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FIRST REPRINT

S.B. 129

SENATE BILL NO. 129—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED FEBRUARY 1, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to ethics in government. (BDR 23-191)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 11.5)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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



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

27 **Sections 2, 7, 9, 23-27 and 29-31** of this bill make various changes to existing
28 provisions of the Ethics Law which govern the operation, powers, functions and
29 duties of the Commission, its members and staff and any specialized or local ethics
30 committees. (NRS 281A.200-281A.350) Under the Ethics Law, the Commission
31 must annually elect a Chair and Vice Chair who are assigned certain powers,
32 functions and duties. (NRS 281A.210, 281A.220, 281A.240, 281A.300) **Sections 2**
33 **and 23** of this bill provide for the Chair's powers, functions and duties to be
34 assigned for a particular matter to the Vice Chair or another member of the
35 Commission under certain circumstances. **Section 30** of this bill provides for a
36 member of the Commission to administer oaths when appointed by the Chair to
37 preside over any meetings, hearings or proceedings.

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

50 The Ethics Law requires the Commission to appoint and prescribe the duties of
51 the Executive Director who must have experience in administration, investigations
52 and law. (NRS 281A.230) **Section 25** of this bill adds to these qualifications by
53 requiring the Executive Director to be an attorney who is licensed to practice law in
54 Nevada.

55 Under the Ethics Law, the Commission may conduct investigations and
56 proceedings and secure the participation and attendance of witnesses and the
57 production of any books and papers. (NRS 281A.290, 281A.300) **Section 7** of this
58 bill requires public officers and employees to cooperate with the Commission in its
59 investigations and proceedings and to furnish information and reasonable assistance
60 to the Commission, except to the extent that they are entitled to the protection of
61 certain rights, privileges or immunities or any confidentiality or other protection
62 recognized by law. **Section 7** is modeled, in part, on similar provisions governing
63 the Commission on Judicial Discipline. (NRS 1.460)

64 The Ethics Law requires the Commission on Ethics to appoint and prescribe the
65 duties of the Commission Counsel who is the legal adviser to the Commission and
66 who, in most cases, is directed by the Commission to act as legal counsel in any
67 litigation in which the Commission or its members or staff are parties in an official
68 capacity. (NRS 281A.250, 281A.260) Under Nevada's Open Meeting Law, the
69 Commission may receive information regarding any litigation from its legal
70 counsel and deliberate toward a decision regarding the litigation without holding a
71 public meeting that complies with the Open Meeting Law. (NRS 241.015)
72 However, the Commission cannot take action regarding the litigation, such as
73 authorizing an appeal in the litigation, unless the Commission takes the action in a



74 public meeting that complies with the Open Meeting Law. (*Comm'n on Ethics v.*
75 *Hansen*, 134 Nev. Adv. Op. 40, 419 P.3d 140, 142-43 (2018))

76 **Section 9** of this bill allows the Commission to delegate authority to the Chair
77 or the Executive Director, or both, to make decisions regarding any litigation in
78 which the Commission or its members or staff are parties in an official capacity.
79 **Sections 9 and 64** of this bill also provide that during any period in which
80 proceedings concerning a request for an advisory opinion or an ethics complaint are
81 confidential under the Ethics Law, the Open Meeting Law does not apply to any
82 meetings, hearings, deliberations or actions of the Commission involving: (1) any
83 decisions in litigation concerning any judicial action or proceeding related to the
84 request for an advisory opinion or the ethics complaint; and (2) any delegation of
85 authority to make such decisions in the litigation to the Chair or the Executive
86 Director, or both. **Section 27** of this bill specifies the powers and duties of the
87 Commission Counsel regarding any litigation in which the Commission or its
88 members or staff are parties in an official capacity. **Section 27** also authorizes the
89 Commission Counsel to file an appeal or seek other appellate relief in the litigation
90 with the consent or ratification of: (1) the Commission; or (2) the Chair or the
91 Executive Director, or both, when the Commission has delegated authority under
92 **section 9** to provide such consent or ratification.

93 Under the Ethics Law, a specialized or local ethics committee may: (1)
94 establish its own code of ethical standards suitable for the particular ethical
95 problems encountered in its sphere of activity; and (2) render opinions upon the
96 request of public officers and employees subject to its jurisdiction seeking an
97 interpretation of its own code of ethical standards on certain questions. However, a
98 specialized or local ethics committee may not attempt to interpret or render an
99 opinion regarding the statutory ethical standards subject to the jurisdiction of the
100 Commission, but it may refer such questions to the Commission. (NRS 281A.350)
101 **Section 31** of this bill clarifies the circumstances when such questions may be
102 referred to the Commission as a request for an advisory opinion. **Section 31** also
103 makes conforming changes to ensure consistency with the other revisions that this
104 bill makes to the Ethics Law.

105 The Ethics Law establishes statutory ethical standards that are intended to
106 enhance the people's faith in the integrity and impartiality of public officers and
107 employees by requiring appropriate separation between the roles of persons who
108 are both public servants and private citizens in order to avoid conflicts between
109 their private interests and the interests of the general public whom they serve. (NRS
110 281A.020, 281A.400-281A.550) **Sections 5, 6, 11, 18 and 32-38** of this bill make
111 various changes to the statutory ethical standards.

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

118 The Ethics Law prohibits public officers and employees from engaging in
119 certain unethical conduct that benefits themselves, any business entities in which
120 they have a significant pecuniary interest or any persons to whom they have a
121 commitment in a private capacity. (NRS 281A.400, 281A.420) The Ethics Law
122 defines the persons to whom public officers and employees have a "commitment in
123 a private capacity" to include: (1) the spouse or domestic partner of the public
124 officer or employee, any member of his or her household or any relative within the
125 third degree of consanguinity or affinity; (2) any person who employs the public
126 officer or employee, his or her spouse or domestic partner or any member of his or
127 her household; (3) any person with whom the public officer or employee has a
128 substantial and continuing business relationship; or (4) any person with whom the



129 public officer or employee has any other commitment, interest or relationship that
130 is substantially similar to the foregoing commitments, interests or relationships.
131 (NRS 281A.065) **Section 18** of this bill makes technical and stylistic revisions to
132 the definition of “commitment in a private capacity” that do not change its
133 substantive meaning.

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

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

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

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

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

182 With certain exceptions, the Ethics Law prohibits public officers and
183 employees from acting upon a matter in which their personal or private interests



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184 may create potential conflicts of interests unless, at the time the matter is
185 considered, they make a disclosure that is sufficient to inform the public of their
186 potential conflicts of interests. (NRS 281A.420) **Section 34** of this bill provides
187 that, when public officers and employees make such a public disclosure, they are
188 not required to disclose any information which is confidential as a result of a bona
189 fide relationship that protects the confidentiality of the information under the terms
190 of a contract or as a matter of law, such as the attorney-client relationship, if they:
191 (1) disclose all nonconfidential information and describe the general nature of the
192 protected relationship; and (2) abstain from acting upon the matter.

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

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

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

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



239 involved in the implementation, management or administration of certain contracts
240 awarded by their employing agencies.

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

253 The Ethics Law contains existing provisions which govern the proceedings
254 concerning requests for advisory opinions and ethics complaints and the issuance of
255 opinions and the imposition of remedies and penalties by the Commission. (NRS
256 281A.665-281A.790) **Sections 3, 4, 14, 16, 17, 19-22, 28 and 39-62** of this bill
257 make various changes to these existing provisions.

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

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

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

288 If the requester properly files a request for an advisory opinion, the Ethics Law
289 requires the Commission to render an advisory opinion in the matter within a
290 certain time limit after receiving the request, unless the requester waives the time
291 limit. (NRS 281A.680) **Sections 28 and 42** of this bill revise the Commission's
292 jurisdiction and procedures regarding a request for an advisory opinion. Under the
293 Ethics Law, the Commission generally has jurisdiction over ethics complaints filed



294 or initiated within 2 years after the alleged violation or reasonable discovery of the
295 alleged violation. (NRS 281A.280) **Section 28** of this bill similarly provides that
296 the Commission's jurisdiction over a request for an advisory opinion extends only
297 to past conduct occurring within 2 years of the date on which the request is filed.
298 **Section 42** allows the Commission to stay or dismiss the proceedings concerning
299 the request for an advisory opinion under certain circumstances when an ethics
300 complaint is also filed or pending that involves some or all of the same issues or
301 facts and circumstances as the request for an advisory opinion. **Section 42** also
302 requires the Commission to render a decision regarding the request for an advisory
303 opinion within the existing time limit, subject to certain exceptions. However,
304 **section 42** provides the Commission with more time to prepare the written advisory
305 opinion in the matter by requiring the Commission to issue the written advisory
306 opinion within a specified time limit after the decision is rendered.

307 Under the Ethics Law, certain materials relating to a request for an advisory
308 opinion are confidential and not public records unless the requester: (1) authorizes
309 the Commission to disclose the materials; or (2) voluntarily discloses the materials
310 to persons other than those specified in the statute. (NRS 281A.685) **Section 43** of
311 this bill clarifies that any authorization given by the requester is limited to the
312 specific materials that the requester authorizes the Commission to disclose. **Section**
313 **43** also revises the specified persons to whom the requester may voluntarily
314 disclose the materials without waiving the confidentiality of the materials.

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

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

346 Under the Ethics Law, if the Commission determines that it has jurisdiction
347 over an ethics complaint and an investigation is warranted, the subject of the ethics
348 complaint is served with a notice of the investigation and provided with an



349 opportunity to submit a response to that notice. (NRS 281A.720) As part of the
350 investigation, the Ethics Law permits the Executive Director to secure the subject's
351 participation, attendance as a witness or production of books and papers under
352 existing procedures. (NRS 281A.300) **Section 49** of this bill clarifies that,
353 regardless of whether the subject submits a response to the investigation, the
354 Executive Director retains the authority during the course of the investigation to
355 secure the subject's participation, attendance as a witness or production of books
356 and papers under those existing procedures.

357 Within 70 days after the Commission directs the Executive Director to
358 investigate an ethics complaint, the Ethics Law requires the Executive Director to
359 present a written recommendation to the review panel regarding the sufficiency of
360 the evidence concerning the ethics complaint, unless the subject waives the time
361 limit. (NRS 281A.725) **Section 50** of this bill allows the presiding officer of the
362 review panel to grant the Executive Director extensions of the time limit for good
363 cause.

