
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 ~~for omitted material~~ is material to be omitted.

AN ACT relating to state government; authorizing the commission to appoint an executive director and providing his duties; requiring the attorney general to assign a commission counsel to the commission and providing his duties; requiring lobbyists to report expenditures on behalf of the governor; repealing the provision prohibiting a person from making a false statement of fact concerning a candidate or a question on a ballot under certain circumstances; repealing the provision prohibiting certain persons from willfully impeding the success of the campaign of a candidate or the campaign for the passage or defeat of a question on a ballot; clarifying the intent of the legislature with respect to the Nevada Ethics in Government Law; 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 provisions relating to the confidentiality of persons who request an opinion by or provide testimony to the commission; authorizing the commission to take testimony by telephone or video conference in certain circumstances; revising the civil penalties for willful violations of ethical provisions; revising the penalties for certain crimes; authorizing the commission and the secretary of state to waive certain civil penalties in certain circumstances; 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.

1 *Sec. 2. "Executive director" means the executive director appointed*
2 *by the commission pursuant to section 5 of this act.*

3 *Sec. 3. "Panel" means the panel appointed by the commission*
4 *pursuant to section 8 of this act.*

5 *Sec. 3.5. "Vexatious" means lacking justification and intended to*
6 *harass.*

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 who shall perform the*
12 *duties set forth in this chapter and such other duties as may be prescribed*
13 *by the commission.*

14 *2. The executive director must have experience in administration,*
15 *law enforcement, investigations or law.*

16 *3. The executive director is in the unclassified service of the state.*

17 *4. The executive director shall devote his entire time and attention*
18 *to*
19 *the business of the commission and shall not pursue any other business*
20 *or occupation or hold any other office of profit that detracts from the full*
21 *and timely performance of his duties.*

22 *5. The executive director may not:*

23 *(a) Be actively involved in the work of any political party or*
24 *political*
25 *campaign; or*

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

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

31 *(a) Maintain complete and accurate records of all transactions and*
32 *proceedings of the commission.*

33 *(b) Receive requests for opinions pursuant to NRS 281.511.*

34 *(c) Gather information and conduct investigations regarding*
35 *requests*
36 *for opinions received by the commission and submit recommendations to*
37 *the panel appointed pursuant to section 8 of this act regarding whether*
38 *there is just and sufficient cause to render an opinion in response to a*
39 *particular request.*

40 *(d) Recommend to the commission any regulations or legislation*
41 *that*
42 *he considers desirable or necessary to improve the operation of the*
43 *commission and maintain high standards of ethical conduct in*
44 *government.*

45 *(e) Upon the request of any public officer or the employer of a*
46 *public*
47 *employee, conduct training on the requirements of this chapter, the rules*
48 *and regulations adopted by the commission and previous opinions of the*

1 *commission. In any such training, the executive director shall emphasize*
2 *that he is not a member of the commission and that only the commission*
3 *may issue opinions concerning the application of the statutory ethical*
4 *standards to any given set of facts and circumstances. The commission*
5 *shall charge a reasonable fee to cover the costs of training provided by*
6 *the executive director pursuant to this subsection.*

7 *(f) Perform such other duties, not inconsistent with law, as may be*
8 *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 of*
11 *his duties relating to:*

12 *(a) The administration of the affairs of the commission;*

13 *(b) The review of statements of financial disclosure; and*

14 *(c) The investigation of matters under the jurisdiction of the*
15 *commission.*

16 **Sec. 7.** *Every public officer 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 *must accompany the first statement of financial disclosure that the public*
20 *officer is required to file with the commission pursuant to NRS 281.561.*
21 *Willful refusal to execute and file the acknowledgment required by this*
22 *subsection constitutes nonfeasance in office and is a ground for removal*
23 *pursuant to NRS 283.440.*

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

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

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

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

38 **Sec. 8.5.** *NRS 281.421 is hereby amended to read as follows:*

39 *281.421 1. It is hereby declared to be the public policy of this state*
40 *that:*

41 *(a) A public office is a public trust and shall be held for the sole benefit*
42 *of the people.*

1 (b) A public officer or employee must commit himself to avoid conflicts
2 between his private interests and those of the general public whom he
3 serves.

4 2. The legislature finds that:

5 (a) The increasing complexity of state and local government, more and
6 more closely related to private life and enterprise, enlarges the potentiality
7 for conflict of interests.

8 (b) To enhance the people's faith in the integrity and impartiality of
9 public officers and employees, adequate guidelines are required to show the
10 appropriate separation between the roles of persons who are both public
11 servants and private citizens.

12 *(c) Members of the legislature serve as "citizen legislators" who have*
13 *other occupations and business interests. Each legislator has particular*
14 *philosophies and perspectives that are necessarily influenced by the life*
15 *experiences of that legislator, including, without limitation, professional,*
16 *family and business experiences. Our system assumes that legislators will*
17 *contribute those philosophies and perspectives to the debate over issues*
18 *with which the legislature is confronted. The law concerning ethics in*
19 *government is not intended to require a member of the legislature to*
20 *abstain on issues which might affect his interests, provided those interests*
21 *are properly disclosed and that the benefit or detriment accruing to him*
22 *is not greater than that accruing to any other member of the general*
23 *business, profession, occupation or group.*

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

25 281.431 As used in NRS 281.411 to 281.581, inclusive, *and sections 2*
26 *to 8, inclusive, of this act*, unless the context otherwise requires, the words
27 and terms defined in NRS 281.432 to 281.4365, inclusive, *and sections 2*
28 *to 4, inclusive, of this act* have the meanings ascribed to them in those
29 sections.

