
ASSEMBLY BILL NO. 546—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

MARCH 29, 2005

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Repeals certain provisions relating to Commission on Ethics and increases civil penalty for failing to file certain campaign contribution or expenditure reports. (BDR 23-899)

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; repealing the provision prohibiting a person from making a false statement of fact concerning a candidate or a question on a ballot under certain circumstances; repealing the provision prohibiting certain persons from willfully impeding the success of the campaign of a candidate or the campaign for the passage or defeat of a question on a ballot; increasing the civil penalty for failing to file reports related to campaign contributions and expenditures; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 281.461 is hereby amended to read as follows:
2 281.461 1. The Commission shall:
3 (a) At its first meeting and annually thereafter elect a Chairman
4 and Vice Chairman from among its members.
5 (b) Meet regularly at least once in each calendar quarter, unless
6 there are no requests made for an opinion pursuant to NRS 281.511,
7 ~~[294A.345 or 294A.346,]~~ and at other times upon the call of the
8 Chairman.



1 2. Members of the Commission are entitled to receive a salary
2 of not more than \$80 per day, as fixed by the Commission, while
3 engaged in the business of the Commission.

4 3. While engaged in the business of the Commission, each
5 member and employee of the Commission is entitled to receive the
6 per diem allowance and travel expenses provided for state officers
7 and employees generally.

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

11 **Sec. 2.** NRS 281.4635 is hereby amended to read as follows:

12 281.4635 1. In addition to any other duties imposed upon
13 him, the Executive Director shall:

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

16 (b) Receive requests for opinions pursuant to NRS 281.511 . ~~‡~~
17 ~~294A.345 or 294A.346.]~~

18 (c) Gather information and conduct investigations regarding
19 requests for opinions received by the Commission and submit
20 recommendations to the panel appointed pursuant to NRS 281.462
21 regarding whether there is just and sufficient cause to render an
22 opinion in response to a particular request.

23 (d) Recommend to the Commission any regulations or
24 legislation that he considers desirable or necessary to improve the
25 operation of the Commission and maintain high standards of ethical
26 conduct in government.

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

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

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

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

43 (b) The review of statements of financial disclosure; and



1 (c) The investigation of matters under the jurisdiction of the
2 Commission.

3 **Sec. 3.** NRS 281.465 is hereby amended to read as follows:

4 281.465 1. The Commission has jurisdiction to investigate
5 and take appropriate action regarding an alleged violation of ~~§~~
6 ~~—(a) This~~ *this* chapter by a public officer or employee or former
7 public officer or employee in any proceeding commenced by:

8 ~~[(1)]~~ (a) The filing of a request for an opinion with the
9 Commission; or

10 ~~[(2)]~~ (b) The Commission on its own motion.

11 ~~[(b) NRS 294A.345 or 294A.346 in any proceeding commenced~~
12 ~~by the filing of a request for an opinion pursuant thereto.]~~

13 2. The provisions of ~~[paragraph (a) of]~~ subsection 1 apply to a
14 public officer or employee who:

15 (a) Currently holds public office or is publicly employed at the
16 commencement of proceedings against him.

17 (b) Resigns or otherwise leaves his public office or employment:

18 (1) After the commencement of proceedings against him; or

19 (2) Within 1 year after the alleged violation or reasonable
20 discovery of the alleged violation.

21 **Sec. 4.** NRS 281.475 is hereby amended to read as follows:

22 281.475 1. The Chairman and Vice Chairman of the
23 Commission may administer oaths.

24 2. The Commission, upon majority vote, may issue a subpoena
25 to compel the attendance of a witness and the production of books
26 and papers. Upon the request of the Executive Director or the public
27 officer or public employee who is the subject of a request for an
28 opinion, the Chairman or, in his absence, the Vice Chairman, may
29 issue a subpoena to compel the attendance of a witness and the
30 production of books and papers.

31 3. Before issuing a subpoena to a public officer or public
32 employee who is the subject of a request for an opinion, the
33 Executive Director shall submit a written request to the public
34 officer or public employee requesting:

35 (a) His appearance as a witness; or

36 (b) His production of any books and papers relating to the
37 request for an opinion.

38 4. Each written request submitted by the Executive Director
39 pursuant to subsection 3 must specify the time and place for
40 the attendance of the public officer or public employee or the
41 production of any books and papers, and designate with certainty the
42 books and papers requested, if any. If the public officer or public
43 employee fails or refuses to attend at the time and place specified or
44 produce the books and papers requested by the Executive Director



1 within 5 business days after receipt of the request, the Chairman
2 may issue the subpoena. Failure of the public officer or public
3 employee to comply with the written request of the Executive
4 Director shall be deemed a waiver by the public officer or public
5 employee of the time set forth in subsections 3 and 4 of
6 NRS 281.511.

