman Heidi Kasama. The next bill we have on our work session is Assembly Bill 242.

**Assembly Bill 242: Revises provisions relating to elections. (BDR 24-365)**

**Haley Proehl, Committee Policy Analyst:**

[Read from [Exhibit L](#).] Assembly Bill 242 was heard in this Committee on April 11, 2023. The measure requires the use of a mechanical voting system when voting in person at a polling place and repeals certain provisions relating to paper ballots and the discretionary use of mechanical voting systems. Additionally, the bill requires each polling place, with certain exceptions, to provide at least two—an increase of one—voting booths that are specifically designed, designated, and equipped for elderly voters or voters with disabilities. County and city clerks and election board officers must be trained in using such accessible voting booths and specially equipped voting devices so they may assist the voters who use these booths.

The Office of the Secretary of State proposed the attached amendment [page 2, [Exhibit L](#)] which does the following:

- Allows for the use of ballot marking devices that are already approved for use by the United States Election Assistance Commission and have been certified for use by the Secretary of State;
- Requires ballot tabulation by mechanical devices only; and
- Incorporates mail ballots into the definition of a mechanical voting system.

**Chair Gorelow:**

Committee members, are there any questions? Seeing none, I will entertain a motion to amend and do pass Assembly Bill 242.

ASSEMBLYMAN YEAGER MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 242.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DELONG, DICKMAN, HIBBETTS, AND MCARTHUR VOTED NO.)

I will assign the floor statement to Assemblywoman González. We will move on to the work session on Assembly Bill 246.

**Assembly Bill 246: Revises provisions governing elections. (BDR 24-821)**

**Haley Proehl, Committee Policy Analyst:**

[Read from [Exhibit M](#).] Assembly Bill 246 was heard in this Committee on March 28, 2023. I think I will just focus on the amendment [pages 3-35, [Exhibit M](#)] since it did substantially change the bill.

The amendment is from All Voting Is Local and One APIA Nevada, and which, among other things, does the following:

- Revises the threshold of determination for providing voting materials in a certain language to 5,000 voting-age citizens of a limited-English proficient (LEP) minority group;
- Provides that once the state has a population of at least 20,000 voting-age citizens who are members of an LEP minority group and who speak a single language, then the Secretary of State shall fund and help administer the statewide provision of voting materials in that language;
- Removes the requirement for a county or city with 3,500 or more registered voters to provide a toll-free telephone number for translation services relating to an election, and instead provides that any county may provide such a number;
- Clarifies that the language translation requirements of the bill also apply to Nevada's Effective Absentee System for Elections;
- Requires the Secretary of State to review population data on a biennial, rather than annual, basis and to notify local election officials of any new language translation requirements in their jurisdiction; and
- Revises the membership of the Language Access Advisory Committee to include the registrar of voters or his or her designee from Clark and Washoe Counties and a county clerk appointed by the Secretary of State.

**Chair Gorelow:**

Committee members, are there any questions? Seeing none, I will entertain a motion to amend and do pass Assembly Bill 246.

ASSEMBLYWOMAN BRITTNEY MILLER MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 246.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DELONG, DICKMAN, HIBBETTS, AND MCARTHUR VOTED NO.)

I will assign the floor statement to Assemblywoman Selena Torres. Our next work session bill is Assembly Bill 286.

**Assembly Bill 286: Makes various changes relating to elections. (BDR 24-530)**

**Haley Proehl, Committee Policy Analyst:**

[Read from [Exhibit N](#).] Assembly Bill 286 was heard in this Committee on April 4, 2023. Again, I am going to focus on the amendment since it did make substantial changes.

The amendment [pages 2 through 8, [Exhibit N](#)] was proposed by Assemblywoman Brittney Miller, which does the following:

- Removes language establishing polling places and ballot drop boxes in county jails, local jails, and certain juvenile facilities; and provisions allowing a family member to deliver a prisoner's mail ballot, and instead provides that county clerks and facility administrators shall coordinate to establish procedures for in-person voting and the collection and security of absentee ballots;
- Strikes all references to juvenile facilities and replaces the term "prisoner" with "individual in the custody of a county or city jail" or a similar variation of the phrase as applicable;
- Provides that access to voting through Effective Absentee System for Elections or by absentee ballot for individuals in the custody of a county or city jail must be available for early voting periods in addition to Election Day;
- Clarifies that the ability of an elector in the custody of a county or city jail to request a form to register to vote shall not be limited to any specific schedule;
- Clarifies that a county or city jail shall not open a voted and sealed absentee ballot under any circumstance; and
- Prohibits campaigning or electioneering on or near the premises in which the votes are cast and provides that an elector in the custody of a county or local jail shall vote free of coercion or intimidation.

**Chair Gorelow:**

Thank you very much. Members, are there any questions?

**Assemblyman Hibbetts:**

This question is for Legal Counsel in consultation with the bill sponsor. I just want to confirm that in looking at the amendment, change number 20 [page 6] that says delete sections 10 through 14, and then change number 22 that says delete section 16, does not delete the existing law that is currently there, but deletes the original proposed change to the law and does not affect the current existing law.

**Brian Fernley, Committee Counsel:**

Yes, that is correct. That amendment would just remove the changes to existing law from the bill; existing law would remain unchanged in this case.

**Assemblyman Hibbetts:**

I appreciate getting that on the record.

**Chair Gorelow:**

Committee members, are there any other questions? Seeing none, I will entertain a motion to amend and do pass Assembly Bill 286.

ASSEMBLYWOMAN GONZÁLEZ MADE A MOTION TO AMEND AND  
DO PASS ASSEMBLY BILL 286.

ASSEMBLYMAN D'SILVA SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Brittney Miller. Our next work session bill is Assembly Bill 394.

**Assembly Bill 394: Revises provisions governing elections. (BDR 24-776)**

**Haley Proehl, Committee Policy Analyst:**

[Read from [Exhibit O](#).] Assembly Bill 394 was heard in this Committee on April 6, 2023. The measure requires the Secretary of State to adopt by regulation a procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted and provides that ballots may only be counted once except as otherwise required during an audit or recount. There are no amendments.

**Chair Gorelow:**

Committee members, are there any questions? Seeing none, I will entertain a motion to do pass Assembly Bill 394.

ASSEMBLYWOMAN BRITTNEY MILLER MADE A MOTION TO DO  
PASS ASSEMBLY BILL 394.

ASSEMBLYMAN CAMERON (C.H.) MILLER SECONDED THE  
MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DELONG, DICKMAN,  
HIBBETTS, AND MCARTHUR VOTED NO.)

I will assign the floor statement to Assemblyman Cameron (C.H.) Miller. Moving on, we  
will go to the work session on Assembly Bill 399.

**Assembly Bill 399: Creates the Subcommittee on Education Accountability of the  
Interim Finance Committee. (BDR 17-1043)**

**Haley Proehl, Committee Policy Analyst:**

[Read from Exhibit P.] Assembly Bill 399 was heard in this Committee on March 30, 2023.  
It creates the Subcommittee on Education Accountability of the Interim Finance Committee,  
which must meet at least once every six months to discuss, evaluate, and make  
recommendations relating to accountability in public education in this state to improve  
educational achievement and outcomes for pupils. In addition to studying certain topics, the  
Subcommittee may also conduct investigations in connection to its duties and compel  
the attendance of certain individuals at a meeting.

The Subcommittee consists of five members of the Assembly and three members of the  
Senate to be appointed by the Speaker of the Assembly and Majority Leader of the Senate,  
respectively. The Chair of the Interim Finance Committee (IFC) shall appoint the Chair and  
Vice Chair of the Subcommittee. Additionally, the bill provides that a joint meeting of the  
Assembly Committee on Ways and Means and the Senate Committee on Finance that has  
agenda items similar to the objectives and functions of the Subcommittee constitutes a  
meeting for the Subcommittee.

Assemblyman Yeager proposed the following conceptual amendments to the bill:

1. Amend subsection 5 of section 3 to include "any member of the State Board of  
Education or a local school district board of trustees" to the list of those whose  
attendance can be compelled at a meeting; and
2. Amend the effective date to be upon passage and approval so that the Chair of  
the IFC has maximum flexibility as to when to appoint the members of the  
Subcommittee.

**Chair Gorelow:**

Committee members, are there any questions? Seeing none, I will entertain a motion to amend and do pass Assembly Bill 399.

ASSEMBLYMAN D'SILVA MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 399.

ASSEMBLYWOMAN BRITTNEY MILLER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Brittney Miller. Next, we will go on to the work session for Assembly Joint Resolution 5.

**Assembly Joint Resolution 5: Proposes to amend the Nevada Constitution to revise provisions relating to lotteries and the sale of lottery tickets. (BDR C-986)**

**Haley Proehl, Committee Policy Analyst:**

[Read from Exhibit Q.] Assembly Joint Resolution 5 was heard in this Committee on April 4, 2023. The measure proposes to amend the *Nevada Constitution* to authorize the Legislature to provide by law for the operation and regulation of lotteries, including, without limitation, the sale of lottery tickets. The proposed constitutional amendment includes language clarifying that: (1) the Legislature shall not pass any laws which grant a special charter or similar governing document to any person or entity to operate a lottery or sell lottery tickets; (2) political subdivisions of the State shall not operate a lottery or sell lottery tickets; and (3) the operation of any charitable lotteries must comply with existing provisions in the *Nevada Constitution* governing charitable lotteries. There are no amendments for this measure.

**Chair Gorelow:**

Committee members, are there any questions?

**Assemblywoman Dickman:**

It is not a question, but a comment. I just think that the lottery this would create would be in direct competition with our bricks-and-mortar gaming industry that provides lots of jobs, many of them very good-paying jobs. This is the same gaming industry that pays most of the taxes in our state. The other thing I would say is from what I have seen with lotteries in my experience over many, many years, we had a lottery in Michigan, it usually turns out to be some sort of a voluntary tax on poor people. Those are just some of the reasons I will be opposing.