364 Within 15 days after the Executive Director presents the written
365 recommendation to the review panel, the Ethics Law requires the review panel to
366 determine whether there is just and sufficient cause for the Commission to render
367 an opinion regarding the ethics complaint, unless the subject waives the time limit.
368 If the review panel determines that there is not just and sufficient cause, the Ethics
369 Law requires the review panel to dismiss the matter, but the review panel may issue
370 a confidential letter of caution or instruction to the subject as part of the dismissal.
371 If the review panel determines that there is just and sufficient cause but reasonably
372 believes that the conduct at issue may be appropriately addressed through
373 additional training or other corrective action, the Ethics Law authorizes the review
374 panel to approve a deferral agreement between the Executive Director and the
375 subject to defer further proceedings in the matter under the terms and conditions of
376 the deferral agreement. If the subject complies with the terms and conditions of the
377 deferral agreement, the matter must be dismissed. However, if the subject fails to
378 comply with the terms and conditions of the deferral agreement, the deferral
379 agreement may be vacated and further proceedings conducted in the matter before
380 the Commission. If the review panel does not believe that a deferral agreement is
381 appropriate or if the subject declines to enter into such a deferral agreement, the
382 Ethics Law requires the review panel to refer the matter to the Commission for
383 further proceedings. (NRS 281A.730, 281A.740)

384 **Section 51** of this bill provides that after the review panel makes its
385 determination in the matter, it must serve written notice of its determination on the
386 subject. **Sections 51 and 52** of this bill further provide that if the review panel
387 authorizes the development of a deferral agreement, the review panel must specify
388 in its written notice a time limit within which the deferral agreement must be
389 developed, but the review panel may grant extensions of the time limit for good
390 cause. Finally, **section 51** provides that if the deferral agreement is not developed
391 within the time limit, or any extension thereof, the review panel must refer the
392 matter to the Commission for further proceedings.

393 The Ethics Law establishes various requirements regarding the adjudication of
394 ethics complaints referred to the Commission for further proceedings. (NRS
395 281A.745-281A.760) **Sections 3 and 53** of this bill clarify that the parties to the
396 proceedings are: (1) the Executive Director or his or her designee who present
397 the case to the Commission at the adjudicatory hearing in the matter; and (2) the
398 subject of the ethics complaint who has the right to written notice of the hearing, to
399 be represented by legal counsel and to hear the evidence presented to the
400 Commission and to present his or her own case. **Section 53** also requires the
401 Commission to provide the parties with a written schedule for discovery in order to
402 prepare for the hearing.



403 The Ethics Law requires the Commission to hold the hearing and render an
404 opinion in the matter within a certain time limit, unless waived by the subject, and
405 the Ethics Law requires the opinion to include findings of fact and conclusions of
406 law. (NRS 281A.745, 281A.765) **Section 53** of this bill requires the Commission to
407 render a decision in the matter within the existing time limit, unless waived by the
408 subject, but **section 53** provides the Commission with more time to prepare the
409 written opinion in the matter by requiring the Commission to issue the written
410 opinion within a specified time limit after the decision is rendered. **Sections 53 and**
411 **57** of this bill also clarify that, in addition to including findings of fact and
412 conclusions of law, the written opinion must otherwise comply with the
413 requirements for a final decision under Nevada's Administrative Procedure Act.
414 (NRS 233B.125)

415 With certain exceptions, the Ethics Law requires, or in some cases allows, the
416 Commission to keep the identity of certain persons who file ethics complaints
417 confidential in order to protect those persons from potential harm. (NRS 281A.750)
418 **Section 54** of this bill clarifies that such confidentiality extends to all materials that,
419 if disclosed, would reveal the identity of the confidential requester. **Section 54** also
420 clarifies that the identity of the confidential requester remains protected if the
421 Executive Director does not intend to present the testimony of the confidential
422 requester as evidence in the matter. However, if the Executive Director intends to
423 present the testimony of the confidential requester as evidence in the matter,
424 **section 54** provides that the Executive Director must disclose the name of the
425 confidential requester only as a proposed witness in accordance with the schedule
426 for discovery in the matter.

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

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

450 The Ethics Law establishes various requirements regarding the disposition of
451 ethics complaints and the imposition of remedies and penalties. (NRS 281A.765-
452 281A.790) Under the Ethics Law, there are two types of violations: (1) willful
453 violations that require proof of specific mental elements showing that the subject of
454 an ethics complaint committed the violations intentionally and knowingly; and (2)
455 other violations that do not require proof of those specific mental elements. (NRS
456 281A.170) To determine whether violations are willful, the Ethics Law requires the
457 Commission to: (1) consider a nonexclusive list of aggravating and mitigating



458 factors, as well as any other reasonably related factors; and (2) ensure when it
459 applies those factors that the disposition of the matter bears a reasonable
460 relationship to the severity of the violations. (NRS 281A.775) For any violations,
461 whether or not willful, the Ethics Law authorizes the Commission to impose certain
462 remedies, such as training, a remedial course of action or public admonishment.
463 (NRS 281A.785) However, for willful violations, the Ethics Law also authorizes
464 more severe remedies and penalties, such as substantial civil penalties and public
465 reprimand or censure. In some cases involving willful violations, the Ethics Law
466 further requires the Commission to seek removal of certain public officers through
467 court proceedings or to submit the matter to the appropriate House of the
468 Legislature for consideration of additional remedies and penalties against certain
469 public officers, including removal through impeachment or expulsion. (NRS
470 281A.785, 281A.790)

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

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



512 Under the Nevada Constitution, each House of the Legislature has certain
513 plenary and exclusive constitutional powers, including powers to discipline
514 members for certain unethical legislative conduct, which may be exercised only by
515 that House and which cannot be usurped, infringed or impaired by the other House
516 or by any other branch of Nevada's State Government. (Nev. Const. Art. 3, § 1,
517 Art. 4, § 6; *Heller v. Legislature*, 120 Nev. 456 (2004); *Comm'n on Ethics v.*
518 *Hardy*, 125 Nev. 285 (2009); *Mason's Manual of Legislative Procedure* §§ 560-
519 564 (2010)) Furthermore, under the constitutional doctrines of separation of powers
520 and legislative privilege and immunity, Legislators have the constitutional right to
521 be protected from having to defend themselves, from being held liable and from
522 being questioned or sanctioned by the other branches in administrative or judicial
523 proceedings for speech, debate, deliberation and other actions performed within the
524 sphere of legitimate legislative activity. (Nev. Const. Art. 3, § 1, Art. 4, § 6; NRS
525 41.071; *Bogan v. Scott-Harris*, 523 U.S. 44, 54 (1998) ("Absolute legislative
526 immunity attaches to all actions taken 'in the sphere of legitimate legislative
527 activity.' " (quoting *Tenney v. Brandhove*, 341 U.S. 367, 376 (1951))); *Guinn v.*
528 *Legislature (Guinn II)*, 119 Nev. 460, 472 (2003) ("Under the separation of powers
529 doctrine, individual legislators cannot, nor should they, be subject to fines or other
530 penalties for voting in a particular way."); *Steiner v. Superior Court*, 58 Cal. Rptr.
531 2d 668, 678 n.20 (Cal. Ct. App. 1996) ("The California separation of powers
532 provision, however, provides a sufficient ground to protect legislators from punitive
533 action that unduly impinges on their function."); Luther S. Cushing, *Elements of the*
534 *Law & Practice of Legislative Assemblies* §§ 601-603 (1856); 1 Joseph Story,
535 *Commentaries on the Constitution of the United States* § 866 (5th ed. 1905);
536 Thomas M. Cooley, *A Treatise on Constitutional Limitations* 929 (8th ed. 1927))
537 As a result, under the Ethics Law, the Commission cannot exercise jurisdiction
538 or authority over or inquire into, intrude upon or interfere with the functions
539 of a Legislator that are protected by legislative privilege and immunity.
540 (NRS 281A.020)

541 **Section 14** of this bill provides that if the Commission determines at any time
542 during proceedings concerning an ethics complaint against a Legislator that any
543 allegations in the ethics complaint are within the jurisdiction or authority of the
544 Legislator's House, and not within the Commission's jurisdiction or authority,
545 the Commission may authorize the Executive Director to file a complaint with the
546 Legislator's House alleging a breach of legislative ethical standards under the
547 House's standing rules. **Sections 14 and 63** of this bill also acknowledge that such
548 a complaint filed with the Legislator's House and all materials related to the
549 allegations in the complaint are confidential and are not public records, unless those
550 materials become publicly available in a manner authorized by the House's
551 standing rules.

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

1 **Section 1.** Chapter 281A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 14, inclusive,
3 of this act.

4 **Sec. 2. "Chair" means:**

5 1. *The Chair of the Commission; or*

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



1 **Sec. 3. "Party" means, for the purposes of the adjudication**
2 **and disposition of proceedings concerning an ethics complaint**
3 **pursuant to this chapter:**

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

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

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

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

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

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

25 **Sec. 7. 1. Every public officer or employee of the State or**
26 **one of its political subdivisions, regardless of whether he or she is**
27 **otherwise subject to the provisions of this chapter, shall cooperate**
28 **with the Commission in any lawful investigations or proceedings**
29 **of the Commission and furnish information and reasonable**
30 **assistance to the Commission or its authorized representative,**
31 **except to the extent that the public officer or employee is entitled**
32 **to:**

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

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

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

43 3. **Before a public officer or employee is required to comply**
44 **with the provisions of subsection 1 and during the course of any**
45 **investigations or proceedings of the Commission or its authorized**



1 *representative, the public officer or employee is entitled to be*
2 *represented by and consult with legal counsel, including, without*
3 *limitation, the legal counsel of his or her public body, agency or*
4 *employer.*

5 **Sec. 8.** (Deleted by amendment.)

6 **Sec. 9. 1.** *In carrying out the provisions of this chapter, the*
7 *Commission may delegate authority to the Chair or the Executive*
8 *Director, or both, to make any decisions in litigation concerning*
9 *any judicial action or proceeding in which the Commission or any*
10 *member or employee of the Commission is a party in an official*
11 *capacity or participates or intervenes in an official capacity.*

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

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

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

24 **Sec. 10.** (Deleted by amendment.)

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

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

39 **Sec. 11.5.** *A list of each public officer who is required to file*
40 *an acknowledgment of the statutory ethical standards in*
41 *accordance with NRS 281A.500 must be submitted electronically*
42 *to the Commission, in a form prescribed by the Commission, on or*
43 *before December 1 of each year by:*

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



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

3 (b) *The Director of the Legislative Counsel Bureau for a*
4 *public officer of the Legislative Department of the State*
5 *Government; and*

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

9 2. *For an elected public officer of:*

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

12 (b) *The city, the city clerk;*

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

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

18 **Sec. 12.** (Deleted by amendment.)

19 **Sec. 13.** (Deleted by amendment.)

20 **Sec. 14.** *Notwithstanding any other provisions of NRS*
21 *281A.700 to 281A.790, inclusive:*

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

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

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

41 (b) *The complaint filed with the House and all information,*
42 *communications, records, documents or other materials that are*
43 *related to the allegations in the complaint filed with the House are*
44 *confidential and are not public records pursuant to chapter 239 of*
45 *NRS, unless those materials become publicly available in a*



1 *manner authorized by the applicable Standing Rules of the*
2 *Legislative Department of the State Government.*

3 **Sec. 15.** NRS 281A.030 is hereby amended to read as follows:
4 281A.030 As used in this chapter, unless the context otherwise
5 requires, the words and terms defined in NRS 281A.032 to
6 281A.170, inclusive, *and sections 2 to 5, inclusive, of this act* have
7 the meanings ascribed to them in those sections.