7 5. If any witness refuses to attend, testify or produce any books
8 and papers as required by the subpoena, the Chairman of the
9 Commission may report to the district court by petition, setting forth
10 that:

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

13 (b) The witness has been subpoenaed by the Commission
14 pursuant to this section; and

15 (c) The witness has failed or refused to attend or produce the
16 books and papers required by the subpoena before the Commission,
17 or has refused to answer questions propounded to him, and asking
18 for an order of the court compelling the witness to attend and testify
19 or produce the books and papers before the Commission.

20 6. ~~Except as otherwise provided in this subsection, upon~~
21 *Upon* such a petition, the court shall enter an order directing the
22 witness to appear before the court at a time and place to be fixed by
23 the court in its order, the time to be not more than 10 days after the
24 date of the order, and then and there show cause why he has not
25 attended, testified or produced the books or papers before the
26 Commission. ~~If the witness has been subpoenaed by the~~
27 ~~Commission in response to a request for an opinion filed pursuant to~~
28 ~~NRS 294A.345 or 294A.346, the court shall direct the witness to~~
29 ~~appear before the court as expeditiously as possible to allow the~~
30 ~~Commission to render its opinion within the time required by NRS~~
31 ~~281.477.]~~ A certified copy of the order must be served upon the
32 witness.

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

39 **Sec. 5.** NRS 281.521 is hereby amended to read as follows:

40 281.521 1. The Commission's opinions may include
41 guidance to a public officer or employee on questions whether:

42 (a) A conflict exists between his personal interest and his
43 official duty.



1 (b) His official duties involve the use of discretionary judgment
2 whose exercise in the particular matter would have a significant
3 effect upon the disposition of the matter.

4 (c) The conflict would materially affect the independence of the
5 judgment of a reasonable person in his situation.

6 (d) He possesses special knowledge which is an indispensable
7 asset of his public agency and is needed by it to reach a sound
8 decision.

9 (e) It would be appropriate for him to withdraw or abstain from
10 participation, disclose the nature of his conflicting personal interest
11 or pursue some other designated course of action in the matter.

12 2. ~~Except as otherwise provided in NRS 281.477, 294A.345~~
13 ~~and 294A.346, the~~ *The* Commission's opinions may not include
14 guidance to a public officer or employee on questions regarding the
15 provisions of chapter 294A of NRS.

16 **Sec. 6.** NRS 281.551 is hereby amended to read as follows:

17 281.551 1. In addition to any other penalty provided by law,
18 the Commission may impose on a public officer or employee or
19 former public officer or employee civil penalties:

20 (a) Not to exceed \$5,000 for a first willful violation of this
21 chapter;

22 (b) Not to exceed \$10,000 for a separate act or event that
23 constitutes a second willful violation of this chapter; and

24 (c) Not to exceed \$25,000 for a separate act or event that
25 constitutes a third willful violation of this chapter.

26 2. In addition to other penalties provided by law, the
27 Commission may impose a civil penalty not to exceed \$5,000 and
28 assess an amount equal to the amount of attorney's fees and costs
29 actually and reasonably incurred by the person about whom an
30 opinion was requested pursuant to NRS 281.511 ~~§~~ against a person
31 who prevents, interferes with or attempts to prevent or interfere with
32 the discovery or investigation of a violation of this chapter.

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

40 4. ~~In addition to any other penalty provided by law, by an~~
41 ~~affirmative vote of two thirds of the Commission, the Commission~~
42 ~~may impose on any person who violates any provision of NRS~~
43 ~~294A.345 or 294A.346 a civil penalty not to exceed \$5,000. The~~
44 ~~Commission shall not impose a civil penalty for a violation of NRS~~



~~294A.345 unless the Commission has made the specific findings required pursuant to subsection 7 of NRS 281.477.~~

~~5.]~~ If the Commission finds that:

(a) A willful violation of this chapter has been committed by a public officer removable from office by impeachment only, ~~the~~ **the Commission** shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.

(b) A willful violation of this chapter has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.

(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.

~~6.]~~ **5.** An action taken by a public officer or employee or former public officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505 is not a ~~willful~~ violation of a provision of those sections if the public officer or employee:

(a) Relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee or upon the manual published by the Commission pursuant to NRS 281.471;

(b) Was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and

(c) Took action that was not contrary to a prior published opinion issued by the Commission.

~~7.]~~ **6.** In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS 281.481, 281.491, 281.501 or 281.505 is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.

~~8.]~~ **7.** NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.



1 ~~[9.]~~ 8. The imposition of a civil penalty pursuant to
2 ~~[subsections 1 to 4, inclusive,]~~ *subsection 1, 2 or 3* is a final
3 decision for the purposes of judicial review.