**Assemblywoman Newby:**

I had a question that came up recently about lottery tickets. The language I see specifies lottery tickets, which to me says something that is physical, like a ticket. The concern that was brought to me was that there would be a fully online, virtual possibility, and my read of this is that no, this is for sale of physical tickets and not of fully virtual online lottery.

**Brian Fernley, Committee Counsel:**

The language of the resolution as currently drafted says that the Legislature may provide by law for the operation and regulation of lotteries, including without limitation, authorizing lottery tickets to be sold. That reference to lottery tickets is not a limiting thing; it is an example. It could include other methods of doing a lottery because it does say "including without limitation," authorizing lottery tickets so there are other things that could be authorized other than selling lottery tickets.

**Chair Gorelow:**

I will ask to elaborate, because this would pass here this year, pass another time, then go to the voters, then that current Legislature would be making those rules.

**Brian Fernley:**

Correct. If it was passed by the Legislature in 2023 and 2025 it would go to the voters after that. And then subsequently, the Legislature would establish, by law, how the lottery is operated and regulated. And one specific example of those things is authorizing the sale of lottery tickets, but there could be any number of other things that could be authorized.

**Assemblyman Cameron (C.H.) Miller:**

I just wanted to reiterate that this enables the State to create a lottery if it so chooses to. It does not establish a lottery in the form of online or tickets or any of that. It just allows the State to move forward if the people of Nevada so choose.

**Chair Gorelow:**

Committee members, are there any other questions or comments? Seeing none, I will entertain a motion to do pass Assembly Joint Resolution 5.

ASSEMBLYWOMAN BRITTNEY MILLER MADE A MOTION TO DO  
PASS ASSEMBLY JOINT RESOLUTION 5.

ASSEMBLYMAN D'SILVA SECONDED THE MOTION.

Is there discussion on the motion?

**Assemblyman Yeager:**

I heard the comments from Committee members, and I just wanted to reiterate that we are all elected here to do what we think is right and do what is right for our constituents. In this particular instance, we are not the ones deciding whether there would be a lottery or not. This is the first step of a process that would ultimately take it to all of Nevada's voters.

When I think about that, I think about the ballot questions that we have now. We have arguments for, we have arguments against, that are printed and written for folks to look at. For those of you who serve on the Legislative Commission, one of the duties we have is to bless that language when it goes to the voters. I think these arguments that we have heard, if this were to pass this session and next session, also go to the voters.

Ultimately, it is the voters of Nevada who will decide whether we want to remove this prohibition from our *Nevada Constitution* or not. I am supportive because I am willing to put that trust in the voters to decide what they think is best. We do not always agree, our voters do not always agree, but we know that after the outcome of that election, we are going to know whether the voters, by a majority, want this to come out of the *Nevada Constitution* or not. There would still be a lot of work to be done to set up a lottery if the voters went in that direction, but I feel comfortable giving this question to the voters and therefore I will be supporting the resolution.

**Assemblywoman Dickman:**

Just to respond to the comment, I used to feel that way too about if it is going to the people, that is great. But have we seen what has happened in campaigns with ballot initiatives? There is so much money put into them to influence the people and they are not honest all the time. That is just a comment.

**Assemblywoman Monroe-Moreno:**

I was not going to say anything, but after that last comment from my colleague, I have to. We trust the voters to vote for us, right? We trust when they go to the polls that we have done our job, we have listened to them, they have heard us, and they make a choice between who is on that ballot to come to Carson City to represent them.

In response to a comment that was made earlier, I cannot tell you how much I appreciate our casino and resort industry. They are the backbone of the state of Nevada. We are a hospitality state. That is not going to change by having a lottery. We have people who go to casinos and gamble, go to a show, and still make the drive across the border to buy a \$5 ticket when the Powerball is huge.

The reason I signed on as a cosponsor of this legislation is because the constituents in my district and throughout the state asked for it. My job as a legislator is to be their voice in Carson City. Putting this to a vote of the people is what we should do. I am not making the decision; my cosponsor is not making the decision. It is putting it to a vote of the people and if the people say no, then it is a dead issue. I trusted the voters to vote for me and I trust them to make a decision on this ballot.

**Chair Gorelow:**

Committee members, is there any other discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DELONG, DICKMAN, HIBBETTS, AND MCARTHUR VOTED NO.)



I will assign the floor statement to Assemblyman Cameron (C.H.) Miller. Next, we will have the work session on Assembly Joint Resolution 6.

**Assembly Joint Resolution 6: Proposes to amend the Nevada Constitution to adopt the National Popular Vote Compact. (BDR C-389)**

**Haley Proehl, Committee Policy Analyst:**

[Read from [Exhibit R](#).] Assembly Joint Resolution 6 was heard in this Committee on April 6, 2023. It proposes to amend the *Nevada Constitution* to adopt the National Popular Vote Compact, which, if effective through adoption by states cumulatively possessing a majority of the electoral votes, requires the chief election official of Nevada to determine which slate of candidates for President and Vice President wins the national popular vote and provides that the nominees for presidential elector whose slate of candidates for President and Vice President is the national popular vote winner become the presidential electors.

The Compact requires the presidential electors in this State to mark their presidential elector ballots for the national popular vote winner, unless there is a tie in the national popular vote, in which case the presidential electors in this state shall mark their presidential elector ballots for the winner of the popular vote in Nevada. The amendment to the *Nevada Constitution* proposed by this resolution also provides that Nevada may withdraw from and rejoin the Compact through statute, though the Compact prohibits withdrawal from the Compact within six months before the end of a President's term and before a President or Vice President is qualified to serve the next term. There were no amendments.

**Chair Gorelow:**

Mr. Fernley has some comments.

**Brian Fernley, Committee Counsel:**

There were some comments made during the hearings about potential constitutional issues with this proposal and I just wanted to address those for the Committee. The arguments were made under two potential clauses of the *United States Constitution*. The first one is the Electors Clause, Article II, Section 1, Clause 2, which states that the appointment of presidential electors by the state requires that "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors equal to the whole Number of Senators and Representatives to which the State may be entitled . . . ." That refers to an act of the Legislature to govern the manner of appointment of electors, but there is a similar clause of the *United States Constitution* which directs that the election of senators and representatives is conducted in the manner prescribed by the legislature of each state. Looking at those two provisions, the United States Supreme Court has held that an act of the Legislature really means a legislative action, meaning an action to make a law. In this case, it would be the voters of the state making a law. Therefore, it would be a legislative action consistent with the Elector's Clause of the *United States Constitution*.

The other argument was made under the compact clause of the *United States Constitution*, in Article I, Section 10, Clause 3, which prohibits states from entering into compacts with other states without the consent of Congress. The issue that was presented was whether the National Popular Vote Compact would require an act of Congress to become effective. Well, the United States Supreme Court has held that the only interstate compacts that are subject to the clause are those that would enhance state power to the detriment of federal supremacy. According to the Court, the test is whether a particular compact enhances state power with respect to the federal government. And as I mentioned before, the *United States Constitution* expressly delegates to the states through legislative action by the Legislature or through the voters the manner of selecting presidential electors. Any agreement among the states about how those states select their presidential electors cannot enhance state power because that is already a state power. It is the Legal Division's view that these changes through the *Nevada Constitution* would be defensible.

**Chair Gorelow:**

Members, are there any questions? Seeing none, I will entertain a motion to do pass Assembly Joint Resolution 6.

ASSEMBLYWOMAN MONROE-MORENO MADE A MOTION TO DO PASS ASSEMBLY JOINT RESOLUTION 6.

ASSEMBLYWOMAN BRITTNEY MILLER SECONDED THE MOTION.

Committee members, are there any discussions on the motion?

**Assemblyman Yeager:**

This is an exciting agenda in Legislative Operations and Elections. Much like the last resolution, what I would say on this is I think opinions on this topic are varied, very strong, and passionate. Those of us who were here last session remember that this was a very interesting vote on the Assembly floor. I do not remember what it was on the Senate floor, but I like this resolution because again, we are giving it to the people of Nevada, right? We have an electoral college. It has its own history. We do not need to relive that. We talked about why it was established at the hearing. I think it is time to ask our voters, do we want to be part of this Compact or not?

What I particularly like about the way this resolution is crafted is that it gives statutory authority to be able to withdraw from the Compact. If it were a question of putting it in the *Nevada Constitution* and we would be locked in for all time and all eternity, I would probably be in opposition to that because I think we would have to see how this would work. The ability for future legislatures to come forward and say this is not right for the state gives me quite a bit of comfort. I look forward to supporting this and again, letting our voters decide this very, very important question. We are sent here to do their work, but sometimes questions rise to the magnitude where we have to give it to the voters. Hopefully this will go to the voters in the near future and we will enact their will, whatever that may be.

**Assemblyman DeLong:**

It is actually a legal question brought up by Assemblyman Yeager's comments. It brings up the concept if this is passed and then the future Legislature passes a bill to remove it or to leave the Compact, usually, the bill has to go to the Governor for either approval or veto, but the *U.S. Constitution* gives that power to the state legislatures. Is there a conflict there?

**Brian Fernley:**

No, I do not believe so. The proposed constitutional amendment would authorize the Legislature "by law" to withdraw from the Compact. Saying that it is "by law" would require passage by both houses of the Legislature and the signature of the Governor in order to withdraw from the Compact. It would require both a bill enacted by the Legislature and the Governor's signature to withdraw from the Compact.

**Assemblyman DeLong:**

Are we not giving some of our authority to the Governor with regards to whether or not we are determining how we are dealing with our electors?

**Brian Fernley:**

No. As I was mentioning in the U.S. Supreme Court cases, it refers to the "lawmaking power" and the "lawmaking power" is actions by the Legislature and signatures by the Governor. It is consistent with the *U.S. Constitution* in that it is the exercise of the lawmaking power in the states, which is passage by the Legislature and signature by the Governor.