8 **Sec. 16.** NRS 281A.032 is hereby amended to read as follows:
9 281A.032 “Adjudicatory hearing” means a hearing held by the
10 Commission pursuant to NRS 281A.745 to receive evidence *and*
11 *render a decision* concerning an ethics complaint . ~~and render an~~
12 ~~opinion in the matter.~~

13 **Sec. 17.** NRS 281A.033 is hereby amended to read as follows:
14 281A.033 “Advisory opinion” means an advisory opinion
15 ~~rendered~~ *issued* by the Commission pursuant to NRS 281A.670 to
16 281A.690, inclusive.

17 **Sec. 18.** NRS 281A.065 is hereby amended to read as follows:
18 281A.065 “Commitment in a private capacity ” ~~with respect~~
19 ~~to the interests of another person.~~ means a *private* commitment,
20 interest or relationship of a public officer or employee to : ~~a~~
21 ~~person.~~

22 1. ~~Who is the~~ *The* spouse or domestic partner of the public
23 officer or employee;

24 2. ~~Who is a~~ *A* member of the household of the public officer
25 or employee;

26 3. ~~Who is related to~~ *A relative of* the public officer or
27 employee, or ~~to~~ the spouse or domestic partner of the public
28 officer or employee, by blood, adoption, marriage or domestic
29 partnership within the third degree of consanguinity or affinity;

30 4. ~~Who employs~~ *The employer of* the public officer or
31 employee, the spouse or domestic partner of the public officer
32 or employee or a member of the household of the public officer or
33 employee;

34 5. ~~With~~ *A person with* whom the public officer or employee
35 has a substantial and continuing business relationship; or

36 6. ~~With~~ *A person with* whom the public officer or employee
37 has any other *private* commitment, interest or relationship that is
38 substantially similar to a *private* commitment, interest or
39 relationship described in subsections 1 to 5, inclusive.

40 **Sec. 19.** NRS 281A.088 is hereby amended to read as follows:
41 281A.088 “Ethics complaint” means ~~a request for an opinion~~
42 *an ethics complaint* which is filed with the Commission or initiated
43 by the Commission on its own motion pursuant to NRS 281A.710
44 regarding the propriety of the conduct of a public officer or



1 employee under the statutory ethical standards . ~~[set forth in this~~
2 ~~chapter.]~~

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

4 281A.135 1. "Opinion" means an opinion ~~[rendered]~~ *issued*
5 by the Commission in accordance with the provisions of this
6 chapter.

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

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

11 281A.161 "Request for an advisory opinion" means a request
12 for an advisory opinion which is filed with the Commission
13 pursuant to NRS 281A.675 . ~~[by a public officer or employee who~~
14 ~~is:~~

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

19 ~~— 2. Requesting relief pursuant to NRS 281A.410, 281A.430 or~~
20 ~~281A.550.]~~

21 **Sec. 22.** NRS 281A.170 is hereby amended to read as follows:

22 281A.170 ~~["Willful violation"]~~ *"Violation"* means a violation
23 where the public officer or employee:

24 1. Acted intentionally and knowingly; or

25 2. Was in a situation where this chapter imposed a duty to act
26 and the public officer or employee intentionally and knowingly
27 failed to act in the manner required by this chapter . ~~;~~

28 ~~→ unless the Commission determines, after applying the factors set~~
29 ~~forth in NRS 281A.775, that the public officer's or employee's act~~
30 ~~or failure to act has not resulted in a sanctionable violation of this~~
31 ~~chapter.]~~

32 **Sec. 23.** NRS 281A.210 is hereby amended to read as follows:

33 281A.210 1. The Commission shall ~~;~~

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

36 ~~[(b) Meet]~~

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



1 *the powers and functions and perform the duties of the Chair*
2 *concerning that particular matter.*

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

7 ~~2.~~ **4.** Members of the Commission are entitled to receive a
8 salary of not more than \$80 per day, as fixed by the Commission,
9 while engaged in the business of the Commission.

10 ~~3.~~ **5.** While engaged in the business of the Commission, each
11 member and employee of the Commission is entitled to receive the
12 per diem allowance and travel expenses provided for state officers
13 and employees generally.

14 ~~4.~~ **6.** The Commission may, within the limits of legislative
15 appropriation, maintain such facilities as are required to carry out its
16 functions.

17 **Sec. 24.** NRS 281A.220 is hereby amended to read as follows:

18 281A.220 1. The Chair shall appoint one or more review
19 panels of three members of the Commission on a rotating basis to
20 perform the functions assigned to such review panels pursuant to
21 this chapter.

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

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

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

31 *(a) One or more members of the review panel may, with the*
32 *consent of the parties, participate as mediators or facilitators in*
33 *any settlement negotiations between the parties that are conducted*
34 *before an adjudicatory hearing in the matter.*

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

38 **Sec. 25.** NRS 281A.230 is hereby amended to read as follows:

39 281A.230 1. The Commission shall appoint, within the limits
40 of legislative appropriation, an Executive Director who shall
41 perform the duties set forth in this chapter and such other duties as
42 may be prescribed by the Commission.

43 2. The Executive Director must *be an attorney who is licensed*
44 *to practice law in this State and must* have experience in
45 administration, investigations and law.



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

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

8 5. The Executive Director may not:

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

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

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

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

20 (I) The appropriation of public money;

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

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

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

25 281A.240 1. In addition to any other duties imposed upon the
26 Executive Director, the Executive Director shall:

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

29 (b) Receive ethics complaints and requests for advisory opinions
30 pursuant to this chapter.

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

34 (d) ~~Submit~~ *Present* recommendations to the review panel
35 regarding whether there is just and sufficient cause for the
36 Commission to render *a decision and issue* an opinion in a matter.

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

41 (f) Upon the request of any public officer or the employer of a
42 public employee, conduct training on the requirements of this
43 chapter, the rules and regulations adopted by the Commission and
44 ~~previous~~ *the published* opinions of the Commission. In any such
45 training, the Executive Director shall emphasize that the Executive



1 Director is not a member of the Commission and that only the
2 Commission may issue opinions concerning the application of the
3 statutory ethical standards to any given set of facts and
4 circumstances. The Commission may charge a reasonable fee to
5 cover the costs of training provided by the Executive Director
6 pursuant to this subsection.

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

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

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

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

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

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

21 281A.260 1. The Commission Counsel is the legal adviser to
22 the Commission. For each *written* opinion of the Commission,
23 the Commission Counsel shall prepare, at the direction of the
24 Commission ~~[]~~ *or as required pursuant to this chapter*, the
25 appropriate findings of fact and conclusions as to *the* relevant
26 *statutory ethical* standards and the propriety of particular conduct.
27 The Commission Counsel shall not issue written opinions
28 concerning the applicability of the statutory ethical standards to a
29 given set of facts and circumstances except as directed by the
30 Commission.

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

33 3. *Except as otherwise provided in this section or directed by*
34 *the Commission, in litigation concerning any judicial action or*
35 *proceeding in which the Commission or any member or employee*
36 *of the Commission is a party in an official capacity or participates*
37 *or intervenes in an official capacity, the Commission Counsel:*

38 (a) *Shall represent and act as legal counsel to the Commission*
39 *or any member or employee of the Commission in the action or*
40 *proceeding;*

41 (b) *May commence, prosecute, defend, participate or intervene*
42 *in the action or proceeding on behalf of the Commission or any*
43 *member or employee of the Commission; and*

44 (c) *May file an appeal or petition for or seek any writ or other*
45 *appellate relief in the action or proceeding on behalf of the*



1 *Commission or any member or employee of the Commission with*
2 *the consent or ratification of:*

3 *(1) The Commission; or*

4 *(2) The Chair or the Executive Director, or both, if the*
5 *authority to provide such consent or ratification is delegated*
6 *pursuant to section 9 of this act.*

7 *4. The provisions of subsection 3 do not apply to litigation*
8 *concerning any judicial action or proceeding in which the*
9 *Commission:*

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

12 *(b) Employs outside legal counsel.*

13 *5. If the Commission Counsel is prohibited from acting on a*
14 *particular matter or is otherwise unable to act on a particular matter,*
15 *the Commission may:*

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

18 *(b) Employ outside legal counsel.*

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

20 281A.280 1. Except as otherwise provided in this section, the
21 Commission has jurisdiction to ~~investigate~~ :

22 *(a) Gather information and issue an advisory opinion in any*
23 *proceeding commenced by a request for an advisory opinion that*
24 *is filed with the Commission, except that the Commission does not*
25 *have jurisdiction to issue an advisory opinion on matters which*
26 *directly relate to the propriety of past conduct occurring more than*
27 *2 years before the date on which the request for an advisory*
28 *opinion is filed with the Commission.*

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

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

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



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

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

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

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

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

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

28 **Sec. 29.** NRS 281A.290 is hereby amended to read as follows:
29 281A.290 The Commission shall:

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

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

34 (b) For the filing of an ethics complaint or a request for an
35 advisory opinion with the Commission;

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

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

41 (e) For proceedings concerning an ethics complaint, to facilitate
42 written discovery requests submitted pursuant to NRS 281A.750
43 and 281A.755 and the disclosure of evidence in the manner required
44 by those sections, including, without limitation, the disclosure of
45 evidence obtained by or on behalf of the Executive Director during



1 the course of the investigation that affirmatively and substantively
2 disproves any alleged violation of this chapter that is related to the
3 ethics complaint and has been referred to the Commission for an
4 adjudicatory hearing.

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

11 3. Cause the making of such investigations as are reasonable
12 and necessary for the rendition *of decisions and the issuance* of
13 ~~its~~ opinions pursuant to this chapter.

14 4. Inform the Attorney General or district attorney of all cases
15 of noncompliance with the requirements of this chapter.

16 5. Recommend to the Legislature such further legislation as the
17 Commission considers desirable or necessary to promote and
18 maintain high standards of ethical conduct in government.

19 6. Publish a manual for the use of public officers and
20 employees that explains the requirements of this chapter.

21 ~~[- The Legislative Counsel shall prepare annotations to this chapter~~
22 ~~for inclusion in the Nevada Revised Statutes based on the published~~
23 ~~opinions of the Commission.]~~

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

25 281A.300 1. The Chair ~~and Vice Chair~~ *or a member* of the
26 Commission *appointed by the Chair to preside over any meetings,*
27 *hearings and proceedings* may administer oaths.

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

31 3. Upon the request of the Executive Director, the Chair ~~for, in~~
32 ~~the Chair's absence, the Vice Chair,~~ may issue a subpoena to
33 compel the participation of a potential witness and the production of
34 any books and papers during the course of any investigation.

35 4. Upon the request of the Executive Director or the public
36 officer or employee who is the subject of an ethics complaint, the
37 Chair ~~for, in the Chair's absence, the Vice Chair,~~ may issue a
38 subpoena to compel the attendance of a witness and the production
39 of any books and papers for any hearing before the Commission. A
40 public officer or employee who requests the issuance of a subpoena
41 pursuant to this subsection must serve the subpoena in the manner
42 provided in the Nevada Rules of Civil Procedure for service of
43 subpoenas in a civil action and must pay the costs of such service.