4 ~~[10.]~~ 9. A finding by the Commission that a public officer or
5 employee has violated any provision of this chapter must be
6 supported by a preponderance of the evidence unless a greater
7 burden is otherwise prescribed by law.

8 **Sec. 7.** NRS 294A.007 is hereby amended to read as follows:

9 294A.007 1. "Contribution" means a gift, loan, conveyance,
10 deposit, payment, transfer or distribution of money or of anything of
11 value other than the services of a volunteer, and includes:

12 (a) The payment by any person, other than a candidate, of
13 compensation for the personal services of another person which are
14 rendered to a:

15 (1) Candidate;

16 (2) Person who is not under the direction or control of a
17 candidate or group of candidates or of any person involved in the
18 campaign of the candidate or group who *directly or indirectly*
19 makes an expenditure on behalf of the candidate or group which is
20 not solicited or approved by the candidate or group;

21 (3) Committee for political action, political party or
22 committee sponsored by a political party which *directly or*
23 *indirectly* makes an expenditure on behalf of a candidate or group of
24 candidates; or

25 (4) Person or group of persons organized formally or
26 informally who advocates the passage or defeat of a question or
27 group of questions on the ballot,

28 ↪ without charge to the candidate, person, committee or political
29 party.

30 (b) The value of services provided in kind for which money
31 would have otherwise been paid, such as paid polling and resulting
32 data, paid direct mail, paid solicitation by telephone, any paid
33 paraphernalia that was printed or otherwise produced to promote a
34 campaign and the use of paid personnel to assist in a campaign.

35 2. As used in this section, "volunteer" means a person who
36 does not receive compensation of any kind, directly or indirectly, for
37 the services he provides to a campaign.

38 **Sec. 8.** NRS 294A.140 is hereby amended to read as follows:

39 294A.140 1. Every person who is not under the direction or
40 control of a candidate for office at a primary election, primary city
41 election, general election or general city election, of a group of such
42 candidates or of any person involved in the campaign of that
43 candidate or group who *directly or indirectly* makes an expenditure
44 on behalf of the candidate or group which is not solicited or



1 approved by the candidate or group, and every committee for
2 political action, political party and committee sponsored by a
3 political party which *directly or indirectly* makes an expenditure on
4 behalf of such a candidate or group of candidates shall, not later
5 than January 15 of each year that the provisions of this subsection
6 apply to the person, committee or political party, for the period from
7 January 1 of the previous year through December 31 of the previous
8 year, report each campaign contribution in excess of \$100 he or it
9 received during the period and contributions received during the
10 period from a contributor which cumulatively exceed \$100. The
11 provisions of this subsection apply to the person, committee or
12 political party beginning the year of the general election or general
13 city election for that office through the year immediately preceding
14 the next general election or general city election for that office.

15 2. Every person, committee or political party described in
16 subsection 1 which *directly or indirectly* makes an expenditure on
17 behalf of the candidate for office at a primary election, primary city
18 election, general election or general city election or on behalf of a
19 group of such candidates shall, if the general election or general city
20 election for the office for which the candidate or a candidate in the
21 group of candidates seeks election is held on or after January 1 and
22 before the July 1 immediately following that January 1, not later
23 than:

24 (a) Seven days before the primary election or primary city
25 election for that office, for the period from the January 1
26 immediately preceding the primary election or primary city election
27 through 12 days before the primary election or primary city election;

28 (b) Seven days before the general election or general city
29 election for that office, for the period from 11 days before the
30 primary election or primary city election through 12 days before the
31 general election or general city election; and

32 (c) July 15 of the year of the general election or general city
33 election for that office, for the period from 11 days before the
34 general election or general city election through June 30 of that
35 year,

36 ↪ report each campaign contribution in excess of \$100 received
37 during the period and contributions received during the period from
38 a contributor which cumulatively exceed \$100. The report must be
39 completed on the form designed and provided by the Secretary of
40 State pursuant to NRS 294A.373. The form must be signed by the
41 person or a representative of the committee or political party under
42 penalty of perjury.

43 3. The name and address of the contributor and the date on
44 which the contribution was received must be included on the report



1 for each contribution in excess of \$100 and contributions which a
2 contributor has made cumulatively in excess of \$100 since the
3 beginning of the current reporting period.

4 4. Every person, committee or political party described in
5 subsection 1 which *directly or indirectly* makes an expenditure on
6 behalf of a candidate for office at a primary election, primary city
7 election, general election or general city election or on behalf of a
8 group of such candidates shall, if the general election or general city
9 election for the office for which the candidate or a candidate in the
10 group of candidates seeks election is held on or after July 1 and
11 before the January 1 immediately following that July 1, not later
12 than:

13 (a) Seven days before the primary election or primary city
14 election for that office, for the period from the January 1
15 immediately preceding the primary election or primary city election
16 through 12 days before the primary election or primary city election;
17 and

18 (b) Seven days before the general election or general city
19 election for that office, for the period from 11 days before the
20 primary election or primary city election through 12 days before the
21 general election or general city election,

22 ➤ report each campaign contribution in excess of \$100 received
23 during the period and contributions received during the period from
24 a contributor which cumulatively exceed \$100. The report must be
25 completed on the form designed and provided by the Secretary of
26 State pursuant to NRS 294A.373. The form must be signed by the
27 person or a representative of the committee or political party under
28 penalty of perjury.