**Chair Gorelow:**

Committee members, is there any other discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DELONG, DICKMAN, HIBBETTS, AND MCARTHUR VOTED NO.)

I will assign the floor statement to Assemblyman Howard Watts. We are going on to our last work session bill, Assembly Concurrent Resolution 3.

**Assembly Concurrent Resolution 3: Directs the Joint Interim Standing Committee on Growth and Infrastructure to conduct a study of the laws administered by the Nevada Transportation Authority and the Taxicab Authority. (BDR R-897)**

**Haley Proehl, Committee Policy Analyst:**

[Read from [Exhibit S](#).] Assembly Concurrent Resolution 3 was heard in this Committee on March 16, 2023. The measure directs the Joint Interim Standing Committee on Growth and Infrastructure to conduct a study during the 2023-2024 Interim of the laws administered by the Nevada Transportation Authority and the Taxicab Authority and to report the findings and any recommendations to the 83rd Session of the Legislature. There are no amendments for this measure.

**Chair Gorelow:**

Committee members, are there any questions? Seeing none, I will entertain a motion to adopt Assembly Concurrent Resolution 3.

ASSEMBLYWOMAN BRITTNEY MILLER MADE A MOTION TO  
ADOPT ASSEMBLY CONCURRENT RESOLUTION 3.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Committee members, is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will give the floor statement to Assemblyman D'Silva.

With that, we will close out our work session and move on to our next agenda item, which is public comment. [Public comment was heard.] I am just so glad to hear you guys laughing for a change and working together across the aisle. I want to see more of that. We need to have strong parties that get along.

Committee members, does anyone have any final comment or words? [There were none.]  
With that, we are adjourned [at 5:55 p.m.].

RESPECTFULLY SUBMITTED:

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Kristi Howard  
Committee Secretary

APPROVED BY:

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Assemblywoman Michelle Gorelow, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to [Assembly Joint Resolution 8](#), submitted and presented by Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada.

[Exhibit D](#) is a letter dated April 7, 2023, submitted by Kevin Dick, District Health Officer, Washoe County Health District, in support of [Assembly Joint Resolution 8](#).

[Exhibit E](#) is written testimony submitted by Briana Padilla, Executive Director, Chamber of Cannabis, in support of [Assembly Joint Resolution 8](#).

[Exhibit F](#) is a letter submitted by Abigail Kaufmann, Secretary, Board of Directors, Chamber of Cannabis, in support of [Assembly Joint Resolution 8](#).

[Exhibit G](#) is an informational document regarding the endocannabinoid system and cannabis, submitted by Jason Greninger, Chief Executive Officer, Atlas Alchemy.

[Exhibit H](#) is a packet of letters in support of [Assembly Joint Resolution 8](#).

[Exhibit I](#) is the Work Session Document for [Assembly Bill 66](#), submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is a document titled, "Excerpt: Minutes of the Assembly Committee on Ways and Means, Amendment No. 777 to Assembly Bill 65," dated May 28, 2021, prepared by Kevin C. Powers, General Counsel, Legislative Counsel Bureau, and submitted by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 190](#), submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 242](#), submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for [Assembly Bill 246](#), submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is the Work Session Document for [Assembly Bill 286](#), submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit O](#) is the Work Session Document for [Assembly Bill 394](#), submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit P](#) is the Work Session Document for Assembly Bill 399, submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Q](#) is the Work Session Document for Assembly Joint Resolution 5, submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit R](#) is the Work Session Document for Assembly Joint Resolution 6, submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit S](#) is the Work Session Document for Assembly Concurrent Resolution 3, submitted and presented by Haley Proehl, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

ASSEMBLY BILL NO. 66—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to ethics in government.  
(BDR 23-264)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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

AN ACT relating to ethics in government; making various changes  
relating to the provisions governing ethics in government;  
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 circumstances, 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 Ethics Commission. (Chapter 281A of NRS)

Under the Ethics Law, the Commission is required to 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 17** 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 17** also specifies that the Chair and Vice Chair be elected at the first fiscal meeting of each year. **Section 8** of this bill authorizes the Chair, with certain exceptions, to grant not more than one extension of a time limitation set forth in the Ethics Law. **Sections 31, 35 and 37-39** of this bill make conforming changes consistent with the authority of the Chair to grant such an extension.

**Sections 3-5** of this bill define certain terms relating to proceedings before the Commission and the statutory ethical standards established by the Ethics Law.



**Sections 10, 14 and 46** of this bill make conforming changes to incorporate these definitions into the chapter.

**Section 6** of this bill: (1) restates more clearly the existing scope and applicability of the statutory ethical standards to the conduct of current and former public officers and employees; and (2) codifies the existing rule of construction that the standards are cumulative and supplement each other.

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) **Section 7** of this bill provides 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 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. **Section 49** of this bill makes a conforming change to indicate this additional exception to the Open Meeting Law.

The Ethics Law requires public officers to execute and timely file with the Commission written acknowledgments that they have received, read and understood the statutory ethical standards and that they have a responsibility to become familiar with any amendments to those standards. (NRS 281A.500) **Section 9** 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 are required to file the written acknowledgment of the statutory ethical standards; and (2) submit the list annually to the Commission.

Under the Ethics Law, the Commission is authorized to make a decision relating to a matter or proceeding before the Commission and provide a written advisory opinion or written opinion in response to an ethics complaint. (NRS 281A.670-281A.760) **Sections 11, 12, 15, 18, 19, 22, 24, 26, 28, 30-32, 34, 36-41 and 47** of this bill make various changes to distinguish between rendering a decision and issuing a written advisory opinion or issuing an opinion in response to an ethics complaint.

The Ethics Law prohibits public officers and employees from engaging in certain unethical conduct, including conduct that benefits any persons to whom they have a commitment in a private capacity. (NRS 281A.400, 281A.420) Existing 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 13** of this bill makes technical revisions to the definition of "commitment in a private capacity" that do not change the substantive meaning of the term.

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 the matter. (NRS 281A.220) However, the Ethics Law allows the members of the review panel to authorize the development of and





78 approve a deferral agreement in the proceedings. (NRS 281A.730) **Section 18** also  
79 allows one or more members of a review panel to participate as mediators or  
80 facilitators in any settlement negotiations with the consent of the parties during a  
81 specified period.

82 The Ethics Law requires the Commission on Ethics to appoint and prescribe the  
83 duties of the Commission Counsel, who is the legal advisor to the Commission and  
84 generally acts as legal counsel in any litigation in which the Commission or its  
85 members or staff are parties in an official capacity. (NRS 281A.250, 281A.260)  
86 **Section 20** of this bill: (1) specifies the powers and duties of the Commission  
87 Counsel regarding any litigation in which the Commission or its members or staff  
88 are parties in an official capacity; and (2) clarifies that the Commission Counsel  
89 does not represent the interests of the Executive Director of the Commission in a  
90 judicial action or proceeding in which the Executive Director is named as a party to  
91 the action or proceeding based on the conduct of the Executive Director in his or  
92 her official conduct as a party to an adjudicative proceeding.

93 The Ethics Law sets forth the jurisdiction of the Commission to investigate and  
94 take action regarding an alleged violation of the Ethics Law in any proceeding  
95 commenced by an ethics complaint if the ethics complaint is filed or initiated  
96 within 2 years after the alleged violation or reasonable discovery of the alleged  
97 violation. (NRS 281A.280) **Section 21** of this bill similarly provides that the  
98 Commission has jurisdiction to gather information and issue an advisory opinion  
99 and investigate and take action regarding an alleged violation for past conduct  
100 relating to the realization of a financial benefit that has occurred within 2 years  
101 before the date on which the request for an advisory opinion is filed or before the  
102 alleged violation or reasonable discovery of the alleged violation.

103 Existing law requires the Commission to publish a manual explaining the  
104 Ethics Law. **Section 22** of this bill replaces this requirement with a requirement to  
105 publish materials to educate public officers and employees on the Ethics Law.

106 **Section 23** of this bill: (1) authorizes the administration of oaths by a member  
107 of the Commission when appointed by the Chair to preside over any meetings,  
108 hearings or proceedings or by a certified court reporter; (2) authorizes the Chair to  
109 issue a subpoena during the course of an investigation for certain information; and  
110 (3) provides that any court proceeding commenced relating to a subpoena is  
111 deemed good cause for the Chair to grant an extension of the time limitations that  
112 apply to proceedings concerning ethics complaints.

113 The Ethics Law contains a general provision that prohibits public officers and  
114 employees from using governmental time, property, equipment or other facility to  
115 benefit a significant personal or pecuniary interest of the public officers and  
116 employees or any persons to whom they have a commitment in a private capacity.  
117 By contrast, the Ethics Law also contains a specific provision that prohibits State  
118 Legislators from using governmental time, property, equipment or other facility for  
119 a nongovernmental purpose or for the private benefit of the Legislators or any other  
120 persons. Both of these prohibitions contain separate limited-use exceptions that  
121 allow a limited use of governmental property, equipment or other facility for  
122 personal purposes if the limited use meets certain requirements. (NRS 281A.400)  
123 **Section 25** of this bill revises these prohibitions and limited-use exceptions in  
124 several ways.

125 First, **section 25** aligns the prohibitions so they employ the same prohibitive  
126 language for Legislators and other public officers and employees. As a result,  
127 subject to the limited-use exceptions, **section 25** prohibits all public officers and  
128 employees from using governmental time, property, equipment or other facility to  
129 benefit a significant personal or pecuniary interest of the public officers and  
130 employees or any persons to whom they have a commitment in a private capacity.

131 Second, with regard to the limited-use exceptions that apply to public officers  
132 and employees other than Legislators, one of the existing requirements for the



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. (NRS 281A.400) **Section 25** 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. (NRS 281A.400) **Section 25** 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.

