

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.

~

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 commission counsel and providing their duties; 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.
- 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. 3.5.** *“Vexatious” means lacking justification and intended to*
- 8 *harass.*

1 **Sec. 4.** *“Willful violation” means the public officer or employee*
2 *knew or reasonably should have known that his conduct violated this*
3 *chapter.*

4 **Sec. 5.** 1. *The commission shall appoint, within the limits of*
5 *legislative appropriation, an executive director who shall perform the*
6 *duties set forth in this chapter and such other duties as may be prescribed*
7 *by the commission.*

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

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

11 4. *The executive director shall devote his entire time and attention*
12 *to*
13 *the business of the commission and shall not pursue any other business*
14 *or occupation or hold any other office of profit that detracts from the full*
15 *and timely performance of his duties.*

16 5. *The executive director may not:*

17 (a) *Be actively involved in the work of any political party or*
18 *political*
19 *campaign; or*

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

23 **Sec. 5.5.** 1. *The commission shall appoint, within the limits of*
24 *legislative appropriation, a commission counsel who shall perform the*
25 *duties set forth in this chapter and such other duties as may be prescribed*
26 *by the commission.*

27 2. *The commission counsel must be an attorney who is licensed to*
28 *practice law in this state.*

29 3. *The commission counsel is in the unclassified service of the state.*

30 4. *The commission counsel shall devote his entire time and attention*
31 *to the business of the commission and shall not pursue any other*
32 *business or occupation or hold any other office of profit that detracts*
33 *from the full and timely performance of his duties.*

34 5. *The commission counsel may not:*

35 (a) *Be actively involved in the work of any political party or political*
36 *campaign; or*

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

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

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

1 (b) Receive requests for opinions pursuant to NRS 281.511, 294A.345
2 or 294A.346.

3 (c) Gather information and conduct investigations regarding
4 requests
5 for opinions received by the commission and submit recommendations to
6 the panel appointed pursuant to section 8 of this act regarding whether
7 there is just and sufficient cause to render an opinion in response to a
8 particular request.

9 (d) Recommend to the commission any regulations or legislation
10 that
11 he considers desirable or necessary to improve the operation of the
12 commission and maintain high standards of ethical conduct in
13 government.

14 (e) Upon the request of any public officer or the employer of a
15 public
16 employee, conduct training on the requirements of this chapter, the rules
17 and regulations adopted by the commission and previous opinions of the
18 commission. In any such training, the executive director shall emphasize
19 that he is not a member of the commission and that only the commission
20 may issue opinions concerning the application of the statutory ethical
21 standards to any given set of facts and circumstances. The commission
22 shall charge a reasonable fee to cover the costs of training provided by
23 the executive director pursuant to this subsection.

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

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

29 (a) The administration of the affairs of the commission;

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

31 (c) The investigation of matters under the jurisdiction of the
32 commission.

33 **Sec. 7.** Every public officer shall acknowledge that he has received,
34 read and understands the statutory ethical standards. The
35 acknowledgment must be on a form prescribed by the commission and
36 must accompany the first statement of financial disclosure that the public
37 officer is required to file with the commission pursuant to NRS 281.561.
38 Willful refusal to execute and file the acknowledgment required by this
39 subsection constitutes nonfeasance in office and is a ground for removal
40 pursuant to NRS 283.440.

41 **Sec. 8. 1.** The chairman shall appoint one or more panels of two
42 members of the commission on a rotating basis to review the
43 determinations of just and sufficient cause made by the executive
44 director pursuant to NRS 281.511 and make a final determination
45 regarding whether just and sufficient cause exists for the commission to
46 render an opinion.

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

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

5 **4. If a panel finds just and sufficient cause for the commission to**
6 **render an opinion in a matter, the members of the panel shall not**
7 **participate in any further proceedings of the commission relating to that**
8 **matter.**

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

10 281.421 1. It is hereby declared to be the public policy of this state
11 that:

12 (a) A public office is a public trust and shall be held for the sole benefit
13 of the people.