29 5. Except as otherwise provided in subsection 6, every person,
30 committee or political party described in subsection 1 which *directly*
31 *or indirectly* makes an expenditure on behalf of a candidate for
32 office at a special election or on behalf of a group of such candidates
33 shall, not later than:

34 (a) Seven days before the special election for the office for
35 which the candidate or a candidate in the group of candidates seeks
36 election, for the period from the nomination of the candidate
37 through 12 days before the special election; and

38 (b) Thirty days after the special election, for the remaining
39 period through the special election,

40 ➤ report each campaign contribution in excess of \$100 received
41 during the period and contributions received during the period from
42 a contributor which cumulatively exceed \$100. The report must be
43 completed on the form designed and provided by the Secretary of
44 State pursuant to NRS 294A.373. The form must be signed by the



1 person or a representative of the committee or political party under
2 penalty of perjury.

3 6. Every person, committee or political party described in
4 subsection 1 which *directly or indirectly* makes an expenditure on
5 behalf of a candidate for office at a special election to determine
6 whether a public officer will be recalled or on behalf of a group of
7 candidates for offices at such special elections shall report each
8 contribution in excess of \$100 received during the period and
9 contributions received during the period from a contributor which
10 cumulatively exceed \$100. The report must be completed on the
11 form designed and provided by the Secretary of State pursuant to
12 NRS 294A.373 and signed by the person or a representative of the
13 committee or political party under penalty of perjury, 30 days after:

14 (a) The special election, for the period from the filing of the
15 notice of intent to circulate the petition for recall through the special
16 election; or

17 (b) If the special election is not held because a district court
18 determines that the petition for recall is legally insufficient pursuant
19 to subsection 5 of NRS 306.040, for the period from the filing of the
20 notice of intent to circulate the petition for recall through the date of
21 the district court's decision.

22 7. The reports of contributions required pursuant to this section
23 must be filed with:

24 (a) If the candidate is elected from one county, the county clerk
25 of that county;

26 (b) If the candidate is elected from one city, the city clerk of that
27 city; or

28 (c) If the candidate is elected from more than one county or city,
29 the Secretary of State.

30 8. A person or entity may file the report with the appropriate
31 officer by regular mail, certified mail, facsimile machine or
32 electronic means. A report shall be deemed to be filed with the
33 officer:

34 (a) On the date that it was mailed if it was sent by certified mail;
35 or

36 (b) On the date that it was received by the officer if the report
37 was sent by regular mail, transmitted by facsimile machine or
38 electronic means, or delivered personally.

39 9. Each county clerk or city clerk who receives a report
40 pursuant to this section shall file a copy of the report with the
41 Secretary of State within 10 working days after he receives the
42 report.



1 10. Every person, committee or political party described in
2 subsection 1 shall file a report required by this section even if he or
3 it receives no contributions.

4 **Sec. 9.** NRS 294A.210 is hereby amended to read as follows:

5 294A.210 1. Every person who is not under the direction or
6 control of a candidate for an office at a primary election, primary
7 city election, general election or general city election, of a group of
8 such candidates or of any person involved in the campaign of that
9 candidate or group who *directly or indirectly* makes an expenditure
10 on behalf of the candidate or group which is not solicited or
11 approved by the candidate or group, and every committee for
12 political action, political party or committee sponsored by a political
13 party which *directly or indirectly* makes an expenditure on behalf of
14 such a candidate or group of candidates shall, not later than
15 January 15 of each year that the provisions of this subsection apply
16 to the person, committee or political party, for the period from
17 January 1 of the previous year through December 31 of the previous
18 year, report each expenditure made during the period on behalf of
19 the candidate, the group of candidates or a candidate in the group of
20 candidates in excess of \$100 on the form designed and provided by
21 the Secretary of State pursuant to NRS 294A.373. The form must be
22 signed by the person or a representative of the committee or political
23 party under penalty of perjury. The provisions of this subsection
24 apply to the person, committee or political party beginning the year
25 of the general election or general city election for that office through
26 the year immediately preceding the next general election or general
27 city election for that office.