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 entity in which they have a significant pecuniary interest or any person to whom they have a commitment in a private capacity. (NRS 281A.400) **Section 25** also adds to the statutory ethical standards a prohibition against public officers and employees using their position or power in government to take actions or compel a subordinate to take any actions that would cause unwarranted harm or damage to another person to benefit the significant pecuniary interest or personal interest of the public officer or employee or of any person to whom the public officer or employee has a commitment in a private capacity.

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 27** 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 under the terms of a contract or as a matter of law, such as a result of an attorney-client relationship, if they: (1) disclose all nonconfidential information and describe the general nature of the contract or law; 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 27** 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.

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 28** provides that: (1) 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; and (2) 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.

Under the Ethics Law, the Legislative Counsel is required to prepare annotations to the Commission's published opinions for inclusion in the Nevada Revised Statutes. (NRS 281A.290) **Sections 22 and 29** of this bill move and recodify this requirement.

The Ethics Law authorizes a public officer or employee to file with the Commission a request for an advisory opinion to: (1) seek guidance relating to the propriety of his or her 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 16** of this bill deletes duplicative provisions from the definition of a "request for an advisory opinion." **Section 30** authorizes the Commission to request additional information relating to the request for an advisory opinion from the requester or his or her legal counsel.

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 33** of this bill requires the requester to acknowledge his or her waiver of confidentiality in the request. **Section 33** also 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 filed by a specialized or local ethics committee or a person or initiated by the Commission on its own motion. (NRS 281A.710) **Section 34** of this bill authorizes the Executive Director to conduct a preliminary investigation into the propriety of the conduct of a public officer or employee to determine if the Commission has jurisdiction and whether the Commission should initiate an ethics complaint on its own motion.

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 35** 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 35**: (1) 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; and (2) 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.

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. (NRS 281A.720) **Section 36** authorizes the Executive Director to grant, under certain circumstances, one or



more extensions of the time limitation to submit the response, 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 36** 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 or any other law that provides such authority.

Under the Ethics Law, a review panel is required to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. (NRS 281A.730) **Section 38** of this bill requires that, after the review panel makes its determination, the review panel must serve a written notice of its determination on the public officer or employee who is the subject of the ethics complaint.

The Ethics Law establishes various requirements regarding the adjudication of ethics complaints referred to the Commission for further proceedings. (NRS 281A.745-281A.760) **Section 39** requires: (1) the Executive Director to issue a formal notice of charges to the subject of the ethics complaint regarding the allegations to be presented at an adjudicatory hearing; and (2) 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 period, unless waived by the subject, and requires the opinion to include findings of fact and conclusions of law. (NRS 281A.745, 281A.765) **Section 39**: (1) 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 period after the decision is rendered; and (2) clarifies 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) **Section 43** of this bill makes a conforming change related to the contents of a written opinion.

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. (NRS 281A.750) **Section 40** 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, or if revealing the identity of the requester would otherwise reveal the identity of witnesses who work for the same public body, agency or employer. **Section 40** also clarifies that: (1) such confidentiality extends to all materials that, if disclosed, would reveal the identity of the confidential requester; and (2) 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 40** requires the Executive Director to 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 is authorized to 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 41** requires any written discovery request to be submitted in



accordance with the schedule for discovery in the matter. **Section 41** 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, but provides an exception if any of the materials are declared confidential by another law.

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 42** of this bill generally exempts the Commission's actions concerning the ethics complaint from the Open Meeting Law. However, **section 42** 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 and, with respect to certain dispositions of ethics complaints and in determining whether a violation is willful, the Ethics Law requires the Commission to treat comparable situations in a comparable manner. (NRS 281A.785, 281A.790) **Sections 44 and 45** of this bill require the Commission to carry out that duty to the extent practicable based on the given set of facts and circumstances. **Section 47** clarifies that, based on a finding that a violation of the Ethics Law has been proven, the Commission is authorized to impose certain penalties using any manner in which the Commission is authorized to dispose of the matter.

**Section 48** of this bill makes technical conforming changes to the description of current and former public officers and employees.

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



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

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

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

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

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

16     **Sec. 7.** *During any period in which proceedings concerning*  
17 *a request for an advisory opinion or an ethics complaint are*  
18 *confidential pursuant to this chapter, the provisions of chapter 241*  
19 *of NRS do not apply to any meeting or hearing held by the*  
20 *Commission or any deliberations or actions of the Commission*  
21 *involving:*

22       1. *Any decisions in litigation concerning any judicial action*  
23 *or proceeding related to the request for an advisory opinion or the*  
24 *ethics complaint; or*

25       2. *Any delegation of authority to make such decisions in the*  
26 *litigation to the Chair or the Executive Director, or both, pursuant*  
27 *to NRS 241.0357.*

28     **Sec. 8.** *Except as otherwise provided in NRS 281A.720, the*  
29 *Chair may, upon the request of the Executive Director and for*  
30 *good cause shown, grant not more than one extension of a time*  
31 *limitation set forth in this chapter.*

32     **Sec. 9.** *A list of each public officer who is required to file an*  
33 *acknowledgment of the statutory ethical standards in accordance*  
34 *with NRS 281A.500 must be submitted electronically to the*  
35 *Commission, in the form prescribed by the Commission, on or*  
36 *before December 1 of each year by:*

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

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

41       (b) *The Director of the Legislative Counsel Bureau for a*  
42 *public officer of the Legislative Department of the State*  
43 *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.*

**Sec. 10.** 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. 11.** 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]~~ *hear the case presented by the Executive Director, or his or her designee, and by the public officer or employee who is the subject of the ethics complaint, and render a decision* concerning an ethics complaint. ~~[and render an opinion in the matter.]~~

**Sec. 12.** 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. 13.** 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. 14.** 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]~~ *provisions of* this chapter.

**Sec. 15.** 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. 16.** 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. 17.** 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]~~ *of each fiscal year* elect a Chair and Vice Chair from among its members.

~~[(b) Meet]~~

2. *Except as otherwise provided in this subsection, 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 both 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. 18.** 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 the determination by the review panel 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.*

**Sec. 19.** 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. 20.** 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 ~~[ ]~~ *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. 21.** 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. 22.** 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. 23.** 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 ~~{or, 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 ~~[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



1 within 5 business days after receipt of the written request, the Chair  
2 ~~for, in the Chair's absence, the Vice Chair,~~ may issue the subpoena.  
3 Failure of the public officer or employee to comply with the written  
4 request of the Executive Director shall be deemed a waiver by the  
5 public officer or employee of the time limits set forth in NRS  
6 281A.700 to 281A.790, inclusive, that apply to proceedings  
7 concerning the ethics complaint.

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

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

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

17 (c) The witness has failed or refused to participate, attend,  
18 testify or produce the books and papers as required by the subpoena,  
19 or has failed or refused to answer questions propounded to the  
20 witness,

21 ➤ and asking for an order of the court compelling the witness to  
22 participate, attend, testify or produce the books and papers as  
23 required by the subpoena.

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

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

39 *11. Any court proceeding commenced pursuant to this section*  
40 *is deemed good cause for the Chair to grant, pursuant to section 8*  
41 *of this act, an extension of the time limits set forth in NRS*  
42 *281A.700 to 281A.790, inclusive, that apply to proceedings*  
43 *concerning the ethics complaint.*





**Sec. 24.** 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 refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of 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.

3. 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. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to ~~{base}~~ *render a decision and issue* an opinion, all deliberations 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 acts in contravention of the *decision or* opinion; or

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





**Sec. 25.** 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 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



1 facility to benefit a significant personal or pecuniary interest of the  
2 public officer or employee or any person to whom the public officer  
3 or employee has a commitment in a private capacity. This  
4 subsection does not prohibit:

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

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

8 *(I) Authorized by a written policy which was adopted*  
9 *before the use occurs by the* public officer or employee who is  
10 responsible for and has authority to authorize the use of such  
11 property, equipment or other facility ~~[has established a policy~~  
12 ~~allowing the use or the use is necessary]~~; *or*

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

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

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

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

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

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

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

29 8. A State Legislator shall not:

30 (a) Use governmental time, property, equipment or other facility  
31 ~~[for a nongovernmental purpose or for the private]~~ *to* benefit *a*  
32 *significant personal or pecuniary interest* of the State Legislator or  
33 any ~~[other]~~ person ~~[ ]~~ *to whom the State Legislator has a*  
34 *commitment in a private capacity.* This paragraph does not prohibit:

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

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

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

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

42 (2) The use of mailing lists, computer data or other  
43 information lawfully obtained from a governmental agency which is  
44 available to members of the general public for nongovernmental  
45 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. 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 would cause unwarranted harm or damage to another person to benefit the significant pecuniary interest or personal interest of the public officer or employee or the significant pecuniary interest or personal interest of any person to whom the public officer or employee has a commitment in a private capacity.*

*12. As used in this section:*

*(a) "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.*

*(b) "Unwarranted" means without justification or adequate reason.*

**Sec. 26.** 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



1 the agency in which that public officer or employee serves, if the  
2 agency makes decisions; and

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

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

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

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

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

26 (1) The best interests of the public;

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

29 (3) The provisions of this chapter.

30 4. For the purposes of subsection 3, the request for an advisory  
31 opinion, *the decision rendered*, the advisory opinion and all  
32 meetings, hearings and proceedings of the Commission in such a  
33 matter are governed by the provisions of NRS 281A.670 to  
34 281A.690, inclusive.

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

39 **Sec. 27.** NRS 281A.420 is hereby amended to read as follows:

40 281A.420 1. Except as otherwise provided in this section, a  
41 public officer or employee shall not approve, disapprove, vote,  
42 abstain from voting or otherwise act upon a matter:

43 (a) Regarding which the public officer or employee has accepted  
44 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 ~~the~~:

(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 under the terms of a contract or as a matter of law 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 contract or law 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; ~~for~~

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

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. 28.** 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,





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

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

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

10    (b) Be employed by such a person,  
11    ➤ for 1 year after the termination of the member's service on the  
12    Nevada Gaming Control Board or the Nevada Gaming Commission.