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

17 2. The legislature finds that:

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

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

25 **(c) Members of the legislature serve as "citizen legislators" who have**
26 **other occupations and business interests. Each legislator has particular**
27 **philosophies and perspectives that are necessarily influenced by the life**
28 **experiences of that legislator, including, without limitation, professional,**
29 **family and business experiences. Our system assumes that legislators will**
30 **contribute those philosophies and perspectives to the debate over issues**
31 **with which the legislature is confronted. The law concerning ethics in**
32 **government is not intended to require a member of the legislature to**
33 **abstain on issues which might affect his interests, provided those interests**
34 **are properly disclosed and that the benefit or detriment accruing to him**
35 **is not greater than that accruing to any other member of the general**
36 **business, profession, occupation or group.**

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 **to 4, inclusive, of this act** have the meanings ascribed to them in those
42 sections.

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

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

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

~~—(a) One former legislator;~~

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

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

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

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

5. None of the members of the commission may:

(a) Hold another public office;

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

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

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

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

281.461 1. The commission shall:

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

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

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

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

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]~~ *The* commission on its own motion .
16 ~~[that there is just and sufficient cause to render an opinion concerning the~~
17 ~~conduct of that public officer or employee or former public officer or~~
18 ~~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]~~ :

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

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

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

36 (d) *To facilitate the* prompt rendition of ~~[its opinions.]~~ *opinions by the*
37 *commission.*

38 2. Prescribe, by regulation, forms and procedures for the submission of
39 statements of financial disclosure ~~[.]~~ *and statements of acknowledgment*
40 *filed by public officers pursuant to section 7 of this act,* maintain files of
41 ~~[the]~~ *such* statements and make the statements available for public
42 inspection.

1 3. ~~[Make]~~ *Cause the making of* such investigations as are reasonable
2 and necessary for the rendition of its opinions pursuant to this chapter.

3 4. Inform the attorney general or district attorney of all cases of
4 noncompliance with the requirements ~~[for disclosure.]~~ *of this chapter.*

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

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

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

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

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

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

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

20 281.475 1. The chairman and vice chairman of the commission may
21 administer oaths.

22 2. The commission, upon majority vote, may issue a subpoena to
23 compel the *attendance of a witness and the production of books and*
24 *papers. Upon the request of the executive director or the public officer or*
25 *public employee who is the subject of a request for an opinion, the*
26 *chairman or, in his absence, the vice chairman, may issue a subpoena to*
27 *compel the attendance of a witness and the production of books and papers.*

28 3. Before issuing ~~[such a subpoena, the commission]~~ *a subpoena to a*
29 *public officer or public employee who is the subject of a request for an*
30 *opinion, the executive director* shall submit a written request to the public
31 officer or public employee ~~[who is the subject of an inquiry or opinion of~~
32 ~~the commission, or to the person or group of persons requesting an opinion~~
33 ~~pursuant to NRS 294A.345 or 294A.346,]~~ requesting:

34 (a) His appearance ~~[, or the appearance of a representative of the group,]~~
35 as a witness; *or*

36 (b) ~~[The appearance as a witness of any other person who may have~~
37 ~~information relating to the inquiry or opinion; or~~
38 ~~—(c) The]~~ *His* production of any books and papers ~~[. Each such]~~ *relating*
39 *to the request for an opinion.*

40 4. *Each written request submitted by the executive director pursuant*
41 *to subsection 3* must specify the time and place for the attendance of ~~[any~~
42 ~~witness]~~ *the public officer or public employee* or the production of any

43 books and papers, and designate with certainty the books and papers

1 requested, if any. If the public officer or ~~{other witness}~~ *public employee*
2 fails or refuses to attend *at the time and place specified* or produce the
3 books and papers requested by the ~~{commission, the commission}~~ *executive*
4 *director within 5 business days after receipt of the request, the chairman*
5 may issue the subpoena. *Failure of the public officer or public employee*
6 *to comply with the written request of the executive director constitutes*
7 *good cause for extension of the time set forth in subsections 3 and 4 of*
8 *NRS 281.511.*

9 ~~{3.}~~ 5. If any witness refuses to attend, testify or produce any books
10 and papers as required by the subpoena, the chairman of the commission
11 may report to the district court by petition, setting forth that:

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

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

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

21 ~~{4.}~~ 6. Except as otherwise provided in this subsection, upon such a
22 petition, the court shall enter an order directing the witness to appear before
23 the court at a time and place to be fixed by the court in its order, the time to
24 be not more than 10 days after the date of the order, and then and there
25 show cause why he has not attended, testified or produced the books or
26 papers before the commission. If the witness has been subpoenaed by the
27 commission in response to a request for an opinion filed pursuant to NRS
28 294A.345 or 294A.346, the court shall direct the witness to appear before
29 the court as expeditiously as possible to allow the commission to render its
30 opinion within the time required by NRS 281.477. A certified copy of the
31 order must be served upon the witness.