28 2. Every person, committee or political party described in
29 subsection 1 which *directly or indirectly* makes an expenditure on
30 behalf of a candidate for office at a primary election, primary city
31 election, general election or general city election or a group of such
32 candidates shall, if the general election or general city election for
33 the office for which the candidate or a candidate in the group of
34 candidates seeks election is held on or after January 1 and before the
35 July 1 immediately following that January 1, not later than:

36 (a) Seven days before the primary election or primary city
37 election for that office, for the period from the January 1
38 immediately preceding the primary election or primary city election
39 through 12 days before the primary election or primary city election;

40 (b) Seven days before the general election or general city
41 election for that office, for the period from 11 days before the
42 primary election or primary city election through 12 days before the
43 general election or general city election; and



1 (c) July 15 of the year of the general election or general city
2 election for that office, for the period from 11 days before the
3 general election or general city election through the June 30 of that
4 year,

5 ↪ report each expenditure made during the period on behalf of the
6 candidate, the group of candidates or a candidate in the group of
7 candidates in excess of \$100 on the form designed and provided by
8 the Secretary of State pursuant to NRS 294A.373. The form must be
9 signed by the person or a representative of the committee or political
10 party under penalty of perjury.

11 3. Every person, committee or political party described in
12 subsection 1 which *directly or indirectly* makes an expenditure on
13 behalf of a candidate for office at a primary election, primary city
14 election, general election or general city election or on behalf of a
15 group of such candidates shall, if the general election or general city
16 election for the office for which the candidate or a candidate in the
17 group of candidates seeks election is held on or after July 1 and
18 before the January 1 immediately following that July 1, not later
19 than:

20 (a) Seven days before the primary election or primary city
21 election for that office, for the period from the January 1
22 immediately preceding the primary election or primary city election
23 through 12 days before the primary election or primary city election;
24 and

25 (b) Seven days before the general election or general city
26 election for that office, for the period from 11 days before the
27 primary election or primary city election through 12 days before the
28 general election or general city election,

29 ↪ report each expenditure made during the period on behalf of the
30 candidate, the group of candidates or a candidate in the group of
31 candidates in excess of \$100 on the form designed and provided by
32 the Secretary of State pursuant to NRS 294A.373. The form must be
33 signed by the person or a representative of the committee or political
34 party under penalty of perjury.

35 4. Except as otherwise provided in subsection 5, every person,
36 committee or political party described in subsection 1 which *directly*
37 *or indirectly* makes an expenditure on behalf of a candidate for
38 office at a special election or on behalf of a group of such candidates
39 shall, not later than:

40 (a) Seven days before the special election for the office for
41 which the candidate or a candidate in the group of candidates seeks
42 election, for the period from the nomination of the candidate
43 through 12 days before the special election; and



1 (b) Thirty days after the special election, for the remaining
2 period through the special election,
3 ↪ report each expenditure made during the period on behalf of the
4 candidate, the group of candidates or a candidate in the group of
5 candidates in excess of \$100 on the form designed and provided by
6 the Secretary of State pursuant to NRS 294A.373. The form must be
7 signed by the person or a representative of the committee or political
8 party under penalty of perjury.

9 5. Every person, committee or political party described in
10 subsection 1 which *directly or indirectly* makes an expenditure on
11 behalf of a candidate for office at a special election to determine
12 whether a public officer will be recalled or on behalf of a group of
13 such candidates shall list each expenditure made on behalf of the
14 candidate, the group of candidates or a candidate in the group of
15 candidates in excess of \$100 on the form designed and provided by
16 the Secretary of State pursuant to NRS 294A.373 and signed by the
17 person or a representative of the committee or political party under
18 penalty of perjury, 30 days after:

19 (a) The special election, for the period from the filing of the
20 notice of intent to circulate the petition for recall through the special
21 election; or

22 (b) If the special election is not held because a district court
23 determines that the petition for recall is legally insufficient pursuant
24 to subsection 5 of NRS 306.040, for the period from the filing of the
25 notice of intent to circulate the petition for recall through the date of
26 the district court's decision.

27 6. Expenditures made within the State or made elsewhere but
28 for use within the State, including expenditures made outside the
29 State for printing, television and radio broadcasting or other
30 production of the media, must be included in the report.

31 7. The reports must be filed with:

32 (a) If the candidate is elected from one county, the county clerk
33 of that county;

34 (b) If the candidate is elected from one city, the city clerk of that
35 city; or

36 (c) If the candidate is elected from more than one county or city,
37 the Secretary of State.

38 8. If an expenditure is made on behalf of a group of candidates,
39 the reports must be itemized by the candidate. A person may mail or
40 transmit his report to the appropriate officer by regular mail,
41 certified mail, facsimile machine or electronic means. A report shall
42 be deemed to be filed with the officer:

43 (a) On the date that it was mailed if it was sent by certified mail;
44 or



1 (b) On the date that it was received by the officer if the report
2 was sent by regular mail, transmitted by facsimile machine or
3 electronic means, or delivered personally.