13    3. In addition to the prohibitions set forth in subsections 1 and  
14    2, and except as otherwise provided in subsections 4 and 6, a  
15    *current or* former public officer or *management-level public*  
16    employee of a board, commission, department, division or other  
17    agency of the Executive Department of *the* State Government ~~[-~~  
18    ~~except a clerical employee.]~~ shall not solicit or accept employment  
19    from a business or industry whose activities are governed by  
20    regulations adopted *or administered* by the board, commission,  
21    department, division or other agency, *as applicable, during the*  
22    *public officer's or employee's period of public service or*  
23    *employment or* for 1 year after the termination of ~~[the former public~~  
24    ~~officer's or employee's]~~ *his or her period of public* service or  
25    ~~[period of]~~ employment if:

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

29    (b) ~~[During]~~ *Within* the immediately preceding year, ~~[the~~  
30    ~~former]~~ *during the public officer's or employee's period of public*  
31    *service or employment or within the year immediately preceding*  
32    *the termination of the public officer's or employee's period of*  
33    *public service or employment, the* public officer or employee  
34    directly performed activities, or controlled or influenced an audit,  
35    decision, investigation or other action, which significantly affected  
36    the business or industry; ~~[- which might, but for this section, employ~~  
37    ~~the former public officer or employee;]~~ or

38    (c) As a result of the ~~[former]~~ public officer's or employee's  
39    governmental service or employment, the ~~[former]~~ public officer or  
40    employee possesses knowledge of the trade secrets of a direct  
41    business competitor.

42    4. The provisions of subsection 3 do not apply to a *current or*  
43    former ~~[public officer who was a]~~ member of a board, commission  
44    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



1 strict application of the provisions of subsection 3 or 5, as  
2 applicable, is not contrary to:

- 3 (a) The best interests of the public;
- 4 (b) The continued ethical integrity of the State Government or  
5 political subdivision, as applicable; and
- 6 (c) The provisions of this chapter,  
7 ➤ it may issue an advisory opinion to that effect and grant such  
8 relief.

9 7. For the purposes of subsection 6, the request for an advisory  
10 opinion, *the decision rendered*, the advisory opinion and all  
11 meetings, hearings and proceedings of the Commission in such a  
12 matter are governed by the provisions of NRS 281A.670 to  
13 281A.690, inclusive.

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

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

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

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

24 ➤ is employed by or is soliciting or accepting employment from a  
25 business, industry or other person described in this section if any  
26 oral or written agreement is sought, negotiated or exists during the  
27 restricted period pursuant to which the personal services of  
28 the public officer or employee are provided or will be provided to  
29 the business, industry or other person, even if such an agreement  
30 does not or will not become effective until after the restricted  
31 period.

32 10. As used in this section, "regulation" has the meaning  
33 ascribed to it in NRS 233B.038 and also includes regulations  
34 adopted *or administered* by a board, commission, department,  
35 division or other agency of the Executive Department of *the* State  
36 Government that is exempted from the requirements of chapter  
37 233B of NRS.

38 **Sec. 29.** NRS 281A.665 is hereby amended to read as follows:

39 281A.665 *1. The Legislative Counsel shall prepare*  
40 *annotations to this chapter for inclusion in the Nevada Revised*  
41 *Statutes based on the published opinions of the Commission.*

42 2. The ~~{Commission's}~~ *opinions of the Commission* may  
43 include guidance to a public officer or employee on questions  
44 whether:



~~1~~ ~~1-1~~ (a) A conflict exists between the public officer's or  
2 employee's personal interest and the public officer's or employee's  
3 official ~~duty.~~ *duties.*

~~4~~ ~~2-1~~ (b) The public officer's or employee's official duties  
5 involve the use of discretionary judgment whose exercise in the  
6 particular matter would have a significant effect upon the  
7 disposition of the matter.

~~8~~ ~~3-1~~ (c) The conflict would materially affect the independence  
9 of the judgment of a reasonable person in the public officer's or  
10 employee's situation.

~~11~~ ~~4-1~~ (d) The public officer or employee possesses special  
12 knowledge which is an indispensable asset of ~~the public officer's or~~  
13 ~~employee's public~~ *his or her public body*, agency *or employer* and  
14 is needed by it to reach a sound decision.

~~15~~ ~~5-1~~ (e) It would be appropriate for the public officer or  
16 employee to withdraw or abstain from participation, disclose the  
17 nature of the public officer's or employee's conflicting personal  
18 interest or pursue some other designated course of action in the  
19 matter.

20 **Sec. 30.** NRS 281A.675 is hereby amended to read as follows:

21 281A.675 1. ~~A~~ *Except as otherwise provided in this*  
22 *section and NRS 281A.280, a* public officer or employee may file  
23 with the Commission a request for an advisory opinion to:

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

28 (b) Request relief pursuant to NRS 281A.410, 281A.430 or  
29 281A.550.

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

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

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

35 3. *At any time after a request for an advisory opinion is filed*  
36 *with the Commission, the Commission may request additional*  
37 *information relating to the request for an advisory opinion from*  
38 *the requester and his or her legal counsel.*

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

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

44 (b) Declare by oath or affirmation that he or she will testify  
45 truthfully regarding the matter ~~or~~ *or confirm in writing, signed*



*under oath, that any information provided to the Commission for consideration of the request for an advisory opinion is truthful.*

**Sec. 31.** NRS 281A.680 is hereby amended to read as follows:

281A.680 1. If a public officer or employee 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. The Commission shall render *the decision and issue* the advisory opinion within 45 days after receiving the request, unless the requester waives this time limit ~~[-]~~ *or the Chair grants an extension pursuant to section 8 of this act.*

2. If the advisory opinion ~~rendered~~ *issued* by the Commission 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.

**Sec. 32.** 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;

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

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

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

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 the advisory opinion:

(a) Acts in contravention of the advisory opinion, in which case the Commission may disclose the request, the advisory opinion 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 advisory opinion 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; or

(c) Voluntarily discloses, in any manner, the request, the advisory opinion 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, agency or employer of the requester or the legal counsel of the requester;

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

(3) Any person to whom the requester makes such a disclosure for the purposes of judicial review pursuant to NRS 281A.680.

**Sec. 33.** 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:*

*(a) The requester files a request to hold a public meeting or hearing, the requester must acknowledge in the request that the requester is waiving the right to confidentiality set forth in NRS 281A.685; and*

*(b) 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. 34.** 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 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 the ethics complaint does not submit all necessary evidence in the matter.

*4. The Executive Director may conduct a preliminary investigation to obtain additional evidence concerning the propriety of the conduct of a public officer or employee to determine if the Commission has jurisdiction in a matter and whether the Commission should initiate an ethics complaint on its own motion pursuant to paragraph (c) of subsection 1.*

**Sec. 35.** 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 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]~~ *Except as otherwise provided in section 8 of this act, 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. *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, the Commission may 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. 36.** 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, ~~[or 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. The}~~ *written notice of the investigation.* Except as otherwise provided in subsection 3, 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 Executive Director grants an extension.}~~

3. *If a public officer or employee has waived the time limitation set forth in subsection 1 of NRS 281A.725, the Executive Director may grant one or more extensions of time for a public officer or employee to submit a response pursuant to subsection 2 for good cause shown by the public officer or employee. If the Executive Director grants an extension of time, the Executive Director shall set a specific and reasonable time period for such an extension.*

4. 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.}~~ 5. 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.

6. *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 or any other law, 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. 37.** NRS 281A.725 is hereby amended to read as follows:

281A.725 1. Except as otherwise provided in this subsection ~~{}~~ *and section 8 of this act*, 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 . ~~{or after the Commission initiates the ethics complaint~~





~~on its own motion, as applicable.~~] The public officer or employee who is the subject of the ethics complaint may waive this time limit.

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. 38.** NRS 281A.730 is hereby amended to read as follows:

281A.730. 1. Except as otherwise provided in this section ~~and section 8 of this act,~~ 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



1 other corrective action under the terms and conditions of a deferral  
2 agreement, the review panel may:

3 (a) Approve a deferral agreement proposed by the Executive  
4 Director and the public officer or employee instead of referring the  
5 ethics complaint to the Commission for further proceedings in the  
6 matter; or

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

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

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

23 **Sec. 39.** NRS 281A.745 is hereby amended to read as follows:

24 281A.745 1. If the review panel refers an ethics complaint to  
25 the Commission for further proceedings in the matter pursuant to  
26 NRS 281A.730 or if the Commission vacates a deferral agreement  
27 and conducts further proceedings in the matter pursuant to  
28 NRS 281A.740 ~~[, the]~~ :

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

33 (b) *The Commission shall hold an adjudicatory hearing and*  
34 *render ~~[an opinion in the matter]~~ a decision concerning the ethics*  
35 *complaint* within 60 days after the date on which the review panel  
36 refers the ethics complaint to the Commission or the Commission  
37 vacates the deferral agreement, as appropriate, unless the public  
38 officer or employee who is the subject of the ethics complaint  
39 waives this time limit ~~[;]~~ *or the Chair grants an extension of time*  
40 *pursuant to section 8 of this act.*

41 2. ~~[[~~ *Before* the Commission holds an adjudicatory hearing  
42 ~~[to receive evidence]~~ concerning an ethics complaint, the  
43 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.*

*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. 40.** 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 ~~3.3~~ 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 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 ~~or~~ *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. 41.** 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. 42.** 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.*

**Sec. 43.** 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. 44.** 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. 45.** 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 :

(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. 46.** 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. 47.** 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 ~~to~~ *and as part of any manner in which the Commission is authorized to dispose of the matter*, 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. 48.** 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 of this chapter.