44 5. Before ~~issuing~~ *the Chair issues* a subpoena *directed to [a]*
45 *the* public officer or employee who is the subject of an ethics



1 complaint to compel his or her participation in any investigation, his
2 or her attendance as a witness or his or her production of any books
3 and papers, the Executive Director shall submit a written request to
4 the public officer or employee requesting:

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

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

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

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

17 7. If the public officer or employee fails or refuses to respond
18 to the Executive Director's written request pursuant to subsection 5
19 to voluntarily participate or attend at the time and place specified or
20 produce the books and papers requested by the Executive Director
21 within 5 business days after receipt of the written request, the Chair
22 ~~for, in the Chair's absence, the Vice Chair,~~ may issue the subpoena.
23 Failure of the public officer or employee to comply with the written
24 request of the Executive Director shall be deemed a waiver by the
25 public officer or employee of the time limits set forth in NRS
26 281A.700 to 281A.790, inclusive, *and section 14 of this act* that
27 apply to proceedings concerning the ethics complaint.

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

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

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

37 (c) The witness has failed or refused to participate, attend,
38 testify or produce the books and papers as required by the subpoena,
39 or has failed or refused to answer questions propounded to the
40 witness,

41 ➔ and asking for an order of the court compelling the witness to
42 participate, attend, testify or produce the books and papers as
43 required by the subpoena.

44 9. Upon such a petition, the court shall enter an order directing
45 the witness to appear before the court at a time and place to be fixed



1 by the court in its order, the time to be not more than 10 days after
2 the date of the order, and then and there show cause why the witness
3 has not participated, attended, testified or produced the books or
4 papers as required by the subpoena. A certified copy of the order
5 must be served upon the witness.

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

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

15 281A.350 1. Any state agency or the governing body of a
16 county or an incorporated city may establish a specialized or local
17 ethics committee to complement the functions of the Commission.
18 A specialized or local ethics committee may:

19 (a) Establish a code of ethical standards suitable for the
20 particular ethical problems encountered in its sphere of activity. The
21 standards may not be less restrictive than the statutory ethical
22 standards.

23 (b) Render *a decision and issue* an opinion upon the request of
24 any public officer or employee of its own organization or level
25 seeking an interpretation of its *code of* ethical standards on
26 questions directly related to the propriety of the public officer's or
27 employee's own future official conduct ~~or~~, *but the committee*
28 *may* refer the request to the Commission ~~it~~ *if the response to the*
29 *request requires the Commission to interpret the statutory ethical*
30 *standards and apply those standards to the given set of facts and*
31 *circumstances. If the request is referred to the Commission, it*
32 *shall be deemed to be a request for an advisory opinion filed by the*
33 *public officer or employee with the Commission pursuant to NRS*
34 *281A.675.* Any public officer or employee subject to the jurisdiction
35 of the committee shall direct the public officer's or employee's
36 ~~inquiry~~ *request* to that committee *first* instead of the Commission.

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

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

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



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

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

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

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

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

18 **Sec. 32.** NRS 281A.400 is hereby amended to read as follows:
19 281A.400 ~~[A code of ethical standards is hereby established to~~
20 ~~govern the conduct of public officers and employees:]~~

21 1. A public officer or employee shall not seek or accept any
22 gift, service, favor, employment, engagement, emolument or
23 economic opportunity, for the public officer or employee or any
24 person to whom the public officer or employee has a commitment in
25 a private capacity, which would tend improperly to influence a
26 reasonable person in the public officer's or employee's position to
27 depart from the faithful and impartial discharge of the public
28 officer's or employee's public duties.

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

37 3. A public officer or employee shall not participate as an agent
38 of government in the negotiation or execution of a contract between
39 the government and the public officer or employee, any business
40 entity in which the public officer or employee has a significant
41 pecuniary interest or any person to whom the public officer or
42 employee has a commitment in a private capacity.

43 4. A public officer or employee shall not accept any salary,
44 retainer, augmentation, expense allowance or other compensation
45 from any private source, for the public officer or employee or any



1 person to whom the public officer or employee has a commitment in
2 a private capacity, for the performance of the public officer's or
3 employee's duties as a public officer or employee.

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

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

15 7. Except for State Legislators who are subject to the
16 restrictions set forth in subsection 8, a public officer or employee
17 shall not use governmental time, property, equipment or other
18 facility to benefit a significant personal or pecuniary interest of the
19 public officer or employee or any person to whom the public officer
20 or employee has a commitment in a private capacity. This
21 subsection does not prohibit:

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

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

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

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

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

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

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

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

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

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



1 8. A State Legislator shall not:

2 (a) Use governmental time, property, equipment or other facility
3 ~~{for a nongovernmental purpose or for the private}~~ to benefit *a*
4 *significant personal or pecuniary interest* of the State Legislator or
5 any ~~{other}~~ person ~~{}~~ *to whom the State Legislator has a*
6 *commitment in a private capacity.* This paragraph does not prohibit:

7 (1) A limited use of ~~{state}~~ *governmental* property ~~{and~~
8 *resources}*, *equipment or other facility* for personal purposes if:

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

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

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

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

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

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

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

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

28 9. A public officer or employee shall not attempt to benefit a
29 significant personal or pecuniary interest of the public officer or
30 employee or any person to whom the public officer or employee has
31 a commitment in a private capacity through the influence of a
32 subordinate.

33 10. A public officer or employee shall not seek other
34 employment or contracts for the public officer or employee or any
35 person to whom the public officer or employee has a commitment in
36 a private capacity through the use of the public officer's or
37 employee's official position.

38 *11. As used in this section, "appearance of impropriety"*
39 *means a perception by a reasonable person that, based on the*
40 *given set of facts and circumstances, a public officer's or*
41 *employee's limited use of governmental property, equipment or*
42 *other facility for personal purposes is inappropriate,*
43 *disproportionate, excessive or unreasonable under that given set*
44 *of facts and circumstances.*



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

2 281A.410 ~~[In addition to the requirements of the code of~~
3 ~~ethical standards and the other provisions of this chapter.]~~

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

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

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

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

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

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

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

34 (1) The best interests of the public;

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

37 (3) The provisions of this chapter.

38 4. For the purposes of subsection 3, the request for an advisory
39 opinion, *the decision rendered*, the advisory opinion and all
40 meetings, hearings and proceedings of the Commission in such a
41 matter are governed by the provisions of NRS 281A.670 to
42 281A.690, inclusive.

43 5. Unless permitted by this section, a public officer or
44 employee shall not represent or counsel a private person for



1 compensation before any state agency of the Executive or
2 Legislative Department.

3 **Sec. 34.** NRS 281A.420 is hereby amended to read as follows:

4 281A.420 1. Except as otherwise provided in this section, a
5 public officer or employee shall not approve, disapprove, vote,
6 abstain from voting or otherwise act upon a matter:

7 (a) Regarding which the public officer or employee has accepted
8 a gift or loan;

9 (b) In which the public officer or employee has a significant
10 pecuniary interest;

11 (c) Which would reasonably be affected by the public officer's
12 or employee's commitment in a private capacity to the interests of
13 another person; or

14 (d) Which would reasonably be related to the nature of any
15 representation or counseling that the public officer or employee
16 provided to a private person for compensation before another
17 agency within the immediately preceding year, provided such
18 representation or counseling is permitted by NRS 281A.410,

19 ↪ without disclosing information concerning the gift or loan, the
20 significant pecuniary interest, the commitment in a private capacity
21 to the interests of the other person or the nature of the representation
22 or counseling of the private person that is sufficient to inform the
23 public of the potential effect of the action or abstention upon the
24 person who provided the gift or loan, upon the public officer's or
25 employee's significant pecuniary interest, upon the person to whom
26 the public officer or employee has a commitment in a private
27 capacity or upon the private person who was represented or
28 counseled by the public officer or employee. Such a disclosure must
29 be made at the time the matter is considered. If the public officer or
30 employee is a member of a body which makes decisions, the public
31 officer or employee shall make the disclosure in public to the chair
32 and other members of the body. If the public officer or employee is
33 not a member of such a body and holds an appointive office, the
34 public officer or employee shall make the disclosure to the
35 supervisory head of the public officer's or employee's organization
36 or, if the public officer holds an elective office, to the general public
37 in the area from which the public officer is elected.

38 2. The provisions of subsection 1 do not require ~~[(a)]~~:

39 ~~[(a)]~~ (a) A public officer to disclose:

40 ~~[(a)]~~ (1) Any campaign contributions that the public officer
41 reported in a timely manner pursuant to NRS 294A.120 or
42 294A.125; or

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



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

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

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

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

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

21 (b) The public officer's significant pecuniary interest; ~~(c)~~

22 (c) The public officer's commitment in a private capacity to the
23 interests of another person ~~(d)~~; or

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

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

29 (a) It must be presumed that the independence of judgment of a
30 reasonable person in the public officer's situation would not be
31 materially affected by the public officer's acceptance of a gift or
32 loan, significant pecuniary interest, ~~(c)~~ commitment in a private
33 capacity to the interests of another person *or representation or*
34 *counseling of a private person for compensation as permitted by*
35 *NRS 281A.410* where the resulting benefit or detriment accruing to
36 the public officer, or if the public officer has a commitment in a
37 private capacity to the interests of another person ~~(d)~~ *or has*
38 *represented or counseled a private person for compensation as*
39 *permitted by NRS 281A.410*, accruing to the other person, is not
40 greater than that accruing to any other member of any general
41 business, profession, occupation or group that is affected by the
42 matter. The presumption set forth in this paragraph does not affect
43 the applicability of the requirements set forth in subsection 1
44 relating to the duty of the public officer to make a proper disclosure



1 at the time the matter is considered and in the manner required by
2 subsection 1.

3 (b) The Commission must give appropriate weight and proper
4 deference to the public policy of this State which favors the right of
5 a public officer to perform the duties for which the public officer
6 was elected or appointed and to vote or otherwise act upon a matter,
7 provided the public officer makes a proper disclosure at the time the
8 matter is considered and in the manner required by subsection 1.
9 Because abstention by a public officer disrupts the normal course of
10 representative government and deprives the public and the public
11 officer's constituents of a voice in governmental affairs, the
12 provisions of this section are intended to require abstention only in
13 clear cases where the independence of judgment of a reasonable
14 person in the public officer's situation would be materially affected
15 by the public officer's acceptance of a gift or loan, significant
16 pecuniary interest, ~~or~~ commitment in a private capacity to the
17 interests of another person ~~or~~ *or representation or counseling of a*
18 *private person for compensation as permitted by NRS 281A.410.*

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

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

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

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

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



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

3 **Sec. 35.** NRS 281A.430 is hereby amended to read as follows:

4 281A.430 1. ~~Except~~ *Notwithstanding the provisions of*
5 *NRS 281.221 and 281.230, and except* as otherwise provided in this
6 section and NRS 218A.970 and 332.800, a public officer or
7 employee shall not , *directly or through a third party, perform any*
8 *existing contract, negotiate, bid on or enter into [a] any contract or*
9 *modify or renew any contract if:*

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

12 (1) *The public officer or employee; or*

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

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

18 (1) *The public officer or employee; or*

19 (2) *Any business entity in which the public officer or*
20 *employee has a significant pecuniary interest.*

21 2. ~~[A member of any board, commission or similar body who~~
22 ~~is engaged in the profession, occupation or business regulated by~~
23 ~~such board, commission or body may, in the ordinary course of his~~
24 ~~or her business, bid on or enter into a contract with an agency,~~
25 ~~except the board, commission or body on which he or she is a~~
26 ~~member, if the member has not taken part in developing the contract~~
27 ~~plans or specifications and the member will not be personally~~
28 ~~involved in opening, considering or accepting offers.] *Except as*~~
29 ~~*otherwise provided in subsections 3 to 6, inclusive, a public officer*~~
30 ~~*or employee may perform an existing contract, negotiate, bid on or*~~
31 ~~*enter into a contract or modify or renew a contract with an agency*~~
32 ~~*in which the public officer or employee serves, or a related agency*~~
33 ~~*as described in paragraph (b) of subsection 1, if:*~~

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

37 (1) *The contracting process is controlled by the rules of*
38 *open competitive bidding or the rules of open competitive bidding*
39 *are not used as a result of the applicability of NRS 332.112 or*
40 *332.148;*

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

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



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

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

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

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

13 3. A full- or part-time faculty member or employee of the
14 Nevada System of Higher Education may *perform an existing*
15 *contract, negotiate,* bid on or enter into a contract *or modify or*
16 *renew a contract* with an agency, or may benefit financially or
17 otherwise from a contract between an agency and a private entity, if
18 the contract complies with the policies established by the Board of
19 Regents of the University of Nevada pursuant to NRS 396.255.