4 9. Each county clerk or city clerk who receives a report
5 pursuant to this section shall file a copy of the report with the
6 Secretary of State within 10 working days after he receives the
7 report.

8 10. Every person, committee or political party described in
9 subsection 1 shall file a report required by this section even if he or
10 it receives no contributions.

11 **Sec. 10.** NRS 294A.400 is hereby amended to read as follows:

12 294A.400 The Secretary of State shall, within 30 days after
13 receipt of the reports required by NRS 294A.120, 294A.140,
14 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and
15 294A.280, prepare and make available for public inspection a
16 compilation of:

17 1. The total campaign contributions, the contributions which
18 are in excess of \$100 and the total campaign expenses of each of the
19 candidates for legislative and judicial offices from whom reports of
20 those contributions and expenses are required.

21 2. The contributions made to a committee for the recall of a
22 public officer in excess of \$100.

23 3. The expenditures exceeding \$100 made by a:

24 (a) Person on behalf of a candidate other than himself.

25 (b) Person or group of persons on behalf of or against a question
26 or group of questions on the ballot.

27 (c) Group of persons advocating the election or defeat of a
28 candidate.

29 (d) Committee for the recall of a public officer.

30 4. The contributions in excess of \$100 made to:

31 (a) A person who is not under the direction or control of a
32 candidate or group of candidates or of any person involved in the
33 campaign of the candidate or group who *directly or indirectly*
34 makes an expenditure on behalf of the candidate or group which is
35 not solicited or approved by the candidate or group.

36 (b) A person or group of persons organized formally or
37 informally who advocates the passage or defeat of a question or
38 group of questions on the ballot.

39 (c) A committee for political action, political party or committee
40 sponsored by a political party which *directly or indirectly*
41 expenditure on behalf of a candidate or group of candidates.



1 **Sec. 11.** NRS 294A.410 is hereby amended to read as follows:
2 294A.410 1. ~~Except as otherwise provided in NRS~~
3 ~~294A.345 and 294A.346, if~~ **If** it appears that the provisions of this
4 chapter have been violated, the Secretary of State may:

5 (a) Conduct an investigation concerning the alleged violation
6 and cause the appropriate proceedings to be instituted and
7 prosecuted in the First Judicial District Court; or

8 (b) Refer the alleged violation to the Attorney General. The
9 Attorney General shall investigate the alleged violation and institute
10 and prosecute the appropriate proceedings in the First Judicial
11 District Court without delay.

12 2. A person who believes that any provision of this chapter has
13 been violated may notify the Secretary of State, in writing, of the
14 alleged violation. The notice must be signed by the person alleging
15 the violation and include any information in support of the alleged
16 violation.

17 **Sec. 12.** NRS 294A.420 is hereby amended to read as follows:

18 294A.420 1. If the Secretary of State receives information
19 that a person or entity that is subject to the provisions of NRS
20 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220,
21 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report
22 or form for registration pursuant to the applicable provisions of
23 those sections, the Secretary of State may, after giving notice to that
24 person or entity, cause the appropriate proceedings to be instituted
25 in the First Judicial District Court.

26 2. Except as otherwise provided in this section, a person or
27 entity that violates an applicable provision of NRS 294A.112,
28 294A.120, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200,
29 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300,
30 294A.310, 294A.320 or 294A.360 is subject to a civil penalty of not
31 more than ~~[\$5,000]~~ **\$10,000** for each violation and payment of court
32 costs and attorney's fees. The civil penalty must be recovered in a
33 civil action brought in the name of the State of Nevada by the
34 Secretary of State in the First Judicial District Court and deposited
35 by the Secretary of State for credit to the State General Fund in the
36 bank designated by the State Treasurer.

37 3. If a civil penalty is imposed because a person or entity has
38 reported its contributions, expenses or expenditures after the date
39 the report is due, except as otherwise provided in this subsection, the
40 amount of the civil penalty is:

41 (a) If the report is not more than 7 days late, \$25 for each day
42 the report is late.

43 (b) If the report is more than 7 days late but not more than 15
44 days late, \$50 for each day the report is late.



1 (c) If the report is more than 15 days late, \$100 for each day the
2 report is late.

3 ↪ A civil penalty imposed pursuant to this subsection against a
4 public officer who by law is not entitled to receive compensation for
5 his office or a candidate for such an office must not exceed a total of
6 \$100 if the public officer or candidate received no contributions and
7 made no expenditures during the relevant reporting periods.

8 4. For good cause shown, the Secretary of State may waive a
9 civil penalty that would otherwise be imposed pursuant to this
10 section. If the Secretary of State waives a civil penalty pursuant to
11 this subsection, the Secretary of State shall:

12 (a) Create a record which sets forth that the civil penalty has
13 been waived and describes the circumstances that constitute the
14 good cause shown; and

15 (b) Ensure that the record created pursuant to paragraph (a) is
16 available for review by the general public.

