
SENATE BILL NO. 478—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF GOVERNOR GUINN)

MARCH 18, 1999

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning ethics in government. (BDR 23-1671)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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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 state government; authorizing the commission to appoint an executive director and commission counsel and providing their duties; increasing the number of members of the commission; authorizing the chairman of the commission to issue subpoenas in certain circumstances; revising the provisions relating to requests for opinions by the commission and the manner in which determinations of just and sufficient cause to render such opinions are made; revising the civil penalties for willful violations of ethical provisions; revising the penalties for certain crimes; requiring the payment of certain fees by candidates for use by the commission; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 281 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 8, inclusive, of this act.
3 **Sec. 2.** *“Executive director” means the executive director appointed*
4 *by the commission pursuant to section 5 of this act.*
5 **Sec. 3.** *“Panel” means the panel appointed by the commission*
6 *pursuant to section 8 of this act.*
7 **Sec. 4.** *“Willful violation” means the public officer or employee*
8 *knew or reasonably should have known that his conduct violated this*
9 *chapter.*
10 **Sec. 5. 1.** *The commission shall appoint, within the limits of*
11 *legislative appropriation, an executive director and commission counsel*
12 *who shall perform the duties set forth in this chapter and such other*
13 *duties as may be prescribed by the commission.*

1 2. The executive director must have experience in administration,
2 law enforcement, investigations or law.

3 3. The commission counsel must be an attorney who is licensed to
4 practice law in this state.

5 4. The executive director and commission counsel are in the
6 unclassified service of the state.

7 5. Except as otherwise provided in NRS 284.143, the executive
8 director and commission counsel shall devote their entire time and
9 attention to the business of the commission and shall not pursue any
10 other business or occupation or hold any other office of profit that
11 detracts from the full and timely performance of their duties.

12 6. The executive director and commission counsel may not:

13 (a) Be actively involved in the work of any political party or
14 political
15 campaign; or

16 (b) Communicate directly or indirectly with a member of the
17 legislative branch on behalf of someone other than himself to influence
18 legislative action, except in pursuit of the business of the commission.

19 **Sec. 6.** 1. In addition to any other duties imposed upon him, the
20 executive director shall:

21 (a) Maintain complete and accurate records of all transactions and
22 proceedings of the commission.

23 (b) Receive requests for opinions pursuant to NRS 281.511,
24 294A.345
25 or 294A.346.

26 (c) Gather information and conduct investigations regarding
27 requests
28 for opinions received by the commission and submit recommendations to
29 the panel appointed pursuant to section 8 of this act regarding whether
30 there is just and sufficient cause to render an opinion in response to a
31 particular request.

32 (d) Recommend to the commission any regulations or legislation
33 that
34 he considers desirable or necessary to improve the operation of the
35 commission and maintain high standards of ethical conduct in
36 government.

37 (e) Upon the request of any public officer or the employer of a
38 public
39 employee, conduct training on the requirements of this chapter, the rules
40 and regulations adopted by the commission and previous opinions of the
41 commission. In any such training, the executive director shall emphasize
42 that he is not a member of the commission and that only the commission
43 may issue opinions concerning the application of the statutory ethical
44 standards to any given set of facts and circumstances. The commission
45 shall charge a reasonable fee to cover the costs of training provided by
46 the executive director pursuant to this subsection.

47 (f) Perform such other duties, not inconsistent with law, as may be
48 required by the commission.

1 **2. The executive director shall, within the limits of legislative**
2 **appropriation, employ such persons as are necessary to carry out any of**
3 **his duties relating to:**

- 4 **(a) The administration of the affairs of the commission;**
5 **(b) The review of statements of financial disclosure; and**
6 **(c) The investigation of matters under the jurisdiction of the**
7 **commission.**

8 **Sec. 7. 1. Every public officer shall acknowledge that he has**
9 **received, read and understands the statutory ethical standards. The**
10 **acknowledgment must be on a form prescribed by the commission and**
11 **must accompany the first statement of financial disclosure that the public**
12 **officer is required to file with the commission pursuant to NRS 281.561.**
13 **Willful refusal to execute and file the acknowledgment required by this**
14 **subsection constitutes nonfeasance in office and is a ground for removal**
15 **pursuant to NRS 283.440.**

16 **2. Every public employee shall acknowledge that he has received,**
17 **read and understands the statutory ethical standards. The**
18 **acknowledgment must be on a form prescribed by the commission and**
19 **filed by the public employee with the commission within 30 days after the**
20 **date on which his employment commences. Failure of a public employee**
21 **to execute and file the acknowledgment required by this section**
22 **constitutes grounds for termination of his employment.**

23 **Sec. 8. 1. The chairman shall appoint one or more panels of two**
24 **members of the commission on a rotating basis to review the**
25 **determinations of just and sufficient cause made by the executive**
26 **director pursuant to NRS 281.511 and make a final determination**
27 **regarding whether just and sufficient cause exists for the commission to**
28 **render an opinion.**

29 **2. The chairman and vice chairman of the commission may not serve**
30 **together on a panel.**

31 **3. The members of a panel may not be members of the same political**
32 **party.**

33 **4. If a panel finds just and sufficient cause for the commission to**
34 **render an opinion in a matter, the members of the panel shall not**
35 **participate in any further proceedings of the commission relating to that**
36 **matter.**

37 **Sec. 9. NRS 281.431 is hereby amended to read as follows:**

38 281.431 As used in NRS 281.411 to 281.581, inclusive, **and sections 2**
39 **to 8, inclusive, of this act**, unless the context otherwise requires, the words
40 and terms defined in NRS 281.432 to 281.4365, inclusive, **and sections 2,**
41 **3 and 4 of this act** have the meanings ascribed to them in those sections.