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

23 ~~—(a) The contracting process is controlled by the rules of open~~
24 ~~competitive bidding or the rules of open competitive bidding are not~~
25 ~~employed as a result of the applicability of NRS 332.112 or~~
26 ~~332.148;~~

27 ~~—(b) The sources of supply are limited;~~

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

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

32 ➔ If a public officer who is authorized to *perform an existing*
33 *contract, negotiate,* bid on or enter into a contract *or modify or*
34 *renew a contract* with an agency pursuant to this ~~subsection~~
35 *section* is a member of the governing body of the agency, the public
36 officer, pursuant to the requirements of NRS 281A.420, shall
37 disclose the public officer's interest in the contract and shall not
38 vote on or advocate the approval of the contract.

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

43 (a) The member, or the business entity in which the member has
44 a significant pecuniary interest, offers the sole source of supply of



1 the goods or services within the territorial jurisdiction of the local
2 agency governed by his or her local legislative body;

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

9 (c) At the meeting, the member discloses his or her significant
10 pecuniary interest in the purchase of such goods or services and
11 does not vote upon or advocate the approval of the matter pursuant
12 to the requirements of NRS 281A.420; and

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

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

18 (a) The public officer or employee files a request for an advisory
19 opinion from the Commission pursuant to NRS 281A.675; and

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

22 (1) The best interests of the public;

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

25 (3) The provisions of this chapter.

26 7. For the purposes of subsection 6, the request for an advisory
27 opinion, *the decision rendered*, the advisory opinion and all
28 meetings, hearings and proceedings of the Commission in such a
29 matter are governed by the provisions of NRS 281A.670 to
30 281A.690, inclusive.

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

32 281A.500 1. On or before the date on which a public officer
33 swears or affirms the oath of office, the public officer must be
34 informed of the statutory ethical standards and the duty to file an
35 acknowledgment of the statutory ethical standards in accordance
36 with this section by:

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

39 (b) For an elected public officer of:

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

42 (2) The city, the city clerk;

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



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

4 2. Within 30 days after a public employee begins employment:

5 (a) The Director of the Department of Administration, or his or
6 her designee, shall provide each new public employee of a state
7 agency with the information prepared by the Commission
8 concerning the statutory ethical standards; and

9 (b) The manager of each local agency, or his or her designee,
10 shall provide each new public employee of the local agency with the
11 information prepared by the Commission concerning the statutory
12 ethical standards.

13 3. Each public officer shall acknowledge that the public
14 officer:

15 (a) Has received, read and understands the statutory ethical
16 standards; and

17 (b) Has a responsibility to inform himself or herself of any
18 amendments to the statutory ethical standards as soon as reasonably
19 practicable after each session of the Legislature.

20 4. The acknowledgment must be executed on a form prescribed
21 by the Commission and must be filed with the Commission:

22 (a) If the public officer is elected to office at the general
23 election, on or before January 15 of the year following the public
24 officer's election.

25 (b) If the public officer is elected to office at an election other
26 than the general election or is appointed to office, on or before the
27 30th day following the date on which the public officer swears or
28 affirms the oath of office.

29 5. Except as otherwise provided in this subsection, a public
30 officer shall execute and file the acknowledgment once for each
31 term of office. If the public officer serves at the pleasure of the
32 appointing authority and does not have a definite term of office,
33 the public officer, in addition to executing and filing the
34 acknowledgment after the public officer swears or affirms the oath
35 of office in accordance with subsection 4, shall execute and file the
36 acknowledgment on or before January 15 of each even-numbered
37 year while the public officer holds that office.

38 6. For the purposes of this section, the acknowledgment is
39 timely filed if, on or before the last day for filing, the
40 acknowledgment is filed in one of the following ways:

41 (a) Delivered in person to the principal office of the
42 Commission in Carson City.

43 (b) Mailed to the Commission by first-class mail, or other class
44 of mail that is at least as expeditious, postage prepaid. Filing by mail



1 is complete upon timely depositing the acknowledgment with the
2 United States Postal Service.

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

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

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

16 8. The form for making the acknowledgment must contain:

17 (a) The address of the Internet website of the Commission where
18 a public officer may view the statutory ethical standards and print a
19 copy of the standards; and

20 (b) The telephone number and mailing address of the
21 Commission where a public officer may make a request to obtain a
22 printed copy of the statutory ethical standards from the Commission.

23 9. Whenever the Commission, or any public officer or
24 employee as part of the public officer's or employee's official
25 duties, provides a public officer with a printed copy of the form for
26 making the acknowledgment, a printed copy of the statutory ethical
27 standards must be included with the form.

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

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

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

36 ~~—(b) Nonfeasance in office for the purposes of NRS 283.440 and,~~
37 ~~if the public officer is removable from office pursuant to NRS~~
38 ~~283.440, the Commission may file a complaint in the appropriate~~
39 ~~court for removal of the public officer pursuant to that section. This~~
40 ~~paragraph grants an exclusive right to the Commission, and no other~~
41 ~~person may file a complaint against the public officer pursuant to~~
42 ~~NRS 283.440 based on any violation of this section.]~~

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



1 **Sec. 37.** NRS 281A.510 is hereby amended to read as follows:
2 281A.510 1. ~~1.A~~ *Except as otherwise provided in this*
3 *section, a* public officer or ~~public~~ employee shall not accept or
4 receive an honorarium.

5 2. An honorarium paid on behalf of a public officer or ~~public~~
6 employee to a charitable organization from which the *public* officer
7 or employee does not derive any financial benefit is deemed not to
8 be accepted or received by the *public* officer or employee for the
9 purposes of this section.

10 3. This section does not prohibit:

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

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

21 4. As used in this section, "honorarium" means the payment of
22 money or anything of value for an appearance or speech by the
23 public officer or ~~public~~ employee in ~~the officer's or employee's~~
24 *his or her* capacity as a public officer or ~~public~~ employee. The
25 term does not include the payment of:

26 (a) The actual and necessary costs incurred by the public officer
27 or ~~public~~ employee, the ~~officer's or employee's~~ spouse or ~~the~~
28 ~~officer's or employee's aid~~ *domestic partner of the public officer*
29 *or employee or any assistant of the public officer or employee* for
30 transportation and for lodging and meals while the public officer or
31 ~~public~~ employee is away from ~~the officer's or employee's~~ *his or*
32 *her* residence.

33 (b) Compensation which would otherwise have been earned by
34 the public officer or ~~public~~ employee in the normal course of ~~the~~
35 ~~officer's or employee's~~ *his or her* public office or employment.

36 (c) A fee for a speech related to the *public* officer's or
37 employee's profession or occupation outside of ~~the officer's or~~
38 ~~employee's~~ *his or her* public office or employment if:

39 (1) Other members of the profession or occupation are
40 ordinarily compensated for such a speech; and

41 (2) The fee paid to the public officer or ~~public~~ employee is
42 approximately the same as the fee that would be paid to a member
43 of the private sector whose qualifications are similar to those of the
44 *public* officer or employee for a comparable speech.



1 (d) A fee for a speech delivered to an organization of
2 legislatures, legislators or other elected officers.

3 5. In addition to any other penalties provided by law, a public
4 officer or ~~public~~ employee who violates the provisions of this
5 section shall forfeit the amount of the honorarium.

6 **Sec. 38.** NRS 281A.550 is hereby amended to read as follows:

7 281A.550 1. A former member of the Public Utilities
8 Commission of Nevada shall not:

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

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

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

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

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

23 (b) Be employed by such a person,

24 ↪ for 1 year after the termination of the member's service on the
25 Nevada Gaming Control Board or the Nevada Gaming Commission.

26 3. In addition to the prohibitions set forth in subsections 1 and
27 2, and except as otherwise provided in subsections 4 and 6, a
28 *current or* former public officer or *management-level public*
29 employee of a board, commission, department, division or other
30 agency of the Executive Department of *the* State Government ~~[-~~
31 ~~except a clerical employee,]~~ shall not solicit or accept employment
32 from a business or industry whose activities are governed by
33 regulations adopted *or administered* by the board, commission,
34 department, division or other agency, *as applicable, during the*
35 *public officer's or employee's period of public service or*
36 *employment or* for 1 year after the termination of ~~the former public~~
37 ~~officer's or employee's]~~ *his or her period of public* service or
38 ~~period of]~~ employment, if:

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

42 (b) ~~During]~~ *Within* the immediately preceding year ~~[-the~~
43 ~~former]~~ *during the public officer's or employee's period of public*
44 *service or employment or within the year immediately preceding*
45 *the termination of the public officer's or employee's period of*



1 *public service or employment, the* public officer or employee
2 directly performed activities, or controlled or influenced an audit,
3 decision, investigation or other action, which significantly affected
4 the business or industry ; ~~which might, but for this section, employ~~
5 ~~the former public officer or employee;~~ or

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

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

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

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

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

21 5. Except as otherwise provided in subsection 6, a *current or*
22 former public officer or employee of the State or a political
23 subdivision, except a clerical employee, shall not solicit or accept
24 employment from a person to whom a contract for supplies,
25 materials, equipment or services was awarded by the State or
26 political subdivision, as applicable, *or was implemented, managed*
27 *or administered by the State or political subdivision, as applicable,*
28 *during the public officer's or employee's period of public service*
29 *or employment or* for 1 year after the termination of ~~the officer's or~~
30 ~~employee's~~ *his or her period of public* service or ~~period of~~
31 employment, if:

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

33 (b) The contract was awarded *or was implemented, managed or*
34 *administered by the State or political subdivision, as applicable,*
35 *within the immediately preceding year during the public officer's*
36 *or employee's period of public service or employment or* within the
37 ~~12-month period~~ *year* immediately preceding the termination of
38 the *public* officer's or employee's *period of public* service or
39 ~~period of~~ employment; and

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



1 6. A current or former public officer or employee may file a
2 request for an advisory opinion pursuant to NRS 281A.675
3 concerning the application of the relevant facts in that person's case
4 to the provisions of subsection 3 or 5, as applicable, and *the*
5 *Commission may* determine whether relief from the strict
6 application of those provisions is proper. *For the purposes of*
7 *submitting all necessary information for the Commission to render*
8 *a decision and issue an advisory opinion in the matter, a current*
9 *or former public officer or employee may request information*
10 *concerning potential employment from any business, industry or*
11 *other person without violating the provisions of subsection 3 or 5,*
12 *as applicable.* If the Commission determines that relief from the
13 strict application of the provisions of subsection 3 or 5, as
14 applicable, is not contrary to:

15 (a) The best interests of the public;

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

18 (c) The provisions of this chapter,

19 ➔ it may issue an advisory opinion to that effect and grant such
20 relief.