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

31 281.455 1. The commission on ethics, consisting of ~~six~~ *eight*
32 members, is hereby created.

33 2. The legislative commission shall appoint to the commission ~~1~~:

34 ~~—(a) One former legislator;~~

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

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

39 3. The governor shall appoint to the commission ~~three~~ *four* residents
40 of the state, ~~one~~ *at least two* of whom must be ~~[, if available and willing~~

41 ~~to serve, a retired justice or judge of this state who was not removed or~~

42 ~~retired from that office for cause.]~~ *former public officers or public*

1 *employees, and at least one of whom must be an attorney licensed to*
2 *practice law in this state.*

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

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

7 (a) Hold another public office;

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

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

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

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

19 281.461 1. The commission shall:

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

22 (b) Meet regularly at least once in each calendar quarter, unless there are
23 no requests made for an opinion pursuant to NRS 281.511, ~~{294A.345 or~~
24 ~~294A.346,}~~ and at other times upon the call of the chairman.

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

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

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

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

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

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

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

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

40 281.465 1. The commission has jurisdiction to investigate and take
41 appropriate action regarding an alleged violation of ~~{}~~

42 ~~—(a) This}~~ *this* chapter by a public officer or employee or former public
43 officer or employee in any proceeding commenced by:

1 ~~{(1)}~~ (a) The filing of a request for an opinion with the commission;
2 or

3 ~~{(2) A determination of the commission on its}~~

4 (b) *The commission's* own motion . ~~{that there is just and sufficient~~
5 ~~cause to render an opinion concerning the conduct of that public officer or~~
6 ~~employee or former public officer or employee.~~

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

9 2. The provisions ~~{of paragraph (a)}~~ of subsection 1 apply to a public
10 officer or employee who:

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

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

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

15 (2) Within 1 year after the alleged violation or reasonable discovery
16 of the alleged violation.

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

18 281.471 The commission shall:

19 1. Adopt procedural regulations ~~{to}~~ :

20 (a) *To facilitate the receipt of inquiries by the commission;*

21 (b) *For the filing of a request for an opinion with the commission;*

22 (c) *For the withdrawal of a request for an opinion by the person who*
23 *filed the request; and*

24 (d) *To facilitate the prompt rendition of* ~~{its opinions.}~~ *opinions by the*
25 *commission.*

26 2. Prescribe, by regulation, forms and procedures for the submission of
27 statements of financial disclosure ~~{}~~ *and statements of acknowledgment*
28 *filed by public officers pursuant to section 7 of this act*, maintain files of
29 ~~{the}~~ *such* statements and make the statements available for public
30 inspection.

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

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

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

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

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

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

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

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

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

8 281.475 1. The chairman and vice chairman of the commission may
9 administer oaths.

10 2. The commission, upon majority vote, may issue a subpoena to
11 compel the *attendance of a witness and the production of books and*
12 *papers. Upon the request of the executive director or the public officer or*
13 *public employee who is the subject of a request for an opinion, the*
14 *chairman or, in his absence, the vice chairman, may issue a subpoena to*
15 *compel the attendance of a witness and the production of books and papers.*

16 3. Before issuing ~~{such a subpoena, the commission}~~ *a subpoena to a*
17 *public officer or public employee who is the subject of a request for an*
18 *opinion, the executive director* shall submit a written request to the public
19 officer or public employee ~~{who is the subject of an inquiry or opinion of~~
20 ~~the commission, or to the person or group of persons requesting an opinion~~
21 ~~pursuant to NRS 294A.345 or 294A.346,}~~ requesting:

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

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

28 4. *Each written request submitted by the executive director pursuant*
29 *to subsection 3* must specify the time and place for the attendance of ~~{any~~
30 ~~witness}~~ *the public officer or public employee* or the production of any
31 books and papers, and designate with certainty the books and papers
32 requested, if any. If the public officer or ~~{other witness}~~ *public employee*
33 fails or refuses to attend *at the time and place specified* or produce the
34 books and papers requested by the ~~{commission, the commission}~~ *executive*
35 *director within 5 business days after receipt of the request, the chairman*
36 *may issue the subpoena. Failure of the public officer or public employee*
37 *to comply with the written request of the executive director constitutes*
38 *good cause for extension of the time set forth in subsections 3 and 4 of*
39 *NRS 281.511.*

40 ~~{3.}~~ 5. If any witness refuses to attend, testify or produce any books
41 and papers as required by the subpoena, the chairman of the commission
42 may report to the district court by petition, setting forth that:

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

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

5 (c) The witness has failed or refused to attend or produce the books and
6 papers required by the subpoena before the commission, or has refused to
7 answer questions propounded to him, and asking for an order of the court
8 compelling the witness to attend and testify or produce the books and
9 papers before the commission.