32 ~~{5.}~~ 7. If it appears to the court that the subpoena was regularly issued
33 by the commission, the court shall enter an order that the witness appear
34 before the commission, at the time and place fixed in the order, and testify
35 or produce the required books and papers. Upon failure to obey the order
36 the witness must be dealt with as for contempt of court.

37 **Sec. 14.2.** NRS 281.477 is hereby amended to read as follows:

38 281.477 1. If a request for an opinion is filed with the commission
39 pursuant to NRS 294A.345 or 294A.346, the commission shall conduct a
40 public hearing on the request. Except as otherwise provided in subsection
41 6, the hearing must be held as expeditiously as possible, but not later than
42 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:

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

3 (b) The person alleged to have violated the provisions of NRS
4 294A.345 or 294A.346,

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

11 7. The person or group of persons that filed the request for the opinion
12 pursuant to NRS 294A.345 or 294A.346 has the burden of proving the
13 elements of the offense, including that a person alleged to have violated
14 NRS 294A.345 acted with actual malice. The existence of actual malice
15 may not be presumed. A final opinion of the commission rendered pursuant
16 to this section must be supported by clear and convincing evidence. *In*
17 *addition to the other requirements for issuing an opinion pursuant to this*
18 *subsection, the commission shall not render a final opinion determining*
19 *that a person has violated NRS 294A.345 or 294A.346 unless a finding*
20 *that each of the elements of the offense has been proven receives the*
21 *affirmative vote of two-thirds of the commission.*

22 8. The commission shall render its opinion, or decline to render an
23 opinion, as expeditiously as possible, but not later than 3 days after the date
24 of the hearing. If additional time is required to determine the state of mind
25 or the intent of the person alleged to have violated the provisions of NRS
26 294A.345 or 294A.346 or to determine the amount of any civil penalty that
27 may be imposed pursuant to NRS 281.551, the commission may continue
28 its jurisdiction to investigate those issues but shall render its opinion as to
29 the truth or falsity of the statement made concerning the candidate or the
30 ballot question or its opinion as to whether the person impeded the success
31 of the campaign or induced another person to impede the success of the
32 campaign. If the commission continues its jurisdiction pursuant to this
33 subsection, it may render a final opinion after the time set forth in this
34 subsection.

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

42 10. Each request for an opinion filed pursuant to NRS 294A.345 or
43 294A.346, each opinion rendered by the commission pursuant thereto and

1 any motion, evidence or record of a hearing relating to the request are
2 public and must be open to inspection pursuant to NRS 239.010.

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

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

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

12 281.481 A code of ethical standards is hereby established to govern the
13 conduct of public officers and employees:

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

19 2. A public officer or employee shall not use his position in
20 government to secure or grant unwarranted privileges, preferences,
21 exemptions or advantages for himself, any member of his household, any
22 business entity in which he has a significant pecuniary interest, or any other
23 person. *As used in this subsection, "unwarranted" means without*
24 *justification or adequate reason.*

25 3. A public officer or employee shall not participate as an agent of
26 government in the negotiation or execution of a contract between the
27 government and any private business in which he has a significant
28 pecuniary interest.

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

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

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

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

42 (a) A limited use of governmental property, equipment or other facility
43 for personal purposes

if:

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

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

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

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

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

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

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

18 8. A member of the legislature shall not:

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

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

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

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

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

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

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

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

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

38 (2) Where such service has otherwise been established as legislative
39 policy.