21 7. For the purposes of subsection 6, the request for an advisory
22 opinion, *the decision rendered*, the advisory opinion and all
23 meetings, hearings and proceedings of the Commission in such a
24 matter are governed by the provisions of NRS 281A.670 to
25 281A.690, inclusive.

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

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

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

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

36 ➔ is employed by or is soliciting or accepting employment from a
37 business, industry or other person described in this section if any
38 oral or written agreement is sought, negotiated or exists during the
39 restricted period pursuant to which the personal services of
40 the public officer or employee are provided or will be provided to
41 the business, industry or other person, even if such an agreement
42 does not or will not become effective until after the restricted
43 period.

44 10. As used in this section, "regulation" has the meaning
45 ascribed to it in NRS 233B.038 and also includes regulations



1 adopted *or administered* by a board, commission, department,
2 division or other agency of the Executive Department of *the* State
3 Government that is exempted from the requirements of chapter
4 233B of NRS.

5 **Sec. 39.** NRS 281A.665 is hereby amended to read as follows:

6 281A.665 1. *The published opinions of the Commission*
7 *constitute administrative precedents with persuasive value that the*
8 *Commission may consider and follow in the adjudication and*
9 *disposition of any request for an advisory opinion or ethics*
10 *complaint.*

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

14 3. The ~~{Commission's}~~ opinions *of the Commission* may
15 include guidance to a public officer or employee on questions
16 whether:

17 ~~{1-}~~ (a) A conflict exists between the public officer's or
18 employee's personal interest and the public officer's or employee's
19 official ~~{duty;~~
20 ~~—2-} duties.~~

21 (b) The public officer's or employee's official duties involve the
22 use of discretionary judgment whose exercise in the particular
23 matter would have a significant effect upon the disposition of the
24 matter.

25 ~~{3-}~~ (c) The conflict would materially affect the independence
26 of the judgment of a reasonable person in the public officer's or
27 employee's situation.

28 ~~{4-}~~ (d) The public officer or employee possesses special
29 knowledge which is an indispensable asset of ~~{the public officer's or~~
30 ~~employee's public} his or her public body, agency *or employer* and
31 is needed by it to reach a sound decision.~~

32 ~~{5-}~~ (e) It would be appropriate for the public officer or
33 employee to withdraw or abstain from participation, disclose the
34 nature of the public officer's or employee's conflicting personal
35 interest or pursue some other designated course of action in the
36 matter.

37 **Sec. 40.** (Deleted by amendment.)

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

39 281A.675 1. ~~{A}~~ *Except as otherwise provided in this*
40 *section and NRS 281A.280:*

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

43 ~~{(a)}~~ (1) Seek guidance on matters which directly relate to the
44 propriety of his or her own past, present or future conduct as a



1 public officer or employee under the statutory ethical standards ;
2 ~~[set forth in this chapter;]~~ or

3 ~~[(b)]~~ (2) Request relief pursuant to NRS 281A.410, 281A.430 or
4 281A.550.

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

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

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

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

19 3. *At any time after a request for an advisory opinion is filed*
20 *with the Commission, the Commission may request additional*
21 *information relating to the request for an advisory opinion from*
22 *the following persons:*

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

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

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

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

37 (b) Declare by oath or affirmation that he or she will testify
38 truthfully regarding the matter.

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

40 281A.680 1. ~~[If a public officer or employee]~~ *Except as*
41 *otherwise provided in this section, if a requester* properly files a
42 request for an advisory opinion, the Commission shall render *a*
43 *decision and issue* an advisory opinion that interprets the statutory
44 ethical standards and applies those standards to the given set of facts
45 and circumstances.



1 2. The Commission shall render *a decision concerning* the
2 *request for an advisory opinion* within 45 days after receiving the
3 request, unless ~~the~~ :

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

6 (b) *The Commission stays or dismisses the proceedings*
7 *concerning the request for an advisory opinion because:*

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

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

15 3. *If the Commission renders a decision concerning the*
16 *request for an advisory opinion pursuant to this section, the*
17 *Commission shall issue a written advisory opinion within 90 days*
18 *after the date on which the decision is rendered, unless the*
19 *Commission determines that there is good cause to extend this*
20 *time limit.*

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

27 (a) Binding upon the requester with regard to the future conduct
28 of the requester; and

29 (b) A final decision that is subject to judicial review pursuant to
30 NRS 233B.130.

31 ~~[3.]~~ If the requester seeks judicial review pursuant to NRS
32 233B.130, any proceedings concerning such judicial review must be
33 confidential and held in closed court without admittance of persons
34 other than those necessary to the proceedings, unless the requester
35 waives this right to confidential proceedings.

36 5. *If the Commission issues a written advisory opinion to a*
37 *requester who filed the request for an advisory opinion pursuant*
38 *to paragraph (b) of subsection 1 of NRS 281A.675, the advisory*
39 *opinion is not a final decision that is subject to judicial review*
40 *pursuant to NRS 233B.130.*

41 **Sec. 43.** NRS 281A.685 is hereby amended to read as follows:
42 281A.685 1. Except as otherwise provided in this section, the
43 following materials are confidential and are not public records
44 pursuant to chapter 239 of NRS:

45 (a) A request for an advisory opinion;



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

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

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

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

16 3. The provisions of subsection 1 do not apply to any materials
17 in the possession of the Commission or its staff that are related to
18 the request if the requester of the advisory opinion:

19 (a) Acts in contravention of *the decision rendered or* the
20 advisory opinion, in which case the Commission may disclose the
21 request, *the decision rendered*, the advisory opinion and any
22 information, communications, records, documents or other materials
23 in the possession of the Commission or its staff that are related to
24 the request;

25 (b) Authorizes the Commission, in writing, to make the request,
26 *the decision rendered*, the advisory opinion or any information,
27 communications, records, documents or other materials in the
28 possession of the Commission or its staff that are related to the
29 request publicly available ~~;~~, *except that any disclosure of*
30 *materials pursuant to this paragraph is limited to the specific*
31 *materials that the requester authorizes the Commission, in writing,*
32 *to make publicly available;* or

33 (c) Voluntarily discloses, in any manner, the request, *the*
34 *decision rendered*, the advisory opinion or any information,
35 communications, records, documents or other materials in the
36 possession of the Commission or its staff that are related to the
37 request, except to:

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

43 (2) *The* legal counsel of the requester ~~;~~



1 ~~—(2)]~~ *to facilitate legal representation when the requester is*
2 *not represented by the legal counsel of his or her public body,*
3 *agency or employer;*

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

6 ~~[(3)]~~ (4) Any *other* person to whom the requester makes such
7 a disclosure for the purposes of judicial review pursuant to
8 *subsection 4 of* NRS 281A.680.

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

10 281A.690 1. ~~Except as otherwise provided in this section,~~
11 ~~the]~~ *The* provisions of chapter 241 of NRS do not apply to:

12 (a) Any meeting or hearing held by the Commission to receive
13 information or evidence concerning a request for an advisory
14 opinion; and

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

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

27 **Sec. 45.** NRS 281A.700 is hereby amended to read as follows:

28 281A.700 The provisions of NRS 281A.700 to 281A.790,
29 inclusive, *and section 14 of this act* apply to proceedings
30 concerning an ethics complaint.

31 **Sec. 46.** (Deleted by amendment.)

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

33 281A.710 1. Except as otherwise provided in this section and
34 NRS 281A.280, the Commission may render *a decision and issue*
35 an opinion that interprets the statutory ethical standards and applies
36 those standards to a given set of facts and circumstances regarding
37 the propriety of the conduct of a public officer or employee if an
38 ethics complaint is:

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

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

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



1 2. An ethics complaint filed by a *specialized or local ethics*
2 *committee or person pursuant to paragraph (a) or (b) of subsection*
3 *1* must be:

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

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

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

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

16 281A.715 1. Based on the evidence submitted with an ethics
17 complaint filed with the Commission *by a specialized or local*
18 *ethics committee or person* pursuant to *paragraph (a) or (b) of*
19 *subsection 1 of NRS 281A.710* ~~[;] and any additional evidence~~
20 ~~obtained by the Executive Director pursuant to subsection 2,~~ the
21 Commission shall determine whether it has jurisdiction in the matter
22 and whether an investigation is warranted in the matter. The
23 Commission shall make its determination within 45 days after
24 receiving the ethics complaint, unless the ~~[public officer or~~
25 ~~employee who is the subject of the ethics complaint waives this time~~
26 ~~limit.~~

27 ~~—2.] Commission determines that there is good cause to extend~~
28 ~~this time limit.~~

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

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

38 ~~[3.]~~ 4. If the Commission determines *pursuant to subsection 1*
39 that it has jurisdiction in the matter but the evidence ~~[submitted with~~
40 ~~the ethics complaint]~~ is not sufficient to warrant an investigation in
41 the matter, the Commission shall dismiss the matter, with or without
42 issuing a letter of caution or instruction to the public officer or
43 employee pursuant to NRS 281A.780.

44 ~~[4.]~~ 5. If the Commission determines *pursuant to subsection 1*
45 that it has jurisdiction in the matter and the evidence ~~[submitted with~~



1 ~~the ethics complaint~~ is sufficient to warrant an investigation in the
2 matter, the Commission may direct the Executive Director to
3 investigate the ethics complaint pursuant to NRS 281A.720.

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

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

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

15 **Sec. 49.** NRS 281A.720 is hereby amended to read as follows:
16 281A.720 1. If the Commission directs the Executive
17 Director to investigate an ethics complaint pursuant to NRS
18 281A.715, ~~[or if the Commission initiates an ethics complaint on its~~
19 ~~own motion pursuant to NRS 281A.710,]~~ the Executive Director
20 shall investigate the facts and circumstances relating to the ethics
21 complaint to determine whether the Executive Director believes that
22 there is just and sufficient cause for the Commission to render *a*
23 *decision and issue* an opinion in the matter in order to present a
24 written recommendation to the review panel pursuant to
25 NRS 281A.725.