10 ~~[4.—Except as otherwise provided in this subsection, upon]~~

11 **6. Upon** such a petition, the court shall enter an order directing the
12 witness to appear before the court at a time and place to be fixed by the
13 court in its order, the time to be not more than 10 days after the date of the
14 order, and then and there show cause why he has not attended, testified or
15 produced the books or papers before the commission. ~~[If the witness has
16 been subpoenaed by the commission in response to a request for an opinion
17 filed pursuant to NRS 294A.345 or 294A.346, the court shall direct the
18 witness to appear before the court as expeditiously as possible to allow the
19 commission to render its opinion within the time required by NRS
20 281.477.]~~ A certified copy of the order must be served upon the witness.

21 ~~[5.]~~ **7.** If it appears to the court that the subpoena was regularly issued
22 by the commission, the court shall enter an order that the witness appear
23 before the commission, at the time and place fixed in the order, and testify
24 or produce the required books and papers. Upon failure to obey the order
25 the witness must be dealt with as for contempt of court.

26 **Sec. 14.5.** NRS 281.481 is hereby amended to read as follows:

27 281.481 A code of ethical standards is hereby established to govern the
28 conduct of public officers and employees:

29 1. A public officer or employee shall not seek or accept any gift,
30 service, favor, employment, engagement, emolument or economic
31 opportunity which would tend improperly to influence a reasonable person
32 in his position to depart from the faithful and impartial discharge of his
33 public duties.

34 2. A public officer or employee shall not use his position in
35 government to secure or grant unwarranted privileges, preferences,
36 exemptions or advantages for himself, any member of his household, any
37 business entity in which he has a significant pecuniary interest, or any other
38 person. **As used in this subsection, “unwarranted” means without
39 justification or adequate reason.**

40 3. A public officer or employee shall not participate as an agent of
41 government in the negotiation or execution of a contract between the
42 government and any private business in which he has a significant
43 pecuniary

interest.

1 4. A public officer or employee shall not accept any salary, retainer,
2 augmentation, expense allowance or other compensation from any private
3 source for the performance of his duties as a public officer or employee.

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

8 6. A public officer or employee shall not suppress any governmental
9 report or other document because it might tend to affect unfavorably his
10 pecuniary interests.

11 7. A public officer or employee, other than a member of the legislature,
12 shall not use governmental time, property, equipment or other facility to
13 benefit his personal or financial interest. This subsection does not prohibit:

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

16 (1) The public officer who is responsible for and has authority to
17 authorize the use of such property, equipment or other facility has
18 established a policy allowing the use or the use is necessary as a result of
19 emergency circumstances;

20 (2) The use does not interfere with the performance of his public
21 duties;

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

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

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

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

29 If a governmental agency incurs a cost as a result of a use that is authorized
30 pursuant to this subsection or would ordinarily charge a member of the
31 general public for the use, the public officer or employee shall promptly
32 reimburse the cost or pay the charge to the governmental agency.

33 8. A member of the legislature shall not:

34 (a) Use governmental time, property, equipment or other facility for a
35 nongovernmental purpose or for the private benefit of himself or any other
36 person. This paragraph does not prohibit:

37 (1) A limited use of state property and resources for personal
38 purposes if:

39 (I) The use does not interfere with the performance of his public
40 duties;

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

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

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

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

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

8 (1) In unusual and infrequent situations where the employee's service
9 is reasonably necessary to permit the legislator or legislative employee to
10 perform his official duties; or

11 (2) Where such service has otherwise been established as legislative
12 policy.

13 9. A public officer or employee shall not attempt to benefit his
14 personal or financial interest through the influence of a subordinate.

15 10. A public officer or employee shall not seek other employment or
16 contracts through the use of his official position.

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

18 281.501 1. Except as otherwise provided in subsection 2 or 3, a
19 ~~member of the legislative branch~~ **public officer** may vote upon a matter if
20 the benefit or detriment accruing to him as a result of the decision either
21 individually or in a representative capacity as a member of a general
22 business, profession, occupation or group is not greater than that accruing
23 to any other member of the general business, profession, occupation or
24 group.

25 2. In addition to the requirements of the code of ethical standards, a
26 ~~member of the legislative branch~~ **public officer** shall not vote upon or
27 advocate the passage or failure of, but may otherwise participate in the
28 consideration of a matter with respect to which the independence of
29 judgment of a reasonable person in his situation would be materially
30 affected by:

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

32 (b) His pecuniary interest; or

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

34 It must be presumed that the independence of judgment of a reasonable
35 person would not be materially affected by his pecuniary interest or his
36 commitment in a private capacity to the interests of others where the
37 resulting benefit or detriment accruing to him or to the other persons whose
38 interests to which the member is committed in a private capacity is not
39 greater than that accruing to any other member of the general business,
40 profession, occupation or group. ***The presumption set forth in this
41 subsection does not affect the applicability of the requirements set forth
42 in subsection 3 relating to the disclosure of the pecuniary interest or
43 commitment in a private capacity to the interests of others.***

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

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

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

6 (c) In which he has a pecuniary interest,

7 without disclosing ~~{the full nature and extent of}~~ *sufficient information*
8 *concerning* the gift, loan, commitment or interest ~~{-}~~ *to inform the public*
9 *of the potential effect of the action or abstention upon the person who*
10 *provided the gift or loan, upon the person to whom he has a commitment,*
11 *or upon his interest.* Except as otherwise provided in subsection 6, such a
12 disclosure must be made at the time the matter is considered. If the officer
13 or employee is a member of a body which makes decisions, he shall make
14 the disclosure in public to the chairman and other members of the body. If
15 the officer or employee is not a member of such a body and holds an
16 appointive office, he shall make the disclosure to the supervisory head of
17 his organization or, if he holds an elective office, to the general public in
18 the area from which he is elected. *This subsection does not require a*
19 *public officer to disclose any campaign contributions that the public*
20 *officer reported pursuant to NRS 294A.120 or 294A.125 in a timely*
21 *manner.*

22 4. If a ~~{member of the legislative branch}~~ *public officer* declares to the
23 ~~{legislative}~~ body or committee in which the vote is to be taken that he will
24 abstain from voting because of the requirements of this section, the
25 necessary quorum to act upon and the number of votes necessary to act
26 upon the matter, as fixed by any statute, ordinance or rule, is reduced as
27 though the member abstaining were not a member of the body or
28 committee.