1 **Sec. 10.** NRS 281.455 is hereby amended to read as follows:

2 281.455 1. The commission on ethics, consisting of ~~{six}~~ **eight**
3 members, is hereby created.

4 2. The legislative commission shall appoint to the commission ~~;~~

5 ~~—(a) One former legislator;~~

6 ~~—(b) One former public officer of a county; and~~

7 ~~—(c) One former public officer of a city.}~~ **four residents of the state, at**
8 **least two of whom are former public officers, and at least one of whom**
9 **must be an attorney licensed to practice law in this state.**

10 3. The governor shall appoint to the commission ~~{three}~~ **four** residents
11 of the state, ~~{one}~~ **at least two** of whom must be ~~[, if available and willing~~
12 ~~to serve, a retired justice or judge of this state who was not removed or~~
13 ~~retired from that office for cause.}~~ **former public officers or public**
14 **employees, and at least one of whom must be an attorney licensed to**
15 **practice law in this state.**

16 4. Not more than ~~{three}~~ **four** members of the commission may be
17 members of the same political party. Not more than ~~{three}~~ **four** members
18 may be residents of the same county.

19 5. None of the members of the commission may:

20 (a) Hold another public office;

21 (b) Be actively involved in the work of any political party or political
22 campaign; or

23 (c) ~~{Appear in person and communicate}~~ **Communicate** directly with a
24 member of the legislative branch on behalf of someone other than himself
25 ~~;~~ **or the commission**, for compensation, to influence legislative action,
26 while he is serving on the commission.

27 6. After the initial terms, the ~~{members shall serve}~~ terms of **the**
28 **members are** 4 years. Any vacancy in the membership must be filled by the
29 appropriate appointing authority for the unexpired term. Each member may
30 serve no more than two consecutive full terms.

31 **Sec. 11.** NRS 281.461 is hereby amended to read as follows:

32 281.461 1. The commission shall:

33 (a) At its first meeting and annually thereafter elect a chairman and vice
34 chairman from among its members.

35 (b) Meet regularly at least once in each calendar quarter, unless there are
36 no requests made for an opinion pursuant to NRS 281.511, 294A.345 or
37 294A.346, and at other times upon the call of the chairman.

38 2. Members of the commission are entitled to receive a salary of not
39 more than \$80 per day, as fixed by the commission, while engaged in the
40 business of the commission.

41 3. While engaged in the business of the commission, each member and
42 employee of the commission is entitled to receive the per diem allowance
43 and travel expenses provided for state officers and employees generally.

1 4. ~~{The commission shall, within the limits of legislative appropriation,~~
2 ~~employ such persons as are necessary to carry out any of its duties relating~~
3 ~~to:~~

4 ~~—(a) The administration of its affairs;~~

5 ~~—(b) The review of statements of financial disclosure; and~~

6 ~~—(c) The investigation of matters under its jurisdiction.~~

7 ~~—5.}~~ The commission may, within the limits of legislative appropriation,
8 maintain such facilities as are required to carry out its functions.

9 **Sec. 12.** NRS 281.465 is hereby amended to read as follows:

10 281.465 1. The commission has jurisdiction to investigate and take
11 appropriate action regarding an alleged violation of:

12 (a) This chapter by a public officer or employee or former public officer
13 or employee in any proceeding commenced by:

14 (1) The filing of a request for an opinion with the commission; or

15 (2) ~~{A determination of the commission on its}~~ **Upon the**
16 **commission's** own motion . ~~{that there is just and sufficient cause to render~~
17 ~~an opinion concerning the conduct of that public officer or employee or~~
18 ~~former public officer or employee.}~~

19 (b) NRS 294A.345 or 294A.346 in any proceeding commenced by the
20 filing of a request for an opinion pursuant thereto.

21 2. The provisions of paragraph (a) of subsection 1 apply to a public
22 officer or employee who:

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

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

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

27 (2) Within 1 year after the alleged violation or reasonable discovery
28 of the alleged violation.

29 **Sec. 13.** NRS 281.471 is hereby amended to read as follows:

30 281.471 The commission shall:

31 1. Adopt procedural regulations to facilitate the receipt of inquiries
32 **and requests** and **the** prompt rendition of its opinions.

33 2. Prescribe, by regulation, forms and procedures for the submission of
34 statements of financial disclosure ~~{,}~~ **and statements of acknowledgment**
35 **filed by public officers and public employees pursuant to section 7 of this**
36 **act,** maintain files of ~~{the}~~ **such** statements and make the statements
37 available for public inspection.

38 3. ~~{Make}~~ **Cause the making of** such investigations as are reasonable
39 and necessary for the rendition of its opinions pursuant to this chapter.

40 4. Inform the attorney general or district attorney of all cases of
41 noncompliance with the requirements ~~{for disclosure.}~~ **of this chapter.**

1 5. Recommend to the legislature such further legislation as the
2 commission considers desirable or necessary to promote and maintain high
3 standards of ethical conduct in government.