2. In addition to any other penalties provided by law, if any 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, 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:

(a) Impose on the person committing such an act a civil penalty not to exceed \$5,000; 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 by the current or former public officer or employee as a result of the act.

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

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

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



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

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

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

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

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

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

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

(b) The advice of the legal counsel was:

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

(2) Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee would not be



contrary to the provisions of this chapter as interpreted by the Commission.

6. 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 the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a *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. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

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

**Sec. 49.** 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, 239C.420, 241.028, 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,



1 315.98425, 360.247, 388.261, 388.385, 388A.495, 388C.150,  
2 388D.355, 388G.710, 388G.730, 392.147, 392.466, 392.467,  
3 392.4671, 394.1699, 396.1415, 396.3295, 414.270, 422.405,  
4 433.534, 435.610, 442.774, 463.110, 480.545, 622.320, 622.340,  
5 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170,  
6 696B.550, 703.196 and 706.1725, *and section 7 of this act*, which:

7 (a) Provides that any meeting, hearing or other proceeding is not  
8 subject to the provisions of this chapter; or

9 (b) Otherwise authorizes or requires a closed meeting, hearing  
10 or proceeding,

11 ➤ prevails over the general provisions of this chapter.

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

17 **Sec. 50.** 1. Except as otherwise provided in this section, the  
18 Commission on Ethics:

19 (a) Shall apply the amendatory provisions of this act which  
20 govern the procedures applicable to administrative proceedings  
21 arising under chapter 281A of NRS to any such proceedings that are  
22 within the jurisdiction of the Commission and are commenced on or  
23 after October 1, 2023, whether or not the conduct at issue in such  
24 proceedings occurred before October 1, 2023.

25 (b) May apply the amendatory provisions of this act which  
26 govern the procedures applicable to administrative proceedings  
27 arising under chapter 281A of NRS to any such proceedings that  
28 were commenced before October 1, 2023, and are still within the  
29 jurisdiction of the Commission and pending before the Commission  
30 on October 1, 2023, unless the Commission determines that such an  
31 application would be impracticable, unreasonable or  
32 unconstitutional under the circumstances, in which case the  
33 Commission shall apply the procedures in effect before October 1,  
34 2023.

35 2. The amendatory provisions of sections 13 and 25 to 28,  
36 inclusive, of this act do not apply to any conduct occurring before  
37 October 1, 2023.



# AB65

Summary	Revises provisions relating to ethics in government. (BDR 23-257)
Introduction Date	Wednesday, November 18, 2020
Exempt	DECLARED EXEMPT
Fiscal Notes	Effect on Local Government: May have Fiscal Impact.  Effect on the State: Yes.
Unfunded Mandate	CONTAINS UNFUNDED MANDATE
Primary Sponsor	<a href="#">Assembly Committee on Legislative Operations and Elections</a>
Title	AN ACT relating to ethics in government; making various changes relating to the provisions governing ethics in government; enacting the Nevada Legislative Ethics Law; providing penalties; and providing other matters properly relating thereto.
Digest	<p>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 (Ethics Commission), 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 Ethics Commission. (Chapter 281A of NRS) Under the Ethics Law, the Ethics 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 Ethics Commission to grant such relief. (NRS 281A.670-281A.690) The Ethics Commission is also authorized to issue opinions in response to ethics complaints filed with or initiated by the Ethics 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) Sections 2-54 of this bill amend the Ethics Law by clarifying, revising and adding to existing provisions which govern: (1) the operation, powers, functions and duties of the Ethics 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 Ethics Commission. Sections 3, 8, 9, 12, 20-24 and 26-28 of this bill make various changes to existing provisions of the Ethics Law which govern the operation, powers, functions and duties of the Ethics Commission, its members and staff and any specialized or local ethics committees. (NRS 281A.200-281A.350) Under the Ethics Law, the Ethics Commission is required to 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 3 and 20 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 Ethics Commission under certain circumstances. Section 27 of this bill additionally authorizes the administration of oaths by a member of the Ethics Commission when appointed by the Chair to preside over any meetings, hearings or proceedings and by a certified court reporter. Section 27 also specifically authorizes the Chair to issue a subpoena during the course of an investigation for information, records and documentation regarding confidential personnel records maintained by a state or local governmental agency that relate to issues under consideration in an ethics complaint. Under section 47 of this bill, these records are made part of the investigative file. Section 27 further provides that any court proceeding commenced relating to a subpoena is deemed good cause for the Ethics Commission to grant an extension of the time limits that apply to proceedings concerning ethics complaints. The Ethics Law requires the Chair to appoint review panels, consisting of three members of the Ethics 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 Ethics Commission to render an opinion in a matter, the members of the review panel generally cannot participate in any further proceedings of the Ethics Commission relating to that matter. (NRS 281A.220) However, the Ethics Law allows the members of the review panel to authorize the development of and approve a deferral agreement in the proceedings. (NRS 281A.730) Section 21 of this bill allows 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 Ethics Commission holds an adjudicatory hearing in the matter. Under the Ethics Law, the Ethics 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 8 requires public officers and employees to cooperate with the Ethics Commission in its investigations and proceedings and to furnish information and reasonable assistance to the Ethics 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 8 is modeled, in part, on similar provision governing the Commission on Judicial Discipline. (NRS 1.460) Section 12 authorizes the Ethics Commission to</p>



cooperate in investigations of other state and local governmental agencies to make appropriate referrals of ethics complaints. The Ethics Law requires the Ethics Commission to appoint and prescribe the duties of the Commission Counsel who is the legal adviser to the Ethics Commission and who, in most cases, is directed by the Ethics Commission to act as legal counsel in any litigation in which the Ethics Commission or its members or staff are parties in an official capacity. (NRS 281A.250, 281A.260) Under Nevada's Open Meeting Law, the Ethics 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) Existing law authorizes a public body to delegate authority to the chair or the executive director of a public body, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party in an official capacity or participates or intervenes in an official capacity. (NRS 241.0357) Section 9 provides 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 Ethics 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. Section 114 of this bill makes a conforming change to the Open Meeting Law. Section 24 of this bill specifies the powers and duties of the Commission Counsel regarding any litigation in which the Ethics Commission or its members or staff are parties in an official capacity. Section 24 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 the conduct of the Executive Director in his or her official capacity as a party to an adjudicative proceeding. Under the Ethics Law, the Ethics Commission is required to adopt procedural rules to carry out the functions of the Ethics Commission, accept acknowledgments of statutory ethical standards, conduct necessary investigations, recommend legislation to promote ethics in government and publish a manual explaining the Ethics Law. (NRS 281A.290) The Executive Director is required to conduct training on the requirements of the Ethics Law for public officers and employees. (NRS 281A.240) Section 26 of this bill replaces the requirement to publish a manual with a requirement to publish materials to educate public officers and employees on the requirements of the Ethics Law. 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 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 Ethics Commission, but it may refer such questions to the Ethics Commission. (NRS 281A.350) Section 28 of this bill clarifies the circumstances when such questions may be referred to the Ethics Commission as a request for an advisory opinion. Section 28 also makes conforming changes to ensure consistency with the other revisions that this bill makes to the Ethics Law. Section 28 of this bill also removes the authority of a specialized or local ethics committee in existing law to require the filing of financial disclosure statements if the form has been approved by the Secretary of State. Section 1 of this bill makes a conforming change related to the removal of this authority. 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 6, 7, 10, 16 and 29-33 of this bill make various changes to the statutory ethical standards. Sections 6 and 7 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 7 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 16 makes technical 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 10 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 10 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 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. The Ethics Law also contains certain 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 29 of this bill revises these prohibitions and limited-use exceptions in several ways. First, one of the existing requirements for the limited-use 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. (NRS 281A.400) Section 29 clarifies the exception by providing that the limited use must be authorized by a written policy which was adopted before the limited use occurs. Second, one of the existing requirements for the limited-use exceptions is that the limited use for personal purposes must not create the appearance of impropriety. (NRS 281A.400) Section 29 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 31 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 31 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. 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 Ethics Commission to grant relief from the strict application of the prohibition in specified circumstances. (NRS 281A.550) Section 33 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 33 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 Ethics 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 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 Ethics 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 Ethics Commission. (NRS 281A.665-281A.790) Sections 4, 5, 14, 15, 17, 18, 19, 25 and 34-54 of this bill make various changes to these existing provisions. Under the Ethics Law, the Ethics 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 Ethics Commission's published opinions for inclusion in the Nevada Revised Statutes. (NRS 281A.290) Section 5 defines "published opinion" as an opinion issued by the Ethics Commission that is publicly available on the Internet website of the Ethics Commission. Sections 26 and 34 of this bill move and recodify within the Ethics Law the existing provision that directs the Legislative Counsel to prepare annotations of the Ethics Commission's published opinions for inclusion in the Nevada Revised Statutes. The Ethics Law authorizes public officers and employees to file with the Ethics 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 35 of this bill authorizes the Ethics Commission to request additional information relating to the request for an advisory opinion from the requester or his or her legal counsel. If the requester properly files a request for an advisory opinion, the Ethics Law requires the Ethics 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 25 and 36 of this bill revise the Ethics Commission's jurisdiction and procedures regarding a request for an advisory opinion. Under the Ethics Law, the Ethics 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 25 similarly provides that the Ethics Commission's jurisdiction over a request for an advisory opinion extends only to past conduct occurring within 2 years before the date on which the request is filed. Section 36 allows the Ethics 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 the Ethics Law. Section 36 further requires the