29 5. If a ~~{member of the legislative branch}~~ *public officer* is voting on a
30 matter which affects public employees, he shall make a full public
31 disclosure of any personal pecuniary interest which he may have in the
32 matter.

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

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

2 281.511 1. The commission shall render an opinion interpreting the
3 statutory ethical standards and apply the standards to a given set of facts
4 and circumstances upon request from a public officer or employee who is
5 seeking guidance on questions which directly relate to the propriety of his
6 own past, present or future conduct as an officer or employee. He may also
7 request the commission to hold a public hearing regarding the requested
8 opinion. If a requested opinion relates to the propriety of his own present or
9 future conduct, the opinion of the commission is:

10 (a) Binding upon the requester as to his future conduct; and

11 (b) Final and subject to judicial review pursuant to NRS 233B.130,
12 except that a proceeding regarding this review must be held in closed court
13 without admittance of persons other than those necessary to the proceeding,
14 unless this right to confidential proceedings is waived by the requester.

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

18 (a) Upon request from a specialized or local ethics committee.

19 (b) ~~Upon~~ *Except as otherwise provided in this subsection, upon*
20 request from a person, if the requester:

21 (1) Submits all related evidence deemed necessary by the
22 ~~{commission for it}~~ *executive director and the panel* to make a
23 ~~{preliminary}~~ determination of whether there is just and sufficient cause to
24 render an opinion in the matter; and

25 (2) Signs a statement on a form prescribed by the commission in
26 which he affirms that:

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

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

30 (III) He understands that the commission may impose penalties
31 upon him pursuant to NRS 281.551 if the commission determines that the
32 accusation or information is false and was submitted in bad faith ~~{,}~~ *or* with
33 a vexatious purpose . ~~{or in connection with a request for an opinion that~~
34 ~~the commission determines to be without merit.}~~

35 (c) Upon the commission's own motion regarding the propriety of
36 conduct by a public officer or employee . ~~{, if the commission first~~
37 ~~determines in an adopted motion that there is just and sufficient cause to~~
38 ~~render an opinion concerning the conduct of that public officer or~~
39 ~~employee.}~~ The commission shall not initiate proceedings pursuant to this
40 paragraph based solely upon an anonymous complaint. ~~{Proceedings that~~
41 ~~the commission initiates pursuant to this paragraph must remain~~
42 ~~confidential unless the commission determines that there is just and~~
43 ~~sufficient cause to render an opinion.}~~

1 The commission shall not ~~[determine that there is just and sufficient cause~~
2 ~~to render an opinion without extending the public officer or employee an~~
3 ~~opportunity to appear before the commission and present evidence and~~
4 ~~argument.~~

5 ~~3. The commission shall~~ render an opinion interpreting the statutory
6 ethical standards or apply those standards to a given set of facts and
7 circumstances if the request is submitted by a person who is incarcerated
8 in a correctional facility in this state.

9 3. Upon receipt of a request for an opinion by the commission or
10 upon the motion of the commission pursuant to subsection 2, the
11 executive director shall investigate the facts and circumstances relating
12 to the request to determine whether there is just and sufficient cause for
13 the commission to render an opinion in the matter. The public officer or
14 employee that is the subject of the request may submit to the executive
15 director any information relevant to the request. The executive director
16 shall complete an investigation and present his recommendation relating
17 to just and sufficient cause to the panel within 15 days after the receipt of
18 or the motion of the commission for the request, unless the panel extends
19 the time for a period not to exceed 30 days upon the request of the
20 executive director for good cause shown or the request of the public
21 officer or employee. If the executive director determines after an
22 investigation that just and sufficient cause exists for the commission to
23 render an opinion in the matter, he shall state such a recommendation in
24 writing, including, without limitation, the specific evidence that supports
25 his recommendation. If, after an investigation, the executive director
26 does not determine that just and sufficient cause exists for the
27 commission to render an opinion in the matter, he shall state such a
28 recommendation in writing, including, without limitation, the specific
29 reasons for his recommendation. Within 15 days after the executive
30 director has provided his recommendation in the matter to the panel, the
31 panel shall make a final determination regarding whether just and
32 sufficient cause exists for the commission to render an opinion in the
33 matter, unless the commission extends the time for a period not to exceed
34 30 days upon the request of the panel for good cause shown or the
35 request of the public officer or employee. The panel shall not determine
36 that there is just and sufficient cause for the commission to render an
37 opinion unless the panel has provided the public officer or employee an
38 opportunity to respond to the allegations against him. The panel shall
39 cause a record of its proceedings in each matter to be kept and such a
40 record must remain confidential until the panel determines whether there
41 is just and sufficient cause for the commission to render an opinion in
42 the

matter.