4 **6. Publish a manual for the use of public officers and employees that**
5 **contains:**

6 **(a) Hypothetical opinions which are abstracted from opinions**
7 **rendered pursuant to subsection 1 of NRS 281.511, for the future**
8 **guidance of all persons concerned with ethical standards in government;**

9 **(b) Abstracts of selected opinions rendered pursuant to subsection 2 of**
10 **NRS 281.511; and**

11 **(c) An abstract of the requirements of this chapter.**

12 **The legislative counsel shall prepare annotations to this chapter for**
13 **inclusion in the Nevada Revised Statutes based on the abstracts and**
14 **published opinions of the commission.**

15 **Sec. 14.** NRS 281.475 is hereby amended to read as follows:

16 281.475 1. The chairman and vice chairman of the commission may
17 administer oaths.

18 2. The ~~{commission, upon majority vote,}~~ **chairman, or in his**
19 **absence, the vice chairman, may, upon the request of the commission,**
20 **the executive director or the public officer or public employee who is the**
21 **subject of a request for an opinion, issue a subpoena to compel the**
22 **attendance of a witness and the production of books and papers. Before**
23 **issuing ~~{such a subpoena, the commission}~~ a subpoena to a public officer**
24 **or public employee who is the subject of a request for an opinion, the**
25 **executive director shall submit a written request to the public officer or**
26 **public employee ~~{who is the subject of an inquiry or opinion of the~~**
27 **commission, or to the person or group of persons requesting an opinion**
28 **pursuant to NRS 294A.345 or 294A.346,} requesting:**

29 (a) His appearance ~~{, or the appearance of a representative of the group,}~~
30 as a witness; **or**

31 (b) ~~{The appearance as a witness of any other person who may have~~
32 ~~information relating to the inquiry or opinion; or~~
33 ~~—(c) The}~~ **His** production of any books and papers ~~{. Each such}~~ **relating**
34 **to the request for an opinion.**

35 **Each written request submitted by the executive director pursuant to this**
36 **subsection must specify the time and place for the attendance of ~~{any~~**

37 ~~witness}~~ **the public officer or public employee** or the production of any
38 books and papers, and designate with certainty the books and papers
39 requested, if any. If the public officer or ~~{other witness}~~ **public employee**
40 fails or refuses to attend **at the time and place specified** or produce the
41 books and papers requested by the ~~{commission, the commission}~~ **executive**
42 **director within 5 business days after receipt of the request, the chairman**
43 **may issue the subpoena. Failure of the public officer or public employee**

1 *to comply with the written request of the executive director constitutes*
2 *good cause for extension of the time set forth in subsections 3 and 4 of*
3 *NRS 281.511.*

4 3. If any witness refuses to attend, testify or produce any books and
5 papers as required by the subpoena, the chairman of the commission may
6 report to the district court by petition, setting forth that:

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

9 (b) The witness has been subpoenaed by the commission pursuant to this
10 section; and

11 (c) The witness has failed or refused to attend or produce the books and
12 papers required by the subpoena before the commission, or has refused to
13 answer questions propounded to him, and asking for an order of the court
14 compelling the witness to attend and testify or produce the books and
15 papers before the commission.

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

27 5. If it appears to the court that the subpoena was regularly issued by
28 the commission, the court shall enter an order that the witness appear
29 before the commission, at the time and place fixed in the order, and testify
30 or produce the required books and papers. Upon failure to obey the order
31 the witness must be dealt with as for contempt of court.

32 **Sec. 15.** NRS 281.501 is hereby amended to read as follows:

33 281.501 1. Except as otherwise provided in subsection 2 or 3, a
34 member of the legislative branch may vote upon a matter if the benefit or
35 detriment accruing to him as a result of the decision either individually or
36 in a representative capacity as a member of a general business, profession,
37 occupation or group is not greater than that accruing to any other member
38 of the general business, profession, occupation or group.

39 2. In addition to the requirements of the code of ethical standards, a
40 member of the legislative branch shall not vote upon or advocate the
41 passage or failure of, but may otherwise participate in the consideration of
42 a matter with respect to which the independence of judgment of a
43 reasonable person in his situation would be materially affected by:

1 (a) His acceptance of a gift or loan;

2 (b) His pecuniary interest; or

3 (c) His commitment in a private capacity to the interests of others.

4 It must be presumed that the independence of judgment of a reasonable
5 person would not be materially affected by his pecuniary interest or his
6 commitment in a private capacity to the interests of others where the
7 resulting benefit or detriment accruing to him or to the other persons whose
8 interests to which the member is committed in a private capacity is not
9 greater than that accruing to any other member of the general business,
10 profession, occupation or group. *The presumption set forth in this*
11 *subsection does not affect the applicability of the requirements set forth*
12 *in subsection 3 relating to the disclosure of the pecuniary interest or*
13 *commitment in a private capacity to the interests of others.*

14 3. A public officer or employee shall not approve, disapprove, vote,
15 abstain from voting or otherwise act upon any matter:

16 (a) Regarding which he has accepted a gift or loan;

17 (b) Which would reasonably be affected by his commitment in a private
18 capacity to the interest of others; or