requester to confirm in writing, signed under oath, that any written information related to the request is truthful. Section 36 also requires the Ethics Commission to render a decision regarding the request for an advisory opinion within the existing time limit, subject to certain exceptions. However, section 36 provides the Ethics Commission with more time to prepare the written advisory opinion in the matter by requiring the Ethics Commission to issue the written advisory opinion within a specified time limit after the decision is rendered. Section 36 further authorizes the Ethics Commission to determine which decisions and opinions related to a request for an advisory opinion will be binding on a requester and constitute administrative precedent to be followed in the adjudication and disposition of future requests for an advisory opinion or ethics complaint. Section 36 confirms that a written advisory opinion related to a request for relief from the strict application of the cooling-off provisions or to the past conduct of the requester are not subject to judicial review under the Nevada Administrative Procedure Act. Finally, section 36 authorizes the Executive Director and the 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 opinion of the Ethics Commission. Section 36 provides that such advice is not binding on the requester or subject to judicial review and good faith reliance on such advice protects the public officer or employee from a future finding of a violation of the Ethics Law. Section 36 provides that any dispute related to such advice is resolved pursuant to a request for an advisory opinion from the Ethics Commission and any decision or opinion of the Ethics Commission or advice provided by the Executive Director or Commission Counsel does not divest the Ethics Commission of its jurisdiction over 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 Ethics Commission to disclose the materials; or (2) voluntarily discloses the materials to persons other than those specified in the statute. (NRS 281A.685) Section 37 of this bill clarifies that any authorization given by the requester is limited to the specific materials that the requester authorizes the Ethics Commission to disclose. Section 37 also revises the specified persons to whom the requester may voluntarily disclose the materials without waiving the confidentiality of the materials. In addition, section 37 provides that a request for advice from the Executive Director or Commission Counsel receives the same confidentiality protections as a request for an advisory opinion from the Ethics Commission. With certain exceptions, the Ethics 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 Ethics Commission relating to requests for advisory opinions, although the requester of the advisory opinion may file a request with the Ethics Commission to hold a public meeting or hearing regarding the matter. (NRS 281A.690) Section 38 of this bill provides that if the Ethics Commission grants such a request for a public meeting or hearing regarding the matter, the Ethics 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 Ethics Commission, but the meeting or hearing is not subject to specific requirements of the Open Meeting Law. In addition to rendering advisory opinions, the Ethics 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 Ethics 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 41 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 Ethics Commission in making its initial determination. In addition, section 41: (1) allows the Ethics Commission to extend the time limit for good cause but requires the Ethics Commission to 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 Ethics Commission determines that it has jurisdiction and an investigation is warranted. Section 41 also allows the Ethics 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 Ethics Commission to issue a letter of caution or instruction in those circumstances. Under the Ethics Law, if the Ethics 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. (NRS 281A.720) Section 42 of this bill authorizes the Executive Director to 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 42 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 Ethics 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 43 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 requires the presiding officer to 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 Ethics Commission to render an opinion regarding the ethics complaint, unless the subject waives the time limit. (NRS 281A.730) Section 44 of this bill 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 Ethics 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 Ethics Commission for further proceedings. (NRS 281A.730, 281A.740) Section 44 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. The Ethics Law establishes various requirements regarding the adjudication of ethics complaints referred to the Ethics Commission for further proceedings. (NRS 281A.745-281A.760) Sections 4 and 45 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 Ethics 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 Ethics Commission and to present his or her own case. Section 45 also requires: (1) the Executive Director to issue a formal notice of charges to the subject of the ethics complaint regarding the allegations to be presented at an adjudicatory hearing; and (2) the Ethics Commission to provide the parties with a written schedule for discovery in order to prepare for the hearing. The Ethics Law requires the Ethics Commission to hold the hearing and render an opinion in the matter within a certain time limit, unless waived by the subject, and requires the opinion to include findings of fact and conclusions of law. (NRS 281A.745, 281A.765) Section 45 requires the Ethics 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 Ethics Commission for good cause with a specific and reasonable time period, but section 45 provides the Ethics Commission with more time to prepare the written opinion in the matter by requiring the Ethics Commission to issue the written opinion within a specified time limit after the decision is rendered. Section 45 also clarifies 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) Section 49 of this bill makes a conforming change related to the contents of a written opinion. With certain exceptions, the Ethics Law requires, or in some cases allows, the Ethics Commission to keep the identity of certain persons who file ethics complaints confidential in order to protect those persons from potential harm. (NRS 281A.750) Section 46 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, or if revealing the identity of the requester would otherwise reveal the identity of witnesses who work for the same public body, agency or employer. Section 46 also clarifies that such confidentiality extends to all materials that, if disclosed, would reveal the identity of the confidential requester. Section 46 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 46 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 47 requires any written discovery request to be submitted in accordance with the schedule for discovery in the matter. Section 47 also provides that any materials which the Executive Director presents as evidence in the matter become public records after the Ethics Commission takes final action concerning the ethics complaint in a public meeting or hearing held under section 48 of this bill, but provides an exception if any of the materials are declared confidential by another law. In proceedings concerning an ethics complaint, the Ethics Law exempts from the Open Meeting Law: (1) any meeting or hearing held by the Ethics Commission to receive information or evidence concerning the ethics complaint; and (2) any deliberations of the Ethics Commission on such information or evidence. However, the Ethics Law does not exempt the Ethics Commission's actions concerning the ethics complaint from the Open Meeting Law. (NRS 281A.760) Section 48 generally exempts the Ethics Commission's actions concerning the ethics complaint from the Open Meeting Law. However, section 48 requires the Ethics Commission to take final action concerning the ethics complaint in a public meeting or hearing for which the Ethics Commission provides public notice and which is open to the public and conducted in accordance with the regulations of the Ethics 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 Ethics 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 Ethics 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 Ethics Commission to seek removal of certain public officers through court proceedings or to submit the matter to the Legislature for consideration of additional remedies and penalties against certain public officers, including removal through impeachment. (NRS 281A.785, 281A.790) With respect to certain dispositions of ethics complaints and in determining whether a violation is willful, existing law requires the Ethics Commission to treat comparable situations in a comparable manner. (NRS 281A.770, 281A.775) Sections 50 and 51 of this bill require the Ethics Commission to carry out that duty to the extent practicable based on the given set of facts and circumstances. Section 54 of this bill clarifies that in determining whether the subject has committed one or more violations, each separate act or event that constitutes a violation, or course of conduct that the Ethics Commission interprets as constituting a separate 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. 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 Ethics 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 25 and 54 of this bill: (1) deem the person's act to be a violation of the Ethics Law; (2) specify that the Ethics 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 (3) require the Ethics 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 Ethics Commission. Section 54 also authorizes the Ethics Commission, under certain circumstances, to assess against the person certain attorney's fees and costs incurred by the Ethics Commission as a result of the violation. As previously stated, the 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. (Chapter 281A of NRS) Sections 55-112 of this bill enact the Nevada Legislative Ethics Law (Legislative Ethics Law) to govern legislative officers and employees and, in certain situations, former legislative officers and employees after the end of their period of legislative service or employment. Sections 59-77 of this bill establish various definitions applicable to the Legislative Ethics Law. In particular, section 73 of this bill defines "legislative officer" as: (1) a member of the Senate, the Secretary of the Senate or any other officer of the Senate; (2) a member of the Assembly, the Chief Clerk of the Assembly or any other officer of the Assembly; and (3) any other officer of the Legislature, the Legislative Counsel Bureau or the Legislative Department of the State Government. Section 71 of this bill defines "legislative employee" as any employee, assistant, attache, intern or other staff employed with reference to the legislative duties of a Legislator or the Legislative Department, regardless of whether the position is paid or otherwise compensated. Sections 11, 12.5, 16.5, 18.5, 18.7, 29-32 and 54 of this bill make conforming changes to remove legislative officers and employees from the jurisdiction of the Ethics Law in Chapter 281A of NRS, so that they are subject to the jurisdiction of the Legislative Ethics Law in sections 55-112. Under the Nevada Constitution, the Houses of the Legislature have adopted Standing Rules that establish various ethical standards for Legislators and other legislative officers and employees. (Nev. Const. Art. 4, § 6; Senate Standing Rule No. 23; Assembly Standing Rule No. 23; Joint Standing Rules Nos. 30-39) Section 79 of this bill provides that the Legislative Ethics Law supplements such Standing Rules and, to the extent that there is a conflict between the Standing Rules and the Legislative Ethics Law, the Standing Rules govern the conflict. Existing law establishes general ethical standards to which public officers and employees are bound. (NRS 281A.400) Section 83 of this bill establishes similar provisions for the purpose of legislative officers and employees. Section 10 of this bill prohibits public officers and employees from using their position or power in government to take any actions or compel a subordinate to take actions that a reasonable person would find, based on the given facts and circumstances, to be a gross or unconscionable abuse of official position or power or that would undermine the integrity or impartiality of a reasonable person under the same or similar circumstances. Section 84 of this bill establishes similar provisions applicable to legislative officers and employees. Existing law restricts public officers and employees from representing or counseling private persons before certain public agencies. (NRS 281A.410) Section 85 of this bill establishes similar provisions for the purpose of legislative officers and employees. Existing law prohibits public officers and employees from taking certain actions relating to contracts between the governmental entity and a business entity in which the public officer or employee has a significant pecuniary interest. (NRS 281A.430) Section 86 of this bill establishes similar provisions applicable to legislative officers and employees. Existing law prohibits a public officer or employee from accepting or receiving an honorarium under certain circumstances. (NRS 281A.510) Section 87 of this bill establishes similar provisions for the purpose of legislative officers and employees. Existing law prohibits a public officer or employee from requesting or otherwise causing a governmental entity to incur certain expenses or make expenditures to support or oppose ballot questions or candidates under certain circumstances. (NRS 281A.520) Section 88 of this bill establishes similar provisions prohibiting legislative officers and employees from engaging in such acts with regard to the Legislative Department. Existing law establishes certain "cooling-off" periods for former public officers and employees under certain circumstances. (NRS 281A.550) Section 89 of this bill establishes similar provisions relating to legislative officers and employees. Existing law authorizes the Attorney General or the appropriate district attorney to void certain grants, contracts or leases entered into in violation of the Ethics Law. (NRS 281A.540) Section 90 of this bill similarly authorizes the Attorney General or a district attorney to take such actions for the purpose of voiding a grant, contract or lease entered into in violation of the Legislative Ethics Law. To carry out and enforce the Legislative Ethics Law, sections 91, 95 and 99 of this bill create the Senate Commission on Ethics (Senate Commission), Assembly Commission on Ethics (Assembly Commission) and Joint Commission on Ethics (Joint Commission) and provide for the appointment and terms of their respective members. Section 117 of this bill directs the appointment and terms of the initial members of each Commission. Under section 94 of this

