

SENATE BILL NO. 466—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 22, 2001

Referred to Committee on Government Affairs

SUMMARY—Makes various changes regarding ethics in government. (BDR 23-716)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to ethics in government; revising certain provisions regarding prohibited pecuniary interests and commitments of public officers and employees; revising provisions regarding the participation of members of a panel of the commission on ethics in certain matters; specifying a period for the retention of certain documents filed with the commission; providing a maximum civil penalty for failure to file financial disclosure statements in a timely manner; repealing the prospective expiration of the position of commission counsel; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 281.230 is hereby amended to read as follows:  
2     281.230 1. Except as otherwise provided in this section and NRS  
3     218.605, the following persons shall not, in any manner, directly or  
4     indirectly, receive any commission, personal profit or compensation of any  
5     kind resulting from any contract or other *significant* transaction in which  
6     the employing state, county, municipality, township, district or quasi-  
7     municipal corporation is in any way *directly* interested or affected:  
8     (a) State, county, municipal, district and township officers of the State  
9     of Nevada;  
10    (b) Deputies and employees of state, county, municipal, district and  
11    township officers; and  
12    (c) Officers and employees of quasi-municipal corporations.  
13    2. A member of any board, commission or similar body who is  
14    engaged in the profession, occupation or business regulated by the board,  
15    commission or body may, in the ordinary course of his business, bid on or  
16    enter into a contract with any governmental agency, except the board or  
17    commission of which he is a member, if he has not taken part in  
18    developing the contract plans or specifications and he will not be  
19    personally involved in opening, considering or accepting offers.



1 3. A full- or part-time faculty member in the University and  
2 Community College System of Nevada may bid on or enter into a contract  
3 with a governmental agency if he has not taken part in developing the  
4 contract plans or specifications and he will not be personally involved in  
5 opening, considering or accepting offers.

6 4. A public officer or employee, other than an officer or employee  
7 described in subsection 2 or 3, may bid on or enter into a contract with a  
8 governmental agency if the contracting process is controlled by rules of  
9 open competitive bidding, the sources of supply are limited, he has not  
10 taken part in developing the contract plans or specifications and he will not  
11 be personally involved in opening, considering or accepting offers.

12 5. A person who violates any of the provisions of this section shall be  
13 punished as provided in NRS 197.230 and:

14 (a) Where the commission, personal profit or compensation is \$250 or  
15 more, for a category D felony as provided in NRS 193.130.

16 (b) Where the commission, personal profit or compensation is less than  
17 \$250, for a misdemeanor.

18 6. A person who violates the provisions of this section shall pay any  
19 commission, personal profit or compensation resulting from the contract or  
20 transaction to the employing state, county, municipality, township, district  
21 or quasi-municipal corporation as restitution.

22 **Sec. 2.** NRS 281.236 is hereby amended to read as follows:

23 281.236 1. A public utility or parent organization or subsidiary of a  
24 public utility shall not employ a former member of the public utilities  
25 commission of Nevada for 1 year after the termination of his service on the  
26 commission.

27 2. A person who holds a license issued pursuant to chapter 463 or 464  
28 of NRS or who is required to register with the Nevada gaming commission  
29 pursuant to chapter 463 of NRS shall not employ a former member of the  
30 state gaming control board or the Nevada gaming commission for 1 year  
31 after the termination of the member's service on the board or commission.

32 3. In addition to the prohibitions set forth in subsections 1 and 2, a  
33 business or industry whose activities are governed by regulations adopted  
34 by a department, division or other agency of the executive branch of  
35 government shall not, except as otherwise provided in subsection 4,  
36 employ a former public officer or employee of the agency, except a clerical  
37 employee, for 1 year after the termination of his service or period of  
38 employment if:

39 (a) His principal duties included the formulation of policy contained in  
40 the regulations governing the business or industry;

41 (b) During the immediately preceding year he directly performed  
42 activities, or controlled or influenced an audit, decision, investigation or  
43 other action, which significantly affected the business or industry which  
44 might, but for this section, employ him; or

45 (c) As a result of his governmental service or employment, he possesses  
46 knowledge of the trade secrets of a direct business competitor.

47 4. A public officer or employee may request the commission on ethics  
48 to apply the relevant facts in his case to the provisions of subsection 3 and  
49 determine whether relief from the strict application of the provisions is