19 (c) In which he has a pecuniary interest,
20 without disclosing the full nature and extent of the gift, loan, commitment
21 or interest. Except as otherwise provided in subsection 6, such a disclosure
22 must be made at the time the matter is considered. If the officer or
23 employee is a member of a body which makes decisions, he shall make the
24 disclosure in public to the chairman and other members of the body. If the
25 officer or employee is not a member of such a body and holds an
26 appointive office, he shall make the disclosure to the supervisory head of
27 his organization or, if he holds an elective office, to the general public in
28 the area from which he is elected. *This subsection does not require a*
29 *public officer to disclose any campaign contributions that the public*
30 *officer reported pursuant to NRS 294A.120 or 294A.125 in a timely*
31 *manner.*

32 4. If a member of the legislative branch declares to the legislative body
33 or committee in which the vote is to be taken that he will abstain from
34 voting because of the requirements of this section, the necessary quorum to
35 act upon and the number of votes necessary to act upon the matter, as fixed
36 by any statute, ordinance or rule, is reduced as though the member
37 abstaining were not a member of the body or committee.

38 5. If a member of the legislative branch is voting on a matter which
39 affects public employees, he shall make a full public disclosure of any
40 personal pecuniary interest which he may have in the matter.

6. After a member of the ~~legislative branch~~ legislature makes a disclosure pursuant to subsection 3, he may file with the director of the legislative counsel bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the legislative counsel bureau.

7. As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:

- (a) Who is a member of his household;
- (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;
- (c) Who employs him or a member of his household;
- (d) With whom he has a substantial and continuing business or personal relationship; or
- (e) Any other similar commitment or relationship.

Sec. 16. NRS 281.511 is hereby amended to read as follows:

281.511 1. The commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances upon request from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of his own past, present or future conduct as an officer or employee. He may also request the commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of his own present or future conduct, the opinion of the commission is:

- (a) Binding upon the requester as to his future conduct; and
- (b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

- (a) Upon request from a specialized or local ethics committee.
- (b) Upon request from a person, if the requester:
 - (1) Submits all related evidence deemed necessary by the ~~commission for it~~ executive director and the panel to make a ~~preliminary~~ determination of whether there is just and sufficient cause to render an opinion in the matter; and
 - (2) Signs a statement on a form prescribed by the commission in which he affirms that:

1 (I) The accusation or information contained in the request is true;

2 (II) He did not submit the request in bad faith or with a vexatious
3 purpose; and

4 (III) He understands that the commission may impose penalties
5 upon him pursuant to NRS 281.551 if the commission determines that the
6 accusation or information is false and was submitted in bad faith ~~or~~ or with
7 a vexatious purpose ~~for~~ in connection with a request for an opinion that the
8 commission determines to be without merit.

9 (c) Upon the commission's own motion regarding the propriety of
10 conduct by a public officer or employee . ~~if the commission first~~
11 ~~determines in an adopted motion that there is just and sufficient cause to~~
12 ~~render an opinion concerning the conduct of that public officer or~~
13 ~~employee.~~ The commission shall not initiate proceedings pursuant to this
14 paragraph based solely upon an anonymous complaint. ~~Proceedings that~~
15 ~~the commission initiates pursuant to this paragraph must remain~~
16 ~~confidential unless the commission determines that there is just and~~
17 ~~sufficient cause to render an opinion.~~
18 ~~The commission shall not determine that there is just and sufficient cause~~
19 ~~to render an opinion without extending the public officer or employee an~~
20 ~~opportunity to appear before the commission and present evidence and~~
21 ~~argument.~~

22 ~~3. The commission shall~~

23 *3. Upon receipt of a request for an opinion by the commission or*
24 *upon the motion of the commission pursuant to subsection 2, the*
25 *executive director shall investigate the facts and circumstances relating*
26 *to the request to determine whether there is just and sufficient cause for*
27 *the commission to render an opinion in the matter. The public officer or*
28 *employee that is the subject of the request may submit to the executive*
29 *director any information relevant to the request. The executive director*
30 *shall complete an investigation and present his recommendation relating*
31 *to just and sufficient cause to the panel within 15 days after the receipt of*
32 *or the motion of the commission for the request, unless the panel extends*
33 *the time for a period not to exceed 30 days upon the request of the*
34 *executive director for good cause shown or the request of the public*
35 *officer or employee. If the executive director determines after an*
36 *investigation that just and sufficient cause exists for the commission to*
37 *render an opinion in the matter, he shall state such a recommendation in*
38 *writing, including, without limitation, the specific evidence that supports*
39 *his recommendation. If, after an investigation, the executive director*
40 *does not determine that just and sufficient cause exists for the*
41 *commission to render an opinion in the matter, he shall state such a*
42 *recommendation in writing, including, without limitation, the specific*
43 *reasons for his recommendation. Within 15 days after the executive*

1 *director has provided his recommendation in the matter to the panel, the*
2 *panel shall make a final determination regarding whether just and*
3 *sufficient cause exists for the commission to render an opinion in the*
4 *matter, unless the commission extends the time for a period not to exceed*
5 *30 days upon the request of the panel for good cause shown or the*
6 *request of the public officer or employee. The panel shall not determine*
7 *that there is just and sufficient cause for the commission to render an*
8 *opinion unless the panel has provided the public officer or employee an*
9 *opportunity to respond to the allegations against him. The panel shall*
10 *cause a record of its proceedings in each matter to be kept and such a*
11 *record must remain confidential until the panel determines whether there*
12 *is just and sufficient cause for the commission to render an opinion in*
13 *the matter.*