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

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

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

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

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

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

16 (b) His pecuniary interest; or

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

18 It must be presumed that the independence of judgment of a reasonable
19 person would not be materially affected by his pecuniary interest or his
20 commitment in a private capacity to the interests of others where the
21 resulting benefit or detriment accruing to him or to the other persons whose
22 interests to which the member is committed in a private capacity is not
23 greater than that accruing to any other member of the general business,
24 profession, occupation or group. ***The presumption set forth in this***
25 ***subsection does not affect the applicability of the requirements set forth***
26 ***in subsection 3 relating to the disclosure of the pecuniary interest or***
27 ***commitment in a private capacity to the interests of others.***

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

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

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

33 (c) In which he has a pecuniary interest,
34 without disclosing ~~the full nature and extent of~~ ***sufficient information***
35 ***concerning*** the gift, loan, commitment or interest ~~to~~ ***to inform the public***
36 ***of the potential effect of the action or abstention upon the person who***
37 ***provided the gift or loan, upon the person to whom he has a commitment,***
38 ***or upon his interest.*** Except as otherwise provided in subsection 6, such a

39 disclosure must be made at the time the matter is considered. If the officer
40 or employee is a member of a body which makes decisions, he shall make

41 the disclosure in public to the chairman and other members of the body. If
42 the officer or employee is not a member of such a body and holds an

43 appointive office, he shall make the disclosure to the supervisory head of

1 his organization or, if he holds an elective office, to the general public in
2 the area from which he is elected. *This subsection does not require a*
3 *public officer to disclose any campaign contributions that the public*
4 *officer reported pursuant to NRS 294A.120 or 294A.125 in a timely*
5 *manner.*

6 4. If a ~~member of the legislative branch~~ *public officer* declares to the
7 ~~legislative~~ body or committee in which the vote is to be taken that he will
8 abstain from voting because of the requirements of this section, the
9 necessary quorum to act upon and the number of votes necessary to act
10 upon the matter, as fixed by any statute, ordinance or rule, is reduced as
11 though the member abstaining were not a member of the body or
12 committee.

13 5. If a ~~member of the legislative branch~~ *public officer* is voting on a
14 matter which affects public employees, he shall make a full public
15 disclosure of any personal pecuniary interest which he may have in the
16 matter.

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

26 7. *The provisions of this section do not, under any circumstances:*

27 *(a) Prohibit a member of the legislative branch from requesting or*
28 *introducing a legislative measure; or*

29 *(b) Require a member of the legislative branch to take any particular*
30 *action before or while requesting or introducing a legislative measure.*

31 8. *As used in this section, “commitment in a private capacity to the*
32 *interests of others” means a commitment to a person:*

33 *(a) Who is a member of his household;*

34 *(b) Who is related to him by blood, adoption or marriage within the*
35 *third degree of consanguinity or affinity;*

36 *(c) Who employs him or a member of his household;*

37 *(d) With whom he has a substantial and continuing business*
38 *relationship; or*

39 *(e) Any other commitment or relationship that is substantially similar*
40 *to a commitment or relationship described in this subsection.*

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

42 281.511 1. The commission shall render an opinion interpreting the
43 statutory ethical standards and apply the standards to a given set of facts

1 and circumstances upon request from a public officer or employee who is
2 seeking guidance on questions which directly relate to the propriety of his
3 own past, present or future conduct as an officer or employee. He may also
4 request the commission to hold a public hearing regarding the requested
5 opinion. If a requested opinion relates to the propriety of his own present or
6 future conduct, the opinion of the commission is:

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

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

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

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

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

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

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

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

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

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

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

41 The commission shall not ~~determine that there is just and sufficient cause~~
42 ~~to render an opinion without extending the public officer or employee an~~

1 ~~opportunity to appear before the commission and present evidence and~~
2 ~~argument.~~

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

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

41 *4. If the panel determines that just and sufficient cause exists for the*
42 *commission to render an opinion requested pursuant to this section* ~~as~~
43 ~~expeditiously as possible in light of the circumstances of the public officer~~

1 ~~or employee about whom the opinion is requested, so as to minimize~~
2 ~~adverse consequences to him that may result from a delay in issuing the~~
3 ~~opinion.~~

4 ~~—4.1~~ *, the commission shall hold a hearing and render an opinion in the*
5 *matter within 30 days after the determination of just and sufficient cause*
6 *by the panel, unless the commission extends the time for a period not to*
7 *exceed 30 days for good cause shown or upon the request of the public*
8 *officer or employee.*