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

7 ~~—4.]~~ **, the commission shall hold a hearing and render an opinion in the**
8 **matter within 30 days after the determination of just and sufficient cause**
9 **by the panel, unless the commission extends the time for a period not to**
10 **exceed 30 days for good cause shown or upon the request of the public**
11 **officer or employee.**

12 **5.** Each request for an opinion that a public officer or employee
13 submits to the commission pursuant to subsection 1, each opinion rendered
14 by the commission in response to such a request and any motion,
15 ~~{preliminary}~~ determination, evidence or record of a hearing relating to
16 such a request are confidential unless the public officer or employee who
17 requested the opinion:

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

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

23 (c) Requests the commission to disclose the request for the opinion, the
24 contents of the opinion or any motion, evidence or record of a hearing
25 related thereto.

26 ~~{5.}~~ **6.** Except as otherwise provided in this subsection, each document
27 in the possession of the commission **or its staff** that is related to a request
28 for an opinion regarding a public officer or employee submitted to **or**
29 **initiated by** the commission pursuant to ~~{paragraph (b) of}~~ subsection 2,
30 including **, without limitation,** the commission's copy of the request and all
31 materials and information gathered in an investigation of the request, is
32 confidential until the ~~{commission}~~ **panel** determines whether there is just
33 and sufficient cause to render an opinion in the matter. The public officer
34 or employee who is the subject of a request for an opinion submitted **or**
35 **initiated** pursuant to ~~{paragraph (b) of}~~ subsection 2 may in writing
36 authorize the commission to make its files, material and information which
37 are related to the request publicly available.

38 ~~{6.}~~ **7.** **Except as otherwise provided in paragraphs (a) and (b), the**
39 **proceedings of a panel are confidential until the panel determines**
40 **whether there is just and sufficient cause to render an opinion. A person**
41 **who:**

42 **(a) Requests an opinion from the commission pursuant to paragraph**
43 **(b) of subsection 2 may:**

1 ***(1) At any time, reveal to a third party the alleged conduct of a***
2 ***public officer or employee underlying the request that he filed with the***
3 ***commission or the substance of testimony, if any, that he gave before the***
4 ***commission.***

5 ***(2) After the panel determines whether there is just and sufficient***
6 ***cause to render an opinion in the matter, reveal to a third party the fact***
7 ***that he requested an opinion from the commission.***

8 ***(b) Gives testimony before the commission may:***

9 ***(1) At any time, reveal to a third party the substance of testimony***
10 ***that he gave before the commission.***

11 ***(2) After the panel determines whether there is just and sufficient***
12 ***cause to render an opinion in the matter, reveal to a third party the fact***
13 ***that he gave testimony before the commission.***

14 ***8. Whenever the commission holds a hearing ~~for a purpose other than~~***
15 ***~~to determine whether there is just and sufficient cause to render an opinion~~***
16 ***~~in a matter,~~ pursuant to this section,*** the commission shall:

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

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

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

22 The commission's hearing may be held no sooner than ~~12 weeks~~ ***10 days***
23 after the notice is given unless the person agrees to a shorter time.

24 ~~7.~~ ***9. If a person who is not a party to a hearing before the***
25 ***commission, including, without limitation, a person who has requested***
26 ***an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to***
27 ***ask a question of a witness at the hearing, the person must submit the***
28 ***question to the executive director in writing. The executive director may***
29 ***submit the question to the commission if he deems the question relevant***
30 ***and appropriate. This subsection does not require the commission to ask***
31 ***any question submitted by a person who is not a party to the proceeding.***

32 ***10. If a person who requests an opinion pursuant to subsection 1 or 2***
33 ***does not:***

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

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

37 ~~8.~~ ***11. For good cause shown, the commission may take testimony***
38 ***from a person by telephone or video conference.***

39 ***12. For the purposes of NRS 41.032, the members of the commission***
40 ***and its employees shall be deemed to be exercising or performing a***
41 ***discretionary function or duty when taking an action related to the***
42 ***rendering of an opinion pursuant to this section.***

~~1 [9.—The commission shall publish hypothetical opinions which are
2 abstracted from the opinions rendered pursuant to subsection 1, for the
3 future guidance of all persons concerned with ethical standards in
4 government.~~

~~5 —10.]~~ **13.** A meeting or hearing that the commission *or the panel* holds
6 to receive information or evidence concerning the propriety of the conduct
7 of a public officer or employee pursuant to this section and the
8 ~~{commission's}~~ deliberations *of the commission and the panel* on such
9 information or evidence are not subject to the provisions of chapter 241 of
10 NRS.

Sec. 16.5. NRS 281.521 is hereby amended to read as follows:

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

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

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

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

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

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

25 2. ~~{Except as otherwise provided in NRS 281.477, 294A.345 and
26 294A.346, the}~~ *The* commission's opinions may not include guidance to a
27 public officer or employee on questions regarding the provisions of chapter
28 294A of NRS.