14 *4. If the panel determines that just and sufficient cause exists for the*
15 *commission to render an opinion requested pursuant to this section ~~as~~*
16 *~~expeditiously as possible in light of the circumstances of the public officer~~*
17 *~~or employee about whom the opinion is requested, so as to minimize~~*
18 *~~adverse consequences to him that may result from a delay in issuing the~~*
19 *~~opinion.~~*

20 *~~—4.1~~, the commission shall hold a hearing and render an opinion in the*
21 *matter within 30 days after the determination of just and sufficient cause*
22 *by the panel, unless the commission extends the time for a period not to*
23 *exceed 30 days for good cause shown or upon the request of the public*
24 *officer or employee.*

25 *5. Each request for an opinion that a public officer or employee*
26 *submits to the commission pursuant to subsection 1, each opinion rendered*
27 *by the commission in response to such a request and any motion,*
28 *~~{preliminary}~~ determination, evidence or record of a hearing relating to*
29 *such a request are confidential unless the public officer or employee who*
30 *requested the opinion:*

31 *(a) Acts in contravention of the opinion, in which case the commission*
32 *may disclose the request for the opinion, the contents of the opinion and*
33 *any motion, evidence or record of a hearing related thereto;*

34 *(b) Discloses the request for the opinion, the contents of the opinion or*
35 *any motion, evidence or record of a hearing related thereto; or*

36 *(c) Requests the commission to disclose the request for the opinion, the*
37 *contents of the opinion or any motion, evidence or record of a hearing*
38 *related thereto.*

39 *~~{5.1}~~ 6. Except as otherwise provided in this subsection, each document*
40 *in the possession of the commission *or its staff* that is related to a request*
41 *for an opinion regarding a public officer or employee submitted to *or**
42 **initiated by* the commission pursuant to ~~{paragraph (b) of}~~ subsection 2,*

1 including, ***without limitation***, the commission's copy of the request and all
2 materials and information gathered in an investigation of the request, is
3 confidential until the ~~commission~~ **panel** determines whether there is just
4 and sufficient cause to render an opinion in the matter. The public officer
5 or employee who is the subject of a request for an opinion submitted ***or***
6 ***initiated*** pursuant to ~~paragraph (b) of~~ subsection 2 may in writing
7 authorize the commission to make its files, material and information which
8 are related to the request publicly available.

9 ~~{6.}~~ **7.** Whenever the commission holds a hearing ~~{for a purpose other~~
10 ~~than to determine whether there is just and sufficient cause to render an~~
11 ~~opinion in a matter,}~~ ***pursuant to this section***, the commission shall:

12 (a) Notify the person about whom the opinion was requested of the place
13 and time of the commission's hearing on the matter;

14 (b) Allow the person to be represented by counsel; and

15 (c) Allow the person to hear the evidence presented to the commission
16 and to respond and present evidence on his own behalf.

17 The commission's hearing may be held no sooner than ~~{2 weeks}~~ **10 days**
18 after the notice is given unless the person agrees to a shorter time.

19 ~~{7.}~~ **8.** ***If a person who is not a party to a hearing before the***
20 ***commission, including, without limitation, a person who has requested***
21 ***an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to***
22 ***ask a question of a witness at the hearing, the person must submit the***
23 ***question to the executive director in writing. The executive director may***
24 ***submit the question to the commission if he deems the question relevant***
25 ***and appropriate. This subsection does not require the commission to ask***
26 ***any question submitted by a person who is not a party to the proceeding.***

27 **9.** If a person who requests an opinion pursuant to subsection 1 or 2
28 does not:

29 (a) Submit all necessary information to the commission; and

30 (b) Declare by oath or affirmation that he will testify truthfully,
31 the commission may decline to render an opinion.

32 ~~{8.}~~ **10.** For the purposes of NRS 41.032, the members of the
33 commission and its employees shall be deemed to be exercising or
34 performing a discretionary function or duty when taking an action related to
35 the rendering of an opinion pursuant to this section.

36 ~~{9.—The commission shall publish hypothetical opinions which are~~
37 ~~abstracted from the opinions rendered pursuant to subsection 1, for the~~
38 ~~future guidance of all persons concerned with ethical standards in~~
39 ~~government.~~

40 ~~—10.}~~ **11.** A meeting or hearing that the commission ***or the panel*** holds
41 to receive information or evidence concerning the propriety of the conduct
42 of a public officer or employee pursuant to this section and the

1 ~~{commission's}~~ deliberations *of the commission and the panel* on such
2 information or evidence are not subject to the provisions of chapter 241 of
3 NRS.