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

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

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

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

23 ~~[5.1]~~ **6.** Except as otherwise provided in this subsection, each document
24 in the possession of the commission *or its staff* that is related to a request
25 for an opinion regarding a public officer or employee submitted to *or*
26 *initiated by* the commission pursuant to ~~[paragraph (b) of]~~ subsection 2,
27 including *, without limitation,* the commission's copy of the request and all
28 materials and information gathered in an investigation of the request, is
29 confidential until the ~~[commission]~~ *panel* determines whether there is just
30 and sufficient cause to render an opinion in the matter. The public officer
31 or employee who is the subject of a request for an opinion submitted *or*
32 *initiated* pursuant to ~~[paragraph (b) of]~~ subsection 2 may in writing
33 authorize the commission to make its files, material and information which
34 are related to the request publicly available.

35 ~~[6.1]~~ **7.** *Except as otherwise provided in paragraphs (a) and (b), the*
36 *proceedings of a panel are confidential until the panel determines*
37 *whether there is just and sufficient cause to render an opinion. A person*
38 *who:*

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

41 (1) *At any time, reveal to a third party the alleged conduct of a*
42 *public officer or employee underlying the request that he filed with the*

1 *commission or the substance of testimony, if any, that he gave before the*
2 *commission.*

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

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

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

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

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

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

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

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

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

22 ~~7.~~ **9.** *If a person who is not a party to a hearing before the*
23 *commission, including, without limitation, a person who has requested*
24 *an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to*
25 *ask a question of a witness at the hearing, the person must submit the*
26 *question to the executive director in writing. The executive director may*
27 *submit the question to the commission if he deems the question relevant*
28 *and appropriate. This subsection does not require the commission to ask*
29 *any question submitted by a person who is not a party to the proceeding.*

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

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

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

35 ~~8.~~ **11.** *For good cause shown, the commission may take testimony*
36 *from a person by telephone or video conference.*

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

41 ~~9.—The commission shall publish hypothetical opinions which are~~
42 ~~abstracted from the opinions rendered pursuant to subsection 1, for the~~

~~future guidance of all persons concerned with ethical standards in government.~~

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

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

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

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

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

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

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

- (a) Not to exceed \$5,000 for a first willful violation of this chapter [.] ;*
- (b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and*
- (c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.*

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

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

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

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

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

9 4. ~~{Except as otherwise provided in this subsection, and in}~~ *In* addition
10 to any other penalty provided by law, *by an affirmative vote of two-thirds*
11 *of the commission*, the commission may impose on any person who
12 violates any provision of NRS 294A.345 or 294A.346 a civil penalty not to
13 exceed ~~[\$10,000. If the commission finds that a violation of NRS 294A.345~~
14 ~~or 294A.346 occurred within 10 days before an election, including any~~
15 ~~recall or special election, the commission may impose on the person who~~
16 ~~committed such a violation a civil penalty not to exceed \$30,000.]~~ *\$5,000.*

17 5. If the commission finds that ~~{a}~~ :

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

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

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

29 6. An action taken by a public officer or employee or former public
30 officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505
31 is not a willful violation of a provision of those sections if the public officer
32 or employee:

33 (a) Relied in good faith upon the advice of the legal counsel retained by
34 the public body which the public officer represents or by the employer of
35 the public employee ~~{}~~ *or upon the manual published by the commission*
36 *pursuant to NRS 281.471;*

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

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

41 7. In addition to other penalties provided by law, a public employee
42 who willfully violates a provision of NRS 281.481, 281.491, 281.501 or
43 281.505 is subject to disciplinary proceedings by his employer and must be

1 referred for action in accordance to the applicable provisions governing his
2 employment.

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

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

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

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

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

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

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

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

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

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

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

37 281.553 1. A public officer or public employee shall not accept or
38 receive an honorarium.