26 2. The Executive Director shall ~~[provide]~~ *prepare and serve a*
27 *written* notice of the investigation *of the ethics complaint* pursuant
28 to this section ~~[to]~~ *on* the public officer or employee who is the
29 subject of the ethics complaint and provide the public officer or
30 employee an opportunity to submit to the Executive Director a
31 response to the ~~[allegations against the public officer or employee in~~
32 ~~the ethics complaint.]~~ *written notice of the investigation.* The
33 response must be submitted within 30 days after the date on which
34 the public officer or employee ~~[receives]~~ *is served with* the *written*
35 notice of the investigation pursuant to this section, unless the *public*
36 *officer or employee waives the time limit set forth in subsection 1*
37 *of NRS 281A.725 and the* Executive Director grants ~~[an extension.]~~
38 *one or more extensions for good cause shown.*

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

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



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

3 4. The public officer or employee is not required in the
4 response submitted pursuant to this section or in any proceedings
5 before the review panel to assert, claim or raise any objection or
6 defense, in law or fact, to the allegations against the public officer or
7 employee, and no objection or defense, in law or fact, is waived,
8 abandoned or barred by the failure to assert, claim or raise it in the
9 response or in any proceedings before the review panel.

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

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

17 281A.725 1. ~~Except as otherwise provided in this~~
18 ~~subsection, the~~ *The* Executive Director shall complete the
19 investigation required by NRS 281A.720 and present a written
20 recommendation to the review panel within 70 days after the
21 Commission directs the Executive Director to investigate the ethics
22 complaint ~~for after the Commission initiates the ethics complaint on~~
23 ~~its own motion, as applicable.~~, *except that:*

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

26 (b) *Upon the request of the Executive Director, the presiding*
27 *officer of the review panel may grant one or more extensions of*
28 *this time limit for good cause shown.*

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

31 (a) Set forth the factual and legal basis for the recommendation;

32 (b) State whether the Executive Director believes that there is
33 just and sufficient cause for the Commission to render *a decision*
34 *and issue* an opinion in the matter; and

35 (c) If the Executive Director believes that a disposition of the
36 matter without an adjudicatory hearing is appropriate under the facts
37 and circumstances, state any suggested disposition that is consistent
38 with the provisions of this chapter, including, without limitation,
39 whether the Executive Director believes that the conduct at issue
40 may be appropriately addressed through additional training or other
41 corrective action under the terms and conditions of a deferral
42 agreement.

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

44 281A.730 1. Except as otherwise provided in this section, the
45 review panel shall determine whether there is just and sufficient



1 cause for the Commission to render *a decision and issue* an opinion
2 in the matter within 15 days after the Executive Director ~~[provides]~~
3 *presents to* the review panel ~~[with]~~ the recommendation required by
4 NRS 281A.725. The public officer or employee who is the subject
5 of the ethics complaint may waive this time limit. *The review panel*
6 *shall serve on the public officer or employee who is the subject of*
7 *the ethics complaint a written notice of its determination.*

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

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

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

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

27 (a) Approve a deferral agreement proposed by the Executive
28 Director and the public officer or employee instead of referring the
29 ethics complaint to the Commission for further proceedings in the
30 matter; or

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

35 6. *If the review panel authorizes the development of a*
36 *deferral agreement pursuant to subsection 5, the review panel*
37 *shall specify a time limit for its development in the written notice*
38 *of its determination that is served pursuant to subsection 1, and*
39 *the deferral agreement must be developed within the time limit,*
40 *unless the review panel grants one or more extensions for good*
41 *cause shown. If the deferral agreement is not developed within the*
42 *time limit, or any extension thereof, the review panel shall refer*
43 *the ethics complaint to the Commission for further proceedings in*
44 *the matter.*



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

6 ~~7.]~~ 8. If the review panel determines that there is just and
7 sufficient cause for the Commission to render *a decision and issue*
8 an opinion in the matter and reasonably believes that the conduct at
9 issue may not be appropriately addressed through additional training
10 or other corrective action under the terms and conditions of a
11 deferral agreement, the review panel shall refer the ethics complaint
12 to the Commission for further proceedings in the matter.

13 **Sec. 52.** NRS 281A.740 is hereby amended to read as follows:

14 281A.740 1. In proceedings concerning an ethics complaint,
15 the Executive Director and the public officer or employee who is the
16 subject of the ethics complaint may develop a deferral agreement to
17 defer further proceedings in the matter under the terms and
18 conditions of the deferral agreement. *A deferral agreement must be*
19 *developed within any time limit specified by the review panel, or*
20 *any extension thereof, pursuant to NRS 281A.730.*

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

25 3. A deferral agreement must:

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

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

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

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

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



1 6. The Executive Director shall:

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

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

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

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

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

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

23 **Sec. 53.** 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 NRS
28 281A.740, the Commission shall hold an adjudicatory hearing and
29 render ~~[an opinion in the matter]~~ *a decision concerning the ethics*
30 *complaint* within 60 days after the date on which the review panel
31 refers the ethics complaint to the Commission or the Commission
32 vacates the deferral agreement, as appropriate, unless the public
33 officer or employee who is the subject of the ethics complaint
34 waives this time limit.

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

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

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

43 3. *At the adjudicatory hearing:*

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



1 (b) *The Commission shall:*

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

4 ~~{(e)}~~ (2) Allow the public officer or employee to hear the
5 ~~[evidence]~~ case presented to the Commission *by the Executive*
6 *Director or his or her designee* and to ~~[respond and]~~ present
7 ~~[evidence on]~~ his or her own ~~[behalf.~~
8 ~~—3.] case to the Commission.~~

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

13 ~~[4.]~~ 5. For good cause shown, the Commission may take
14 testimony from a person by telephone or video conference at an
15 adjudicatory hearing or at any other proceedings concerning the
16 ethics complaint.

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

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

21 (b) *On the date of the next meeting of the Commission that is*
22 *held after the date on which the decision is rendered,*
23 *↳ whichever is later, unless the Commission determines that there*
24 *is good cause to extend this time limit.*

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

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

30 281A.750 1. Except as otherwise provided in this section and
31 NRS 281A.755, all information, communications, records,
32 documents or other materials in the possession of the Commission,
33 the review panel or their staff that are related to an ethics complaint
34 are confidential and are not public records pursuant to chapter 239
35 of NRS until:

36 (a) The review panel determines whether there is just and
37 sufficient cause for the Commission to render *a decision and issue*
38 an opinion in the matter and serves *the* written notice of its
39 determination on the public officer or employee who is the subject
40 of the ethics complaint ~~[.]~~ *pursuant to NRS 281A.730; or*

41 (b) The public officer or employee who is the subject of the
42 ethics complaint authorizes the Commission, in writing, to make the
43 information, communications, records, documents or other materials
44 that are related to the ethics complaint publicly available,
45 *↳ whichever occurs first.*



1 2. Except as otherwise provided in subsection ~~[3.]~~ 5, if a person
2 who files an ethics complaint asks that his or her identity as the
3 requester be kept confidential, the Commission:

4 (a) Shall keep the identity of the requester confidential if he or
5 she is a public officer or employee who works for the same public
6 body, agency or employer as the public officer or employee who is
7 the subject of the ethics complaint.

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

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

17 (a) *All information, communications, records, documents or*
18 *other materials in the possession of the Commission that, if*
19 *disclosed by the Commission, would reveal that the requester filed*
20 *the ethics complaint. Notwithstanding the provisions of chapter*
21 *239 of NRS, in denying a request for public records based on the*
22 *confidentiality provided by this paragraph, the Commission is not*
23 *required to provide any information that, if disclosed by the*
24 *Commission in denying the request for public records, would*
25 *reveal that the requester filed the ethics complaint.*

26 (b) *All information, communications, records, documents or*
27 *other materials in the possession of the requester of the ethics*
28 *complaint or his or her public body, agency or employer that, if*
29 *disclosed by either of them, would reveal that the requester filed*
30 *the ethics complaint. Notwithstanding the provisions of chapter*
31 *239 of NRS, in denying a request for public records based on the*
32 *confidentiality provided by this paragraph, the requester of the*
33 *ethics complaint or his or her public body, agency or employer is*
34 *not required to provide any information that, if disclosed by either*
35 *of them in denying the request for public records, would reveal*
36 *that the requester filed the ethics complaint.*

37 4. If the Commission keeps the identity of the requester *of an*
38 *ethics complaint* confidential ~~[.]~~ *pursuant to this section and the*
39 *Executive Director does not intend to present the testimony of*
40 *the requester as evidence for consideration by the Commission at*
41 *the adjudicatory hearing or in rendering a decision and issuing an*
42 *opinion in the matter*, the Commission shall not render *a decision*
43 *and issue* an opinion in the matter unless there is sufficient evidence
44 without the testimony of the requester to consider the propriety of
45 the conduct of the public officer or employee who is the subject of



1 the ethics complaint. *The provisions of this subsection do not*
2 *abrogate or otherwise alter or affect the confidentiality of the*
3 *identity of the requester of the ethics complaint.*

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

16 **Sec. 55.** NRS 281A.755 is hereby amended to read as follows:
17 281A.755 1. Except as otherwise provided in this section, the
18 investigative file related to an ethics complaint is confidential and is
19 not a public record pursuant to chapter 239 of NRS.

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

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

38 4. For the purposes of this section:

39 (a) The investigative file includes, without limitation:

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



1 (2) Any recommendation concerning the ethics complaint
2 prepared by the Executive Director pursuant to NRS 281A.725 and
3 ~~submitted~~ *presented* to the review panel during the course of the
4 investigation and any proceedings before the review panel; and

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

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

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

18 281A.760 *1.* The provisions of chapter 241 of NRS do not
19 apply to:

20 ~~{H-}~~ *(a)* Any meeting or hearing held by the Commission to
21 receive information or evidence concerning an ethics complaint; and

22 ~~{2-}~~ *(b)* Any deliberations *or actions* of the Commission on
23 such information or evidence.

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

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

32 281A.765 ~~{1- If the Commission renders an opinion in~~
33 ~~proceedings concerning an ethics complaint, the opinion must~~
34 ~~include findings of fact and conclusions of law.~~

35 ~~—2- If, in~~ *In* proceedings concerning an ethics complaint, *if* the
36 Commission determines that a violation of this chapter:

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

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

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

44 281A.770 In any matter in which the Commission disposes of
45 an ethics complaint by stipulation, agreed settlement or consent



1 order or in which the review panel approves a deferral agreement,
2 the Commission or the review panel, as appropriate, shall :

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

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

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

9 281A.775 1. The Commission, in determining ~~[whether a~~
10 ~~violation of this chapter is a willful violation and, if so,]~~ the penalty
11 to be imposed on a ~~[public officer or employee]~~ **current** or former
12 public officer or employee pursuant to NRS 281A.785 or 281A.790,
13 or the review panel, in determining whether to approve a deferral
14 agreement regarding an alleged violation, shall consider, without
15 limitation:

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

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

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

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

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

33 (f) The extent of any financial gain resulting from the violation
34 or alleged violation; and

35 (g) Any other matter justice may require.

36 2. The factors set forth in this section are not exclusive or
37 exhaustive, and the Commission or the review panel, as appropriate,
38 may consider other factors in the disposition of the matter if they
39 bear a reasonable relationship to the determination of the severity of
40 the violation or alleged violation.