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1 proper. If the commission on ethics determines that relief from the strict  
2 application of the provisions of subsection 3 is not contrary to:  
3 (a) The best interests of the public;  
4 (b) The continued integrity of state government; and  
5 (c) The code of ethical standards prescribed in NRS 281.481,  
6 it may issue an ~~order~~ *opinion* to that effect and grant such relief. The  
7 ~~decision~~ *opinion* of the commission on ethics in such a case is subject to  
8 judicial review.  
9 5. As used in this section, "regulation" has the meaning ascribed to it  
10 in NRS 233B.038.  
11 **Sec. 3.** NRS 281.4365 is hereby amended to read as follows:  
12 281.4365 1. "Public officer" means a person elected or appointed to  
13 a position which is established by the constitution of the State of Nevada, a  
14 statute of this state or an ordinance of any of its counties or incorporated  
15 cities and which involves the exercise of a public power, trust or duty. As  
16 used in this section, "the exercise of a public power, trust or duty"  
17 ~~includes:~~ *means:*  
18 (a) Actions taken in an official capacity which involve a substantial and  
19 material exercise of administrative discretion in the formulation of public  
20 policy;  
21 (b) The expenditure of public money; and  
22 (c) The enforcement of laws and rules of the state, a county or a city.  
23 2. "Public officer" does not include:  
24 (a) Any justice, judge or other officer of the court system;  
25 (b) A commissioner of deeds;  
26 (c) Any member of a board, commission or other body whose function  
27 is advisory;  
28 (d) Any member of a board of trustees for a general improvement  
29 district or special district whose official duties do not include the  
30 formulation of a budget for the district or the authorization of the  
31 expenditure of the district's money; or  
32 (e) A county health officer appointed pursuant to NRS 439.290.  
33 **Sec. 4.** NRS 281.462 is hereby amended to read as follows:  
34 281.462 1. The chairman shall appoint one or more panels of two  
35 members of the commission on a rotating basis to review the  
36 determinations of just and sufficient cause made by the executive director  
37 pursuant to NRS 281.511 and make a final determination regarding  
38 whether just and sufficient cause exists for the commission to render an  
39 opinion.  
40 2. The chairman and vice chairman of the commission may not serve  
41 together on a panel.  
42 3. The members of a panel may not be members of the same political  
43 party.  
44 4. If a panel finds just and sufficient cause for the commission to  
45 render an opinion in a matter, the members of the panel shall not *vote upon*  
46 *but may otherwise* participate in ~~any~~ further proceedings of the  
47 commission relating to that matter.



1     **Sec. 5.** NRS 281.481 is hereby amended to read as follows:  
2     281.481 A code of ethical standards is hereby established to govern the  
3     conduct of public officers and employees:

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

9     2. A public officer or employee shall not use his position in  
10    government to secure or grant unwarranted privileges, preferences,  
11    exemptions or advantages for himself ~~or any member of his household, any~~  
12    ~~business entity in which he has a significant pecuniary interest, or any~~  
13    ~~other person.~~ *or any person or governmental entity.* As used in this  
14    subsection, "unwarranted" means without justification or adequate reason.

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

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

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

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

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

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

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

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

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

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

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

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

48    If a governmental agency incurs a cost as a result of a use that is authorized  
49    pursuant to this subsection or would ordinarily charge a member of the



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1 general public for the use, the public officer or employee shall promptly  
2 reimburse the cost or pay the charge to the governmental agency.

3 8. A member of the legislature shall not:

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

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

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

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

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

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

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

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

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

23 (2) Where such service has otherwise been established as legislative  
24 policy.

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

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

29 **Sec. 6.** NRS 281.491 is hereby amended to read as follows:

30 281.491 In addition to the requirements of the code of ethical  
31 standards:

32 1. A member of the executive branch or public employee of the  
33 executive branch shall not accept compensation from any private person to  
34 represent or counsel him on any issue pending before the agency in which  
35 that officer or employee serves, if the agency makes decisions. Any such  
36 officer or employee who leaves the service of the agency shall not, for 1  
37 year after leaving the service of the agency, represent or counsel for  
38 compensation a private person upon any issue which was under  
39 consideration by the agency during his service. As used in this subsection,  
40 "issue" includes a case, proceeding, application, contract or determination,  
41 but does not include the proposal or consideration of legislative measures  
42 or administrative regulations.

43 2. A member of the legislative branch, or a member of the executive  
44 branch or public employee whose public service requires less than half of  
45 his time, may represent or counsel a private person before an agency in  
46 which he does not serve. Any other member of the executive branch or  
47 public employee shall not represent a client for compensation before any  
48 state agency of the executive or legislative branch of government.



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1 3. Not later than January 10 of each year, any legislator or other public  
2 officer who has, within the preceding year, represented or counseled a  
3 private person for compensation before a state agency of the executive  
4 branch shall disclose for each such representation or counseling during the  
5 previous calendar year:

- 6 (a) The name of the client;
- 7 (b) The nature of the representation; and
- 8 (c) The name of the state agency.

9 The disclosure must be made in writing and filed with the commission **H**,  
10 *on a form prescribed by the commission. The commission shall retain a*  
11 *disclosure filed pursuant to this subsection for 6 years after the date on*  
12 *which the disclosure was filed.*

13 **Sec. 7.** NRS 281.501 is hereby amended to read as follows:

14 281.501 1. Except as otherwise provided in subsection 2 or 3, a  
15 public officer may vote upon a matter if the benefit or detriment accruing  
16 to him as a result of the decision either individually or in a representative  
17 capacity as a member of a general business, profession, occupation or  
18 group is not greater than that accruing to any other member of the general  
19 business, profession, occupation or group.

20 2. In addition to the requirements of the code of ethical standards, a  
21 public officer shall not vote