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

43 3. This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

32 281.581 1. A candidate or public or judicial officer who fails to file
33 his statement of financial disclosure in a timely manner pursuant to NRS
34 281.561 is subject to a civil penalty and payment of court costs and
35 attorney's fees. The amount of the civil penalty is:

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

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

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

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

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

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

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

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

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 ~~{H}~~ 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.*

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

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

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

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

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

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

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

1 **Sec. 22.** NRS 294A.345 is hereby amended to read as follows:

2 294A.345 1. A person shall not, with actual malice and the intent to
3 impede the success of the campaign of a candidate, cause to be published a
4 false statement of fact concerning the candidate, including, without
5 limitation, statements concerning:

6 (a) The education or training of the candidate.

7 (b) The profession or occupation of the candidate.

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

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

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

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

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

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

21 3. Any candidate who alleges that a false statement of fact concerning
22 the candidate has been published in violation of subsection 1, and any
23 person or group of persons that advocates the passage or defeat of a
24 question on the ballot at any election, is required to file a report pursuant to
25 NRS 294A.150, and alleges that a false statement of fact has been
26 published in violation of subsection 2, may file a request for an opinion
27 with the commission on ethics pursuant to NRS 281.411 to 281.581,
28 inclusive, and NRS 281.477. *Such a request must be filed with the*
29 *commission not later than 10 days after the date on which the false*
30 *statement of fact is alleged to have been made.* The commission shall give
31 priority to such a request over all other matters pending with the
32 commission.

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

36 5. As used in this section:

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

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

41 **Sec. 23.** NRS 294A.346 is hereby amended to read as follows:

42 294A.346 1. An employee, agent or volunteer of the campaign of a
43 candidate shall not willfully perform any act in the course of his

1 employment, agency or volunteering that impedes the success of that
2 campaign.

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

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

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

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

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

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

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

27 5. Any candidate who alleges that a person has violated the provisions
28 of subsection 1 or 2, and any person or group of persons that advocates the
29 passage or defeat of a question on the ballot at any election, is required to
30 file a report pursuant to NRS 294A.150, and alleges that a person has
31 violated the provisions of subsection 3 or 4, may file a request for an
32 opinion with the commission on ethics pursuant to NRS 281.411 to
33 281.581, inclusive, and 281.477. *Such a request must be filed with the*
34 *commission not later than 10 days after the date of the election with*
35 *respect to which the alleged violation occurred.* The commission shall
36 give priority to such a request over all matters pending with the
37 commission.

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

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

42 294A.420 1. If the secretary of state receives information that a
43 person or entity that is subject to the provisions of NRS 294A.120,

1 294A.140, 294A.150, 294A.180, 294A.200, 294A.210, 294A.220,
2 294A.270, 294A.280 or 294A.360 has not filed a report pursuant to the
3 applicable provisions of those sections, the secretary of state may, after
4 giving notice to that person or entity, cause the appropriate proceedings to
5 be instituted in the first judicial district court.

6 2. Except as otherwise provided in this section, a person or entity that
7 violates an applicable provision of NRS 294A.112, 294A.120, 294A.130,
8 294A.140, 294A.150, 294A.160, 294A.170, 294A.180, 294A.200,
9 294A.210, 294A.220, 294A.270, 294A.280, 294A.300, 294A.310,
10 294A.320 or 294A.360 is subject to a civil penalty of not more than \$5,000
11 for each violation and payment of court costs and attorney's fees. The civil
12 penalty must be recovered in a civil action brought in the name of the State
13 of Nevada by the secretary of state in the first judicial district court and
14 deposited with the state treasurer for credit to the state general fund.

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

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

20 (b) If the report is more than 7 days late but not more than 15 days late,
21 \$50 for each day the report is late.

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

24 ***4. For good cause shown, the secretary of state may waive a civil***
25 ***penalty that would otherwise be imposed pursuant to this section. If the***
26 ***secretary of state waives a civil penalty pursuant to this subsection, the***
27 ***secretary of state shall:***

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

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

33 **Sec. 25.** The amendatory provisions of this act do not apply to conduct
34 that occurred before October 1, 1999 or to the jurisdiction, duties, powers
35 or proceedings of the commission on ethics relating to such conduct.

36 **Sec. 26.** 1. Section 19.5 of this act becomes effective at 12:01 a.m.
37 on October 1, 1999.

38 2. Section 5.5 of this act expires by limitation on June 30, 2001.