4 **Sec. 17.** NRS 281.531 is hereby amended to read as follows:

5 281.531 **1.** The ~~{attorney-general}~~ *commission counsel* is the legal
6 adviser to the commission. For each opinion ~~{he}~~, *the commission counsel*
7 shall prepare, at the direction of the commission, the appropriate findings
8 of fact and conclusions as to relevant standards and the propriety of
9 particular conduct ~~{H}~~ *within the time set forth in subsection 4 of NRS*
10 *281.511. The commission counsel shall not issue written opinions*
11 *concerning the applicability of the statutory ethical standards to a given*
12 *set of facts and circumstances except as directed by the commission.*

13 **2.** *The commission may rely upon the legal advice of the commission*
14 *counsel in conducting its daily operations.*

15 **3.** *If the commission counsel is prohibited from acting on a*
16 *particular matter pursuant to NRS 281.501, he shall disclose the reasons*
17 *therefor to the chairman and the attorney general shall appoint a deputy*
18 *to act in the place of the commission counsel for that particular matter.*

19 **Sec. 18.** NRS 281.551 is hereby amended to read as follows:

20 281.551 **1.** In addition to any other penalty provided by law, the
21 commission may impose on a public officer or employee or former public
22 officer or employee civil penalties ~~{not to exceed}~~ :

23 *(a) Not to exceed \$5,000 for a first willful violation of this chapter {H} ;*

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

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

28 **2.** In addition to other penalties provided by law, the commission may
29 impose a civil penalty not to exceed \$5,000 and assess an amount equal to
30 the amount of attorney's fees and costs actually and reasonably incurred by
31 the person about whom an opinion was requested pursuant to NRS
32 281.511, against a person who:

33 *(a) Submits to the commission, in bad faith or with a vexatious purpose,*
34 *an accusation or information that is false; or*

35 *(b) {Submits to the commission, in connection with a request for an*
36 *opinion that the commission determines to be without merit, an accusation*
37 *or information that is false; or*

38 ~~—(c)—~~ *Prevents, interferes with or attempts to prevent or interfere with the*
39 *discovery or investigation of a violation of this chapter.*

40 **3.** If the commission finds that a violation of a provision of this chapter
41 by a public officer or employee or former public officer or employee has
42 resulted in the realization by another person of a financial benefit, the

1 commission may, in addition to other penalties provided by law, require the
2 current or former public officer or employee to pay a civil penalty of not
3 more than twice the amount so realized.

4 4. Except as otherwise provided in this subsection, and in addition to
5 any other penalty provided by law, the commission may impose on any
6 person who violates any provision of NRS 294A.345 or 294A.346 a civil
7 penalty not to exceed \$10,000. If the commission finds that a violation of
8 NRS 294A.345 or 294A.346 occurred within ~~10~~ 17 days before an
9 election, including , **without limitation**, any recall or special election, the
10 commission may impose on the person who committed such a violation a
11 civil penalty not to exceed \$30,000.

12 5. If the commission finds that ~~that~~ :

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

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

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

24 6. An action taken by a public officer or employee or former public
25 officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505
26 is not a willful violation of a provision of those sections if the public officer
27 or employee:

28 (a) Relied in good faith upon the advice of the legal counsel retained by
29 the public body which the public officer represents or by the employer of
30 the public employee ~~or~~ **or upon the manual published by the commission**
31 **pursuant to NRS 281.471;**

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

34 (c) Took action that was not contrary to a prior **published** opinion issued
35 by the commission . ~~to the public officer or employee.~~

36 7. In addition to other penalties provided by law, a public employee
37 who willfully violates a provision of NRS 281.481, 281.491, 281.501 or
38 281.505 is subject to disciplinary proceedings by his employer and must be
39 referred for action in accordance to the applicable provisions governing his
40 employment.

41 8. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the
42 effect of the provisions of the Nevada Revised Statutes which define crimes
43 or prescribe punishments with respect to the conduct of public officers or

employees. *If the commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the commission shall refer the matter to the attorney general or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.*

9. The imposition of a civil penalty pursuant to subsections 1 to 4, inclusive, is a final decision for the purposes of judicial review.

10. In determining for the purposes of this section whether a person submitted an accusation or information in bad faith or with a vexatious purpose, the commission may consider various factors, including, without limitation:

(a) When the accusation or information was filed with or provided to the commission;

(b) Whether and, if applicable, in what manner the person who submitted the accusation or information publicly disseminated the accusation or information before the commission determined whether there was just and sufficient cause to render an opinion in the matter;

(c) Whether the accusation or information sets forth alleged facts or details that are misleading or deceptive; and

(d) Whether the accusation or information or the conduct of the person who submitted the accusation or information:

(1) Would be perceived as annoying or harassing by a reasonable person; or

(2) Demonstrates conscious disregard for the process and procedures established by the commission.

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

Sec. 19. NRS 281.553 is hereby amended to read as follows:

281.553 1. A public officer or public employee shall not accept or receive an honorarium.

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

3. This section does not prohibit:

(a) The receipt of payment for work performed outside the normal course of a person's public office or employment if the performance of that work is consistent with the applicable policies of his public employer regarding supplemental employment.

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

4. As used in this section, "honorarium" means the payment of money or anything of value for an appearance or speech by the public officer or public employee in his capacity as a public officer or public employee. The term does not include the payment of:

(a) The actual and necessary costs incurred by the public officer or public employee, his spouse or his aid for transportation and for lodging and meals while the public officer or public employee is away from his residence.

(b) Compensation which would otherwise have been earned by the public officer or public employee in the normal course of his public office or employment.

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

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

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

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

5. A public officer or public employee who violates the provisions of this section is ~~guilty of a misdemeanor and, upon~~ :

(a) Guilty of a category E felony and shall be punished as provided in NRS 193.130; and

(b) Upon conviction, forfeits the amount of the honorarium.