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

281.531 **1.** The attorney general *shall assign an attorney employed
31 by the office of the attorney general to serve as commission counsel. The
32 commission counsel is the legal adviser to the commission. The
33 commission counsel shall devote his entire time and attention to the
34 business of the commission and shall not pursue any other business or
35 occupation or hold any other office of profit that detracts from the full
36 and timely performance of his duties. Any opinion rendered by the office
37 of the attorney general regarding the Nevada Ethics in Government Law,
38 NRS 281.411 to 281.581, inclusive, must be rendered by the commission
39 counsel subject to the review of the commission.* For each opinion ~~the~~ *of
40 the commission, the commission counsel* shall prepare , at the direction of
41 the commission , the appropriate findings of fact and conclusions as to
42 relevant standards and the propriety of particular conduct ~~it~~ *within the
43 time set forth in subsection 4 of NRS 281.511. The commission counsel*

1 *shall not issue written opinions concerning the applicability of the*
2 *statutory ethical standards to a given set of facts and circumstances*
3 *except as directed by the commission.*

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

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

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

11 281.551 1. In addition to any other penalty provided by law, the
12 commission may impose on a public officer or employee or former public
13 officer or employee civil penalties ~~{not to exceed}~~ :

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

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

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

19 2. In addition to other penalties provided by law, the commission may
20 impose a civil penalty not to exceed \$5,000 and assess an amount equal to
21 the amount of attorney's fees and costs actually and reasonably incurred by
22 the person about whom an opinion was requested pursuant to NRS
23 281.511, against a person who:

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

26 ~~(b) {Submits to the commission, in connection with a request for an~~
27 ~~opinion that the commission determines to be without merit, an accusation~~
28 ~~or information that is false; or~~

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

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

37 4. ~~{Except as otherwise provided in this subsection, and in addition to~~
38 ~~any other penalty provided by law, the commission may impose on any~~
39 ~~person who violates any provision of NRS 294A.345 or 294A.346 a civil~~
40 ~~penalty not to exceed \$10,000. If the commission finds that a violation of~~
41 ~~NRS 294A.345 or 294A.346 occurred within 10 days before an election,~~
42 ~~including any recall or special election, the commission may impose on the~~

1 ~~person who committed such a violation a civil penalty not to exceed~~
2 ~~\$30,000.~~

3 ~~—5.1~~ If the commission finds that ~~{a}~~ :

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

9 ~~{6.1}~~ *(b) A willful violation of this chapter has been committed by a*
10 *public officer removable from office pursuant to NRS 283.440, the*
11 *commission may file a proceeding in the appropriate court for removal of*
12 *the officer.*

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

16 5. An action taken by a public officer or employee or former public
17 officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505
18 is not a willful violation of a provision of those sections if the public officer
19 or employee:

20 (a) Relied in good faith upon the advice of the legal counsel retained by
21 the public body which the public officer represents or by the employer of
22 the public employee ~~{1}~~ *or upon the manual published by the commission*
23 *pursuant to NRS 281.471;*

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

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

28 ~~—7.1~~ 6. In addition to other penalties provided by law, a public employee
29 who willfully violates a provision of NRS 281.481, 281.491, 281.501 or
30 281.505 is subject to disciplinary proceedings by his employer and must be
31 referred for action in accordance to the applicable provisions governing his
32 employment.

33 ~~{8.1}~~ 7. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease
34 the effect of the provisions of the Nevada Revised Statutes which define
35 crimes or prescribe punishments with respect to the conduct of public
36 officers or employees.

37 ~~{9.1}~~ *If the commission finds that a public officer or employee has*
38 *committed a willful violation of this chapter which it believes may also*
39 *constitute a criminal offense, the commission shall refer the matter to the*
40 *attorney general or the district attorney, as appropriate, for a*
41 *determination of whether a crime has been committed that warrants*
42 *prosecution.*

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

4 ~~{10.}~~ **9.** In determining for the purposes of this section whether a
5 person submitted an accusation or information in bad faith or with a
6 vexatious purpose, the commission may consider various factors, including,
7 without limitation:

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

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

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

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

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

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

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

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

27 281.553 1. A public officer or public employee shall not accept or
28 receive an honorarium.

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

33 3. This section does not prohibit:

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

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

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

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

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

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

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

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

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

18 5. A public officer or public employee who violates the provisions of
19 this section is guilty of a **gross** misdemeanor and, upon conviction, forfeits
20 the amount of the honorarium.

21 **Sec. 19.5.** NRS 281.581 is hereby amended to read as follows:

22 281.581 1. A candidate or public or judicial officer who fails to file
23 his statement of financial disclosure in a timely manner pursuant to NRS
24 281.561 is subject to a civil penalty and payment of court costs and
25 attorney's fees. The amount of the civil penalty is:

26 (a) If the statement is filed not more than 7 days late, \$25 for each day
27 the statement is late.

28 (b) If the statement is filed more than 7 days late but not more than 15
29 days late, \$175 for the first 7 days, plus \$50 for each additional day the
30 statement is late.

31 (c) If the statement is filed more than 15 days late, \$575 for the first 15
32 days, plus \$100 for each additional day the statement is late.

33 2. The commission may, for good cause shown, waive or reduce the
34 civil penalty.

35 3. The civil penalty must be recovered in a civil action brought in the
36 name of the State of Nevada by the commission in a court of competent
37 jurisdiction and deposited with the state treasurer for credit to the state
38 general fund.