bill, the Senate Commission has jurisdiction to: (1) hear ethics complaints brought against legislative officers and employees of the Senate; and (2) hear requests brought by such persons for advice on the legislative ethical standards. Under section 98 of this bill, the Assembly Commission has jurisdiction to: (1) hear ethics complaints brought against legislative officers and employees of the Assembly; and (2) hear requests brought by such persons for advice on the legislative ethical standards. Under section 102 of this bill, the Joint Commission has jurisdiction to: (1) hear ethics complaints brought against legislative officers and employees other than the officers or employees of the Senate or Assembly; and (2) hear requests brought by such persons for advice on the legislative ethical standards. Section 104 of this bill authorizes the Senate Commission, Assembly Commission and Joint Commission, as applicable, to conduct investigations and hold hearings to carry out the Legislative Ethics Law. Section 105 of this bill provides that all proceedings of the Senate Commission, Assembly Commission or Joint Commission, as applicable, relating to the character, alleged misconduct, professional competence or physical or mental health of any person on matters regarding the legislative ethical standards and the materials relating thereto are confidential, unless the person subject to the proceedings waives such confidentiality. Section 106 of this bill provides that a member of the Senate Commission, Assembly Commission or Joint Commission, as applicable, is disqualified from serving in the consideration of a matter if: (1) the member is the subject of the ethics complaint; (2) the member requested advice on the issue under consideration; or (3) a reasonable person in the member's situation could not exercise independent judgment on the matter. Section 107 of this bill authorizes an individual to file with the Legislative Counsel an ethics complaint against a legislative officer or employee. Section 107 requires the Legislative Counsel to review the ethics complaint and consult with the Chair of the Senate Commission, Assembly Commission or Joint Commission, as applicable, to determine whether the Commission has jurisdiction over the complaint and whether an investigation is warranted in the matter. Finally, section 107 requires that: (1) if it is determined that the Commission does not have jurisdiction or an investigation is not warranted, the Legislative Counsel must send a written notice of such a determination to the individual who filed the ethics complaint; or (2) if it is determined that the Commission has jurisdiction and an investigation is warranted, the Legislative Counsel must send a written notice of the determination and a copy of the ethics complaint to the person who is subject to the ethics complaint. Section 80 of this bill requires the ethics complaint to be filed within 2 years of the alleged violation or reasonable discovery of the alleged violation. If the Senate Commission, Assembly Commission or Joint Commission, as applicable, holds an adjudicatory hearing on an ethics complaint, section 108 of this bill establishes various procedural and evidentiary requirements for the adjudicatory hearing, including the burden and standard of proof. Section 109 of this bill requires the Senate Commission, Assembly Commission or Joint Commission, as applicable, to dismiss an ethics complaint if the Commission finds that the violation of the legislative ethical standards has not been proven. Alternatively, if the Senate Commission, Assembly Commission or Joint Commission, as applicable, finds that a violation of the legislative ethical standards has occurred, sections 109-111 of this bill authorize the Commission to: (1) issue a letter of caution or instruction to the legislative officer or employee; (2) admonish, reprimand or censure the legislative officer or employee; (3) impose civil penalties on the legislative officer or employee; or (4) take any other reasonable actions that the Commission determines will remedy the violation or deter similar violations, including referring the matter to the appropriate House for review and consideration. Section 112 of this bill also requires the Senate Commission, Assembly Commission or Joint Commission, as applicable, to refer the matter to the Attorney General or the district attorney, as appropriate, if the Commission believes that the violation of the legislative ethical standards constitutes a crime. Section 113 of this bill makes a conforming change to the Public Records Law relating to: (1) the confidentiality of materials provided by the Ethics Commission to other enforcement agencies and officers pursuant to section 12; and (2) the confidentiality of materials relating to proceedings held by the Senate Commission, Assembly Commission or Joint Commission, as applicable, pursuant to section 105. Section 116 of this bill addresses the applicability of the amendatory provisions of sections 2-54 to administrative proceedings and conduct subject to the Ethics Law that occurred before July 1, 2021. Section 118 of this bill provides for the transition of jurisdiction for ethics proceedings brought against legislative officers and employees.

## Most Recent History Action

Vetoed by the Governor.

(See full list below)

## Upcoming Hearings

None scheduled

## Past Hearings

<a href="#">Assembly Legislative Operations and Elections</a>	<a href="#">Feb 02, 2021</a>	<a href="#">4:00 PM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned no jurisdiction
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<a href="#">Assembly Legislative Operations and Elections</a>	<a href="#">Feb 04, 2021</a>	<a href="#">4:00 PM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned no jurisdiction
<a href="#">Assembly Legislative Operations and Elections</a>	<a href="#">Feb 23, 2021</a>	<a href="#">4:00 PM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard
<a href="#">Assembly Ways and Means</a>	<a href="#">May 28, 2021</a>	<a href="#">8:00 AM</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard; Amend, and do pass as amended
<a href="#">Senate Legislative Operations and Elections</a>	<a href="#">May 30, 2021</a>	See Agenda	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Do pass

## Final Passage Votes

<b>Assembly Final Passage</b>	( 1st Reprint )	May 29, 2021	Yeas: 31, Nays: 9, Excused: 2
<b>Senate Final Passage</b>	( 1st Reprint )	May 31, 2021	Yeas: 17, Nays: 4

## Conference Committees

None scheduled
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## Bill Text

<a href="#">As Introduced</a>	<a href="#">Reprint 1</a>	<a href="#">As Enrolled</a>
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## Adopted Amendments

<a href="#">Amendment 777</a>
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## Bill History

Date	
Nov 18, 2020	Prefiled. Referred to Committee on Legislative Operations and Elections. To printer.
Dec 22, 2020	From printer.
Feb 01, 2021	Read first time.
Feb 04, 2021	To committee.
Apr 09, 2021	Waiver granted effective: April 8, 2021.
May 26, 2021	Withdrawn from committee. Rereferred to Committee on Ways and Means. To committee.

Date	
May 29, 2021	From committee: Amend, and do pass as amended. Declared an emergency measure under the Constitution. Read third time. Amended. (Amend. No. 777.) Dispensed with reprinting. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 31, Nays: 9, Excused: 2.) To printer. From printer. To engrossment. Engrossed. First reprint. To Senate. In Senate. Read first time. Referred to Committee on Legislative Operations and Elections. To committee.
May 30, 2021	From committee: Do pass. Placed on Second Reading File. Read second time.
May 31, 2021	Read third time. Passed. Title approved. (Yeas: 17, Nays: 4.) To Assembly. In Assembly. To enrollment.
Jun 02, 2021	Enrolled and delivered to Governor.

[Return to 2023 Session.](#)



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Chair

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Vice-Chair

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### **Summary of AB 65 - 2021 Legislative Session**

#### **1. Requests for Advisory Opinion**

- Confidential, informal advice by Executive Director and Commission Counsel
  - o Consistent with published Commission precedent
  - o Subject to review by Commission
- Filing/Processing amendments and jurisdictional clarifications
- Commission authority to extend deadlines for good cause

#### **2. Ethics Complaints**

- Due Process/transparency enhancements
  - o Revised notices of investigations/hearings
  - o Discovery/Settlement processes
  - o Confidentiality protections (Subject and Requester)
- Enhanced Safe Harbor protections for violations if reliance on legal counsel
- Access to personnel records of public employees for related ethics allegations
- Commission authority to extend deadlines for good cause

#### **3. Ethical Standards of Conduct – Enhancements/Clarifications**

- Cooling-Off (Revolving Door) Enhancements/Limitations
  - o Limited to management-level employees
  - o Expanded prohibitions for private employment by agency vendors
- Abuse of Power/Authority (not bias, error or abuse of discretion)
- Misuse of Government Resources (clarify limited use exceptions)
- Disclosure/Abstention – Protect confidential information/relationships

#### **4. Open Meeting Law Exemptions/Application**

- Exemption for hearings/decisions
- Litigation Delegation in Closed Session for confidential proceedings

#### **5. Administrative Amendments**

- Assignment of Chair's duties
- Executive Director as licensed attorney
- Executive Director's status as party in adjudicatory proceedings
- Confidential referrals to appropriate governmental agencies for matters outside jurisdiction
- Procedural requirements from governmental entities for Acknowledgment of Statutory Ethical Standards Forms

NCOE  
Legislative  
Committee Agenda  
Item 7  
8/20/25





## PROPOSED

### Legislative Committee Workplan

#### August 2025

- Initial meeting
- Review legislative history & strategic plan
- Identification of stakeholders
- Approval of workplan

#### September 2025

- Committee meeting
- Legal presentation by Commission Counsel on arguments, court rulings, etc.
- Presentation on trends across the country re: Ethics Law
- Presentations as requested by committee

#### November 2025

- Committee update to full Commission
- Committee meeting
- Presentations as requested by committee
- Select target areas and strategies

#### December 2025

- Committee meeting
- Review of potential language

#### February 2026

- Committee vote on final language

#### March 2025

- Committee presentation to full Commission for vote

#### April/May

- Governor office review of proposed BDRs

## **Potential Pathways for Legislation**

- 1) No Bill Draft Request proposal
- 2) Bill Draft Request
  - a. Fix one important thing
  - b. Fix multiple things in one topic
  - c. Procedure only
  - d. Substance only
  - e. Omnibus package that changes a variety to topics