Sec. 20. NRS 197.110 is hereby amended to read as follows:

197.110 Every public officer who:

1. Asks or receives, directly or indirectly, any compensation, gratuity or reward, or promise thereof, for omitting or deferring the performance of any official duty ~~or~~ for any official service which has not been actually rendered, except in case of charges for prospective costs or fees demandable in advance in a case allowed by law; or

2. Employs or uses any person, money or property under his official control or direction, or in his official custody, for the private benefit or gain of himself or another,

~~shall be~~ is guilty of a ~~gross misdemeanor.~~ *category E felony and shall be punished as provided in NRS 193.130.*

1 **Sec. 21.** NRS 197.170 is hereby amended to read as follows:

2 197.170 A public officer *or employee* who ~~asks,~~ :

3 **1. Asks,** receives or agrees to receive a fee or other compensation for
4 his official service ~~H~~ *or his employment* either:

5 ~~H~~ **(a)** In excess of the fee or compensation allowed to him by statute
6 therefor; or

7 ~~H~~ **(b)** Where a fee or compensation is not allowed to him by statute
8 therefor ~~H~~ ; *or*

9 **2. Requests money, property or anything of value which is not**
10 *authorized by law, from any person regulated by the public officer or*
11 *employee, and in a manner which would cause a reasonable person to be*
12 *intimidated into complying with the request to avoid the risk of adverse*
13 *action by the public officer or employee,*

14 commits extortion which is a category D felony and shall be punished as
15 provided in NRS 193.130. In addition to any other penalty, the court shall
16 order the person to pay restitution.

17 **Sec. 22.** NRS 293.1725 is hereby amended to read as follows:

18 293.1725 1. Except as otherwise provided in subsection 4, a minor
19 political party which wishes to place its candidates on the ballot for a
20 general election and:

21 (a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of
22 NRS 293.1715; or

23 (b) Files a petition pursuant to paragraph (c) of subsection 2 of NRS
24 293.1715,
25 must file with the secretary of state a list of its candidates not earlier than
26 the first Monday in May preceding the election nor later than the last Friday
27 in June. The list must be signed by the person so authorized in the
28 certificate of existence of the minor political party before a notary public or
29 other person authorized to take acknowledgments. The list must not be
30 amended after it is filed.

31 2. The secretary of state shall immediately forward a certified copy of
32 the list of candidates of each minor political party to the filing officer with
33 whom each candidate must file his declaration of candidacy.

34 3. Each candidate on the list must file his declaration of candidacy with
35 the proper filing officer and pay the ~~fee~~ *fees* required by NRS 293.193 not
36 earlier than the date on which the list of candidates of his minor political
37 party is filed with the secretary of state nor later than the first Wednesday in
38 July.

39 4. A minor political party that wishes to place candidates for the offices
40 of President and Vice President of the United States on the ballot and has
41 otherwise qualified to place the names of its candidates on the ballot for the

1 general election pursuant to the provisions of this chapter must file with the
2 secretary of state a certificate of nomination for these offices not later than
3 the first Tuesday in September.

4 **Sec. 23.** NRS 293.193 is hereby amended to read as follows:

5 293.193 1. Fees as listed in this section for filing declarations of
6 candidacy or acceptances of candidacy must be paid to the filing officer by
7 cash, cashier's check or certified check.

8		
9	United States Senator	\$500
10	Representative in Congress	300
11	Governor.....	300
12	Justice of the supreme court	300
13	Any state office, other than governor or justice of the	
14	supreme court	200
15	District judge	150
16	Justice of the peace	100
17	Any county office	100
18	State senator.....	100
19	Assemblyman	100
20	Any district office other than district judge.....	30
21	Constable or other town or township office	30
22		

23 For the purposes of this subsection, trustee of a county school district,
24 hospital or hospital district is not a county office.

25 2. No filing fee may be required from a candidate for an office the
26 holder of which receives no compensation.

27 3. The county clerk shall pay to the county treasurer all filing fees
28 received by him from candidates. The county treasurer shall deposit the
29 money to the credit of the general fund of the county.

30 ***4. In addition to any filing fee required by subsection 1, a candidate***
31 ***for any state, county, district, town or township office shall pay an***
32 ***administrative fee of \$30. The filing officer shall pay all administrative***
33 ***fees collected pursuant to the subsection to the state general fund for use***
34 ***by the commission on ethics in carrying out its duties.***

35 **Sec. 24.** NRS 293.177 is hereby amended to read as follows:

36 293.177 1. Except as otherwise provided in NRS 293.165, a name
37 may not be printed on a ballot to be used at a primary election unless the
38 person named has filed a declaration of candidacy or an acceptance of
39 candidacy, and paid the ~~fee~~ fees required by NRS 293.193 not earlier than
40 the first Monday in May of the year in which the election is to be held nor
41 later than 5 p.m. on the third Monday in May.

42 2. A declaration of candidacy or an acceptance of candidacy required
43 to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I reside at, in the City or Town of, County of, State of Nevada; that my actual residence in the state, district, county, township, city or other area prescribed by law to which the office pertains began on a date 30 days or more before the date of the close of filing of declarations of candidacy for this office; that I am registered as a member of the Party; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this state; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the constitution and laws of this state concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before
me this day of, 19...