39 **4. If the commission waives a civil penalty pursuant to subsection 2,**
40 **the commission shall:**

41 **(a) Create a record which sets forth that the civil penalty has been**
42 **waived and describes the circumstances that constitute the good cause**
43 **shown;**

and

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

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

4 197.110 Every public officer who:

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

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

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

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

16 197.170 A public officer *or employee* who ~~{asks,}~~ :

17 1. *Asks*, receives or agrees to receive a fee or other compensation for
18 his official service ~~{}~~ *or his employment* either:

19 ~~{1-}~~ (a) In excess of the fee or compensation allowed to him by statute
20 therefor; or

21 ~~{2-}~~ (b) Where a fee or compensation is not allowed to him by statute
22 therefor ~~{}~~ ; or

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

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

31 **Sec. 22.** NRS 218.926 is hereby amended to read as follows:

32 218.926 1. Each registrant shall file with the director within 30 days
33 after the close of the legislative session a final report signed under penalty
34 of perjury concerning his lobbying activities. In addition, each registrant
35 shall file with the director between the 1st and 10th day of the month after
36 each month that the legislature is in session a report concerning his
37 lobbying activities during the previous month, whether or not any
38 expenditures were made. Each report must be on a form prescribed by the
39 director and must include the total of all expenditures, if any, made by the
40 registrant on behalf of *the governor*, a legislator or an organization whose
41 primary purpose is to provide support for legislators of a particular political
42 party and house, including expenditures made by others on behalf of the
43 registrant if the expenditures were made with the registrant's express or

1 implied consent or were ratified by the registrant. Except as otherwise
2 provided in subsection 4, the report must identify each legislator and each
3 organization whose primary purpose is to provide support for legislators of
4 a particular political party and house on whose behalf expenditures were
5 made, *must identify the governor if expenditures were made on behalf of*
6 *the governor*, and must be itemized with respect to each such legislator and
7 organization ~~and, if applicable, the governor~~. An expenditure on behalf
8 of a person other than *the governor*, a legislator or an organization whose
9 primary purpose is to provide support for legislators of a particular political
10 party and house need not be reported pursuant to this section unless the
11 expenditure is made for the benefit of *the governor*, a legislator or such an
12 organization.

13 2. If expenditures made by or on behalf of a registrant during the
14 previous month exceed \$50, the report must include a compilation of
15 expenditures, itemized in the manner required by the regulations of the
16 legislative commission, in the following categories:

17 (a) Entertainment;

18 (b) Expenditures made in connection with a party or similar event
19 hosted by the organization represented by the registrant;

20 (c) Gifts and loans, including money, services and anything of value
21 provided *to the governor*, to a legislator, to an organization whose primary
22 purpose is to provide support for legislators of a particular political party
23 and house, or to any other person for the benefit of *the governor*, a
24 legislator or such an organization; and

25 (d) Other expenditures directly associated with legislative action, not
26 including personal expenditures for food, lodging and travel expenses or
27 membership dues.

28 3. The legislative commission may authorize an audit or investigation
29 by the legislative auditor that is proper and necessary to verify compliance
30 with the provisions of this section. A lobbyist shall make available to the
31 legislative auditor all books, accounts, claims, reports, vouchers and other
32 records requested by the legislative auditor in connection with any such
33 audit or investigation. The legislative auditor shall confine his requests for
34 such records to those which specifically relate to the lobbyist's compliance
35 with the reporting requirements of this section.

36 4. A report filed pursuant to this section must not itemize with respect
37 to *the governor and* each legislator an expenditure if the expenditure is the
38 cost of a function to which every legislator was invited. For the purposes of
39 this subsection, "function" means a party, meal or other social event.

40 **Sec. 23.** NRS 294A.410 is hereby amended to read as follows:

41 294A.410 1. ~~Except as otherwise provided in NRS 294A.345 and~~
42 ~~294A.346, if~~ *If* it appears that the provisions of this chapter have been
43 violated, the secretary of state may:

1 (a) Conduct an investigation concerning the alleged violation and cause
2 the appropriate proceedings to be instituted and prosecuted in the first
3 judicial district court; or

4 (b) Refer the alleged violation to the attorney general. The attorney
5 general shall investigate the alleged violation and institute and prosecute
6 the appropriate proceedings in the first judicial district court without delay.

7 2. A person who believes that any provision of this chapter has been
8 violated may notify the secretary of state, in writing, of the alleged
9 violation. The notice must be signed by the person alleging the violation
10 and include any information in support of the alleged violation.

11 **Sec. 24.** NRS 294A.420 is hereby amended to read as follows:

12 294A.420 1. If the secretary of state receives information that a
13 person or entity that is subject to the provisions of NRS 294A.120,
14 294A.140, 294A.150, 294A.180, 294A.200, 294A.210, 294A.220,
15 294A.270, 294A.280 or 294A.360 has not filed a report pursuant to the
16 applicable provisions of those sections, the secretary of state may, after
17 giving notice to that person or entity, cause the appropriate proceedings to
18 be instituted in the first judicial district court.

19 2. Except as otherwise provided in this section, a person or entity that
20 violates an applicable provision of NRS 294A.112, 294A.120, 294A.130,
21 294A.140, 294A.150, 294A.160, 294A.170, 294A.180, 294A.200,
22 294A.210, 294A.220, 294A.270, 294A.280, 294A.300, 294A.310,
23 294A.320 or 294A.360 is subject to a civil penalty of not more than \$5,000
24 for each violation and payment of court costs and attorney's fees. The civil
25 penalty must be recovered in a civil action brought in the name of the State
26 of Nevada by the secretary of state in the first judicial district court and
27 deposited with the state treasurer for credit to the state general fund.