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

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



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

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

4 281A.780 1. In proceedings concerning an ethics complaint,
5 the Commission or the review panel, as appropriate, may issue a
6 letter of caution or instruction to the public officer or employee who
7 is the subject of the ethics complaint to caution or instruct the public
8 officer or employee regarding the propriety of his or her conduct
9 under the statutory ethical standards . ~~[set forth in this chapter.]~~

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

12 (a) Is confidential and is not a public record pursuant to chapter
13 239 of NRS.

14 (b) May be considered in deciding the appropriate action to be
15 taken on any subsequent ethics complaint involving the public
16 officer or employee, unless the letter is not relevant to the issues
17 presented by the subsequent ethics complaint.

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

19 281A.785 1. ~~[Except as otherwise provided in this section,~~
20 ~~in]~~ *In* proceedings concerning an ethics complaint, the Commission,
21 based on a finding that a violation of this chapter has been proven,
22 or the review panel, as part of the terms and conditions of a deferral
23 agreement, may, in addition to any other ~~[penalty]~~ *penalties*
24 provided by law and in accordance with the provisions of
25 NRS 281A.775:

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

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

35 (2) Attend and complete training.

36 (3) Follow a remedial course of action.

37 (4) Issue a public apology.

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

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

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



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

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

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

19 ~~—(c) Censure a public officer or employee if it is determined that~~
20 ~~the public officer or employee has willfully violated any provision~~
21 ~~of this chapter and there is evidence that the willful violation~~
22 ~~involved bad faith, malicious intent or knowing or reckless~~
23 ~~disregard of the law or there are no substantial mitigating factors~~
24 ~~pursuant to NRS 281A.775 for the willful violation, or if such a~~
25 ~~censure is imposed as part of the terms and conditions of a deferral~~
26 ~~agreement. A censure is a formal written condemnation of the~~
27 ~~conduct of the public officer or employee.~~

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

34 **Sec. 62.** NRS 281A.790 is hereby amended to read as follows:

35 281A.790 1. In addition to any other penalties provided by
36 law and in accordance with the provisions of NRS 281A.775, the
37 Commission may impose on a ~~[public officer or employee]~~ *current*
38 or former public officer or employee civil penalties:

39 (a) Not to exceed \$5,000 for a first ~~[willful]~~
40 chapter;

41 (b) Not to exceed \$10,000 for a separate act or event that
42 constitutes a second ~~[willful]~~ violation of this chapter; and

43 (c) Not to exceed \$25,000 for a separate act or event that
44 constitutes a third ~~[willful]~~ violation *or any additional violation*
45 of this chapter.



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

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

23 (a) *Impose on the person committing such an act a civil penalty*
24 *not to exceed \$5,000 ~~;~~, unless a greater civil penalty is*
25 *authorized by subsection 1; and*

26 (b) *If appropriate under the facts and circumstances, assess*
27 *against the person committing such an act an amount equal to the*
28 *amount of attorney's fees and costs actually and reasonably incurred*
29 *as a result of the act by the Commission or any current or former*
30 *public officer or employee ~~as a result of] who is a subject of the~~*
31 *investigation or proceedings and who is harmed or prejudiced by*
32 *the act.*

33 ~~[3.]~~ 4. *If the Commission finds that a violation of ~~]~~*
34 *~~a provision of] this chapter by a ~~public officer or employee] current~~ or former~~*
35 *public officer or employee has resulted in the realization of a*
36 *financial benefit by the ~~current or former] public officer or~~*
37 *employee or another person, the Commission may, in addition to*
38 *any other penalties provided by law, require the ~~current or former] public~~*
39 *officer or employee to pay a civil penalty of not more than*
40 *twice the amount so realized.*

41 ~~[4.]~~ 5. *In addition to any other penalties provided by law, if ~~]~~*
42 *~~proceeding results in] the Commission issues an opinion in which it~~*
43 *finds that:*

44 (a) ~~[One or more willful violations of this chapter have been~~
45 *committed by a] A State Legislator removable from office only*



1 through expulsion by the State Legislator's own House pursuant to
2 Section 6 of Article 4 of the Nevada Constitution ~~[.]~~ *has committed*
3 *one or more violations of this chapter and the Commission has*
4 *imposed civil penalties of \$5,000 or more for at least one of those*
5 *violations*, the Commission shall:

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

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

15 (b) ~~[One or more willful violations of this chapter have been~~
16 ~~committed by a]~~ A state officer removable from office only through
17 impeachment pursuant to Article 7 of the Nevada Constitution ~~[.]~~
18 *has committed one or more violations of this chapter and the*
19 *Commission has imposed civil penalties of \$5,000 or more for at*
20 *least one of those violations*, the Commission shall submit the
21 opinion to the Speaker of the Assembly and the Majority Leader of
22 the Senate or, if the Speaker of the Assembly or the Majority Leader
23 of the Senate is the person who requested the opinion, to the
24 Speaker Pro Tempore of the Assembly or the President Pro
25 Tempore of the Senate, as appropriate.

26 (c) ~~[One or more willful violations of this chapter have been~~
27 ~~committed by a]~~ A public officer , other than a public officer
28 described in paragraphs (a) and (b), *has committed one or more*
29 *violations of this chapter*, the ~~[willful]~~ violations shall be deemed to
30 be malfeasance in office for the purposes of NRS 283.440 and the
31 Commission:

32 (1) ~~[May]~~ *Except as otherwise provided in subparagraph*
33 *(2), may* file a complaint in the appropriate court for removal of the
34 public officer pursuant to NRS 283.440 when the public officer is
35 found in the opinion to have committed ~~[fewer than three willful~~
36 ~~violations]~~ *one or more violations* of this chapter ~~[.]~~ *and the*
37 *Commission has imposed civil penalties of \$5,000 or more for at*
38 *least one of those violations.*

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



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

5 ~~{5-}~~ 6. Notwithstanding any other provision of this chapter, any
6 act or failure to act by a ~~{public officer or employee}~~ *current* or
7 former public officer or employee relating to this chapter is not a
8 ~~{willful}~~ violation of this chapter if the public officer or employee
9 establishes by sufficient evidence that:

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

13 (b) The advice of the legal counsel was:

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

16 (2) Based on a reasonable legal determination by the legal
17 counsel under the circumstances when the advice was given that the
18 act or failure to act by the public officer or employee would not be
19 contrary to the provisions of this chapter as interpreted ~~{by}~~ *in the*
20 *published opinions of* the Commission.

21 ~~{6-}~~ 7. In addition to any other penalties provided by law, if a
22 public employee commits a ~~{willful}~~ violation of this chapter or fails
23 to complete a period of compliance imposed by the Commission
24 pursuant to NRS 281A.785 or by the review panel as part of the
25 terms and conditions of a deferral agreement ~~{, the public employee~~
26 ~~is subject to disciplinary proceedings by}~~ :

27 (a) *The Commission shall provide that information to* the
28 *public body, agency or* employer of the public employee ; and
29 ~~{must be referred for}~~

30 (b) *The public body, agency or employer may pursue or take*
31 *appropriate disciplinary action against the public employee in*
32 *accordance {to} with the applicable provisions governing {the} his or*
33 *her public* employment. ~~{of the public employee.}~~

34 ~~—7-}~~ 8. The provisions of this chapter do not abrogate or
35 decrease the effect of the provisions of the Nevada Revised Statutes
36 which define crimes or prescribe punishments with respect to the
37 conduct of public officers or employees. If the Commission finds
38 that a *current or former* public officer or employee has committed a
39 ~~{willful}~~ violation of this chapter which it believes may also
40 constitute a criminal offense, the Commission shall refer the matter
41 to the Attorney General or the district attorney, as appropriate, for a
42 determination of whether a crime has been committed that warrants
43 prosecution.

44 ~~{8-}~~ 9. The imposition of a civil penalty pursuant to ~~{subsection~~
45 ~~1, 2 or 3}~~ *any provision of subsections 1 to 4, inclusive*, is a final



1 decision for the purposes of judicial review pursuant to
2 NRS 233B.130.

3 ~~19-1~~ **10.** A finding by the Commission that a *current or former*
4 public officer or employee *or any other person* has violated any
5 provision of this chapter must be supported by a preponderance of
6 the evidence unless a greater burden is otherwise prescribed by law.

7 **Sec. 63.** NRS 239.010 is hereby amended to read as follows:

8 239.010 1. Except as otherwise provided in this section and
9 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
10 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
11 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
12 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
13 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
14 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
15 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
16 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
17 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130,
18 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,
19 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625,
20 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
21 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772,
22 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925,
23 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131,
24 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625,
25 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450,
26 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105,
27 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
28 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
29 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
30 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
31 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,
32 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,
33 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
34 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,
35 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
36 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
37 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
38 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
39 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
40 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
41 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
42 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
43 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
44 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
45 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,



1 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
2 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
3 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
4 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
5 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
6 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
7 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
8 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
9 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
10 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
11 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
12 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
13 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
14 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
15 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
16 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
17 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
18 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
19 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
20 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
21 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
22 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
23 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
24 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
25 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
26 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
27 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
28 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
29 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
30 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.077,
31 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.270,
32 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
33 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
34 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
35 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,
36 704B.325, 706.1725, 706A.230, 710.159, 711.600, *section 14 of*
37 *this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada
38 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and
39 unless otherwise declared by law to be confidential, all public books
40 and public records of a governmental entity must be open at all
41 times during office hours to inspection by any person, and may be
42 fully copied or an abstract or memorandum may be prepared from
43 those public books and public records. Any such copies, abstracts or
44 memoranda may be used to supply the general public with copies,
45 abstracts or memoranda of the records or may be used in any other



1 way to the advantage of the governmental entity or of the general
2 public. This section does not supersede or in any manner affect the
3 federal laws governing copyrights or enlarge, diminish or affect in
4 any other manner the rights of a person in any written book or
5 record which is copyrighted pursuant to federal law.

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

8 3. A governmental entity that has legal custody or control of a
9 public book or record shall not deny a request made pursuant to
10 subsection 1 to inspect or copy or receive a copy of a public book or
11 record on the basis that the requested public book or record contains
12 information that is confidential if the governmental entity can
13 redact, delete, conceal or separate the confidential information from
14 the information included in the public book or record that is not
15 otherwise confidential.

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

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

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

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

29 241.016 1. The meetings of a public body that are quasi-
30 judicial in nature are subject to the provisions of this chapter.

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

33 (a) The Legislature of the State of Nevada.

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

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

41 3. Any provision of law, including, without limitation, NRS
42 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690,
43 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345,
44 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495,
45 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699,



1 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311,
2 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170,
3 696B.550, 703.196 and 706.1725, *and section 9 of this act*, which:

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

6 (b) Otherwise authorizes or requires a closed meeting, hearing
7 or proceeding,

8 ↪ prevails over the general provisions of this chapter.

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

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

17 **Sec. 66.** 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 July 1, 2019, whether or not the conduct at issue in such
24 proceedings occurred before July 1, 2019.

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 July 1, 2019, and are still within the
29 jurisdiction of the Commission and pending before the Commission
30 on July 1, 2019, 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 July 1,
34 2019.

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

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