17 **Sec. 13.** NRS 281.477, 294A.345 and 294A.346 are hereby
18 repealed.

19 **Sec. 14.** The amendatory provisions of this act do not apply to
20 conduct that occurred before October 1, 2005, or to the jurisdiction,
21 duties, powers or proceedings of the Commission on Ethics relating
22 to such conduct.

TEXT OF REPEALED SECTIONS

281.477 Public hearing on request for opinion as to whether person committed act to impede success of political campaign: Request; notice; response; continuance; actions of Commission; judicial review of final opinion.

1. If a request for an opinion is filed with the Commission pursuant to NRS 294A.345 or 294A.346, the Commission shall conduct a public hearing on the request. Except as otherwise provided in subsection 6, the hearing must be held as expeditiously as possible, but not later than 15 days after the receipt of the request for the opinion.

2. Such a request must be accompanied by all evidence and arguments to be offered by the requester concerning the issues related to the request. Except as otherwise provided in this subsection, if such evidence and arguments are not submitted with the request, the Commission may:

(a) Draw any conclusions it deems appropriate from the failure of the person or group of persons requesting the opinion to submit



the evidence and arguments, other than a conclusion that a person alleged to have violated NRS 294A.345 acted with actual malice; and

(b) Decline to render an opinion.

↪ The provisions of this subsection do not prohibit the Commission from considering evidence or arguments presented by the requester after submission of the request for an opinion if the Commission determines that consideration of such evidence or arguments is in the interest of justice.

3. The Commission shall immediately notify any person alleged to have violated NRS 294A.345 or 294A.346 that such an opinion has been requested by the most expedient means possible. If notice is given orally by telephone or in any other manner, a second notice must be given in writing not later than the next calendar day by facsimile machine or overnight mail. The notice must include the time and place of the Commission's hearing on the matter.

4. A person notified pursuant to subsection 3 shall submit a response to the Commission not later than the close of business on the second business day following the receipt of the notice. The response must be accompanied by any evidence concerning the issues related to the request that the person has in his possession or may obtain without undue financial hardship. Except as otherwise provided in this subsection, if such evidence is not submitted within that time, the Commission may:

(a) Draw any conclusions it deems appropriate from the failure of that person to submit the evidence and argument; and

(b) Prohibit that person from responding and presenting evidence at the hearing.

↪ The provisions of this subsection do not prohibit the Commission from allowing that person to respond and present evidence or arguments, or both, after the close of business on the second business day if the Commission determines that consideration of such evidence or arguments is in the interest of justice.

5. Except as otherwise provided in subsection 4, the Commission shall allow any person alleged to have violated NRS 294A.345 or 294A.346 to:

(a) Be represented by counsel; and

(b) Hear the evidence presented to the Commission and respond and present evidence on his own behalf.

6. At the request of:

(a) The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346; or

(b) The person alleged to have violated the provisions of NRS 294A.345 or 294A.346,



↳ the Commission may grant a continuance of a hearing held pursuant to the provisions of this section upon a showing of the existence of extraordinary circumstances that would prohibit the Commission from rendering a fair and impartial opinion. A continuance may be granted for not more than 15 days. Not more than one continuance may be granted by the Commission pursuant to this subsection.

7. The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346 has the burden of proving the elements of the offense, including that a person alleged to have violated NRS 294A.345 acted with actual malice. The existence of actual malice may not be presumed. A final opinion of the Commission rendered pursuant to this section must be supported by clear and convincing evidence. In addition to the other requirements for issuing an opinion pursuant to this subsection, the Commission shall not render a final opinion determining that a person has violated NRS 294A.345 unless the Commission makes specific findings that:

(a) The person caused to be published a false statement of fact concerning a candidate;

(b) The person acted with actual malice in causing the false statement to be published.

(c) The person acted with the intent to impede the success of the campaign of the candidate in causing the false statement to be published; and

(d) The publication of the false statement did in fact impede the success of the campaign of the candidate.

↳ In addition to the other requirements for issuing an opinion pursuant to this subsection, the Commission shall not render a final opinion determining that a person has violated NRS 294A.345 or 294A.346 unless a finding that each of the elements of the offense has been proven receives the affirmative vote of two-thirds of the Commission.

8. The Commission shall render its opinion, or decline to render an opinion, as expeditiously as possible, but not later than 3 days after the date of the hearing. If additional time is required to determine the state of mind or the intent of the person alleged to have violated the provisions of NRS 294A.345 or 294A.346 or to determine the amount of any civil penalty that may be imposed pursuant to NRS 281.551, the Commission may continue its jurisdiction to investigate those issues but shall render its opinion as to the truth or falsity of the statement made concerning the candidate or the ballot question or its opinion as to whether the person impeded the success of the campaign or induced another person to



impede the success of the campaign. If the Commission continues its jurisdiction pursuant to this subsection, it may render a final opinion after the time set forth in this subsection.