28 3. If a civil penalty is imposed because a person or entity has reported
29 its contributions, expenses or expenditures after the date the report is due,
30 the amount of the civil penalty is:

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

33 (b) If the report is more than 7 days late but not more than 15 days late,
34 \$50 for each day the report is late.

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

37 **4. For good cause shown, the secretary of state may waive a civil**
38 **penalty that would otherwise be imposed pursuant to this section. If the**
39 **secretary of state waives a civil penalty pursuant to this subsection, the**
40 **secretary of state shall:**

41 (a) **Create a record which sets forth that the civil penalty has been**
42 **waived and describes the circumstances that constitute the good cause**
43 **shown;**

and

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

3 **Sec. 25.** NRS 281.477, 294A.345 and 294A.346 are hereby repealed.

4 **Sec. 26.** The amendatory provisions of this act do not apply to conduct
5 that occurred before October 1, 1999 or to the jurisdiction, duties, powers
6 or proceedings of the commission on ethics relating to such conduct.

7 **Sec. 27.** Section 19.5 of this act becomes effective at 12:01 a.m. on
8 October 1, 1999.

TEXT OF REPEALED SECTIONS

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

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

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

(a) Draw any conclusions it deems appropriate from the failure of the person or group of persons requesting the opinion to submit the evidence and arguments, other than a conclusion that a person alleged to have violated NRS 294A.345 acted with actual malice; and

(b) Decline to render an opinion.

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

3. The commission shall immediately notify any person alleged to have violated NRS 294A.345 or 294A.346 that such an opinion has been requested by the most expedient means possible. If notice is given orally by telephone or in any other manner, a second notice must be given in writing

no later than the next calendar day by facsimile machine or overnight mail. The notice must include the time and place of the commission's hearing on the matter.

4. A person notified pursuant to subsection 3 shall submit a response to the commission no later than at the close of business on the second business day following the receipt of the notice. The response must be accompanied by any evidence concerning the issues related to the request that the person has in his possession or may obtain without undue financial hardship. Except as otherwise provided in this subsection, if such evidence is not submitted within that time, the commission may:

- (a) Draw any conclusions it deems appropriate from the failure of that person to submit the evidence and argument; and
- (b) Prohibit that person from responding and presenting evidence at the hearing.

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

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

- (a) Be represented by counsel; and
- (b) Hear the evidence presented to the commission and respond and present evidence on his own behalf.

6. At the request of:

- (a) The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346; or
- (b) The person alleged to have violated the provisions of NRS 294A.345 or 294A.346,

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

7. The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346 has the burden of proving the elements of the offense, including that a person alleged to have violated NRS 294A.345 acted with actual malice. The existence of actual malice may not be presumed. A final opinion of the commission rendered pursuant to this section must be supported by clear and convincing evidence.

8. The commission shall render its opinion, or decline to render an opinion, as expeditiously as possible, but not later than 3 days after the date

of the hearing. If additional time is required to determine the state of mind or the intent of the person alleged to have violated the provisions of NRS 294A.345 or 294A.346 or to determine the amount of any civil penalty that may be imposed pursuant to NRS 281.551, the commission may continue its jurisdiction to investigate those issues but shall render its opinion as to the truth or falsity of the statement made concerning the candidate or the ballot question or its opinion as to whether the person impeded the success of the campaign or induced another person to impede the success of the campaign. If the commission continues its jurisdiction pursuant to this subsection, it may render a final opinion after the time set forth in this subsection.

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

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

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

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

294A.345 Causing publication of certain false statements of fact concerning candidate or ballot question during campaign prohibited; civil penalty imposed by commission on ethics.

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

- (a) The education or training of the candidate.
 - (b) The profession or occupation of the candidate.
 - (c) Whether the candidate committed, was indicted for committing or was convicted of committing a felony or other crime involving moral turpitude, dishonesty or corruption.
 - (d) Whether the candidate has received treatment for a mental illness
- .

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

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

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

2. A person shall not, with actual malice and the intent to impede the success of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or special election, cause to be published a false statement of fact concerning the question on the ballot.

3. Any candidate who alleges that a false statement of fact concerning the candidate has been published in violation of subsection 1, and any person or group of persons that advocates the passage or defeat of a question on the ballot at any election, is required to file a report pursuant to NRS 294A.150, and alleges that a false statement of fact has been published in violation of subsection 2, may file a request for an opinion with the commission on ethics pursuant to NRS 281.411 to 281.581, inclusive, and NRS 281.477. The commission shall give priority to such a request over all other matters pending with the commission.

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

5. As used in this section:

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

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

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

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

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

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

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

3. An employee, agent or volunteer of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or

special election, shall not willfully perform any act in the course of his employment, agency or volunteering that impedes the success of that campaign.

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

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

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

5. Any candidate who alleges that a person has violated the provisions of subsection 1 or 2, and any person or group of persons that advocates the passage or defeat of a question on the ballot at any election, is required to file a report pursuant to NRS 294A.150, and alleges that a person has violated the provisions of subsection 3 or 4, may file a request for an opinion with the commission on ethics pursuant to NRS 281.411 to 281.581, inclusive, and 281.477. The commission shall give priority to such a request over all matters pending with the commission.

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