Notary Public or other person
authorized to

administer

an

oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I reside at, in the City or Town of, County of, State of Nevada; that my actual residence in the state, district, county, township, city or other area prescribed by law to which the office pertains began on a date 30 days or more before the date of the close of filing of declarations of candidacy for this office; that if nominated as a nonpartisan candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this state; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the constitution and laws of this state concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before
me this day of, 19...

Notary Public or other person
authorized to administer an oath

3. A person may be a candidate under his given name and surname, a contraction or familiar form of his given name followed by his surname or the initial of his given name followed by his surname. A nickname of not more than 10 letters may be incorporated into a candidate's name. The

1 nickname must be in quotation marks and appear immediately before the
2 candidate's surname. A nickname must not indicate any political,
3 economic, social or religious view or affiliation and must not be the name
4 of any person, living or dead, whose reputation is known on a statewide,
5 nationwide or worldwide basis, or in any other manner deceive a voter
6 regarding the person or principles for which he is voting.

7 4. The address of a candidate which must be included in the
8 declaration of candidacy or acceptance of candidacy pursuant to subsection
9 2 must be the street address of the residence where he actually resides, if
10 one has been assigned. The declaration or acceptance of candidacy must
11 not be accepted for filing if the candidate's address is listed as a post office
12 box unless a street address has not been assigned to his residence.

13 **Sec. 25.** NRS 293.200 is hereby amended to read as follows:

14 293.200 1. An independent candidate for partisan office must file
15 with the proper filing officer:

16 (a) A copy of the petition of candidacy that he intends to circulate for
17 signatures. The copy must be filed before the petition may be circulated.

18 (b) A petition of candidacy signed by a number of registered voters
19 equal to at least 1 percent of the total number of ballots cast in the state or
20 in the county or district electing that officer at the last preceding general
21 election in which a person was elected to that office.

22 2. The petition may consist of more than one document. Each
23 document must bear the name of the county in which it was circulated and
24 only registered voters of that county may sign the document. The person
25 who circulates the document must be a registered voter of that county. If
26 the office is a district office, only the registered voters of that district may
27 sign the document. The documents which are circulated for signature in a
28 county must be submitted to that county clerk for verification in the manner
29 prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 40 days
30 before filing the petition of candidacy with the proper filing officer. Each
31 signer shall add to his signature the address of the place at which he
32 actually resides, the date that he signs the petition and the name of the
33 county where he is registered to vote for the purpose of determining
34 whether he is a registered voter. The person who circulates each document
35 of the petition shall sign an affidavit attesting that the signatures on the
36 document are genuine to the best of his knowledge and belief and were
37 signed in his presence by persons registered to vote in that county.

38 3. The petition of candidacy may state the principle, if any, which the
39 person qualified represents.

1 4. Petitions of candidacy must be filed not earlier than the first Monday
2 in May preceding the general election and not later than 5 p.m. on the third
3 Tuesday in August.

4 5. No petition of candidacy may contain the name of more than one
5 candidate for each office to be filled.

6 6. A person may not file as an independent candidate if he is proposing
7 to run as the candidate of a political party.

8 7. The names of independent candidates must be placed on the general
9 election ballot and must not appear on the primary election ballot.

10 8. If the candidacy of any person seeking to qualify pursuant to this
11 section is challenged, all affidavits and documents in support of the
12 challenge must be filed not later than 5 p.m. on the fourth Tuesday in
13 August. Any judicial proceeding resulting from the challenge must be set
14 for hearing not more than 5 days after the fourth Tuesday in August.

15 9. Any challenge pursuant to subsection 8 must be filed with:

16 (a) The first judicial district court if the petition of candidacy was filed
17 with the secretary of state.

18 (b) The district court for the county where the petition of candidacy was
19 filed if the petition was filed with a county clerk.

20 10. An independent candidate for partisan office must file a declaration
21 of candidacy with the proper filing officer and pay the ~~fee~~ fees required
22 by NRS 293.193 not earlier than the first Monday in May of the year in
23 which the election is held nor later than 5 p.m. of the first Wednesday in
24 July.

25 **Sec. 26.** Chapter 293C of NRS is hereby amended by adding thereto a
26 new section to read as follows:

27 *In addition to any filing fee required by this chapter, a candidate for*
28 *any city office shall pay an administrative fee of \$30. The city clerk shall*
29 *pay all administrative fees collected pursuant to this subsection to the*
30 *state general fund for use by the commission on ethics in carrying out its*
31 *duties.*

32 **Sec. 27.** NRS 306.110 is hereby amended to read as follows:

33 306.110 1. A petition to nominate other candidates for the office
34 must be signed by registered voters of the state, or of the county, district or
35 municipality holding the election, equal in number to 25 percent of the
36 number of registered voters who voted in the state, or in the county, district
37 or municipality holding the election at the general election at which the
38 public officer was elected.

39 2. The nominating petition must be filed, at least 15 days before the
40 date of the special election, with the officer with whom the recall petition is
41 filed.

1 3. Each candidate who is nominated for office must file an acceptance
2 of candidacy with the appropriate filing officer and pay the ~~fee~~ *fees*
3 required by NRS 293.193 or by the governing body of a city at least 15
4 days before the date of the special election.

5 **Sec. 28.** The amendatory provisions of this act do not apply to conduct
6 that occurred before October 1, 1999.

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