9. A final opinion of the Commission rendered pursuant to this section is subject to judicial review pursuant to NRS 233B.130. The district court shall give a petition for judicial review of a final opinion of the Commission priority over other civil matters that are not expressly given priority by law. Notwithstanding the provisions of NRS 233B.130, the court may provide for such expedited review of the final opinion, including shortened periods for filing documents, as it deems appropriate for the circumstances.

10. Each request for an opinion filed pursuant to NRS 294A.345 or 294A.346, each opinion rendered by the Commission pursuant thereto and any motion, evidence or record of a hearing relating to the request are public and must be open to inspection pursuant to NRS 239.010.

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

12. Except as otherwise provided in this section, a meeting or hearing held by the Commission to carry out the provisions of this section and the Commission's deliberations on the information or evidence are not subject to any provision of chapter 241 of NRS.

13. As used in this section:

(a) "Actual malice" has the meaning ascribed to it in NRS 294A.345.

(b) "Publish" has the meaning ascribed to it in NRS 294A.345.

294A.345 Impeding success of campaign of candidate by causing publication of certain false statements of fact concerning candidate prohibited; civil penalty imposed by Commission on Ethics.

1. A person shall not, with actual malice and the intent to impede the success of the campaign of a candidate, impede the success of the candidate by causing to be published a false statement of fact concerning the candidate, including, without limitation, statements concerning:

(a) The education or training of the candidate.

(b) The profession or occupation of the candidate.

(c) Whether the candidate committed, was indicted for committing or was convicted of committing a felony or other crime involving moral turpitude, dishonesty or corruption.

(d) Whether the candidate has received treatment for a mental illness.



(e) Whether the candidate was disciplined while serving in the military or was dishonorably discharged from service in the military.

(f) Whether another person endorses or opposes the candidate.

(g) The record of voting of a candidate if he formerly served or currently serves as a public officer.

2. Any candidate who alleges that a false statement of fact concerning the candidate has been published in violation of subsection 1 may file a request for an opinion with the Commission on Ethics pursuant to NRS 281.411 to 281.581, inclusive. Such a request must be filed with the Commission not later than 10 days after the date on which the false statement of fact is alleged to have been made. The Commission shall give priority to such a request over all other matters pending with the Commission.

3. A person who violates the provisions of this section is subject to a civil penalty that may be imposed by the Commission on Ethics pursuant to NRS 281.551.

4. As used in this section:

(a) "Actual malice" means knowledge of the falsity of a statement or reckless disregard for whether a statement is true or false.

(b) "Publish" means the act of printing, posting, broadcasting, mailing, speaking or otherwise disseminating.

294A.346 Impeding success or inducing another to impede success of campaign of candidate or for ballot question prohibited; civil penalty imposed by Commission on Ethics.

1. An employee, agent or volunteer of the campaign of a candidate shall not willfully perform any act in the course of his employment, agency or volunteering that impedes the success of that campaign.

2. A person shall not willfully, to impede the success of the campaign of a candidate, offer or give an item of value to:

(a) A person to induce him to obtain a position as an employee, agent or volunteer for that campaign and perform any act in the course of his employment, agency or volunteering to impede the success of that campaign; or

(b) An employee, agent or volunteer for that campaign to induce him to perform any act in the course of his employment, agency or volunteering to impede the success of that campaign.

3. An employee, agent or volunteer of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or special election, shall not willfully perform any act in the course of his employment, agency or volunteering that impedes the success of that campaign.



4. A person shall not willfully, to impede the success of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or special election, offer or give an item of value to:

(a) A person to induce him to obtain a position as an employee, agent or volunteer for that campaign and perform any act in the course of his employment, agency or volunteering to impede the success of that campaign; or

(b) An employee, agent or volunteer for that campaign to induce him to perform any act in the course of his employment, agency or volunteering to impede the success of that campaign.

5. Any candidate who alleges that a person has violated the provisions of subsection 1 or 2, and any person or group of persons that advocates the passage or defeat of a question on the ballot at any election, is required to file a report pursuant to NRS 294A.150, and alleges that a person has violated the provisions of subsection 3 or 4, may file a request for an opinion with the Commission on Ethics pursuant to NRS 281.411 to 281.581, inclusive. Such a request must be filed with the Commission not later than 10 days after the date of the election with respect to which the alleged violation occurred. The Commission shall give priority to such a request over all matters pending with the Commission.

6. A person who violates the provisions of this section is subject to a civil penalty that may be imposed by the Commission on Ethics pursuant to NRS 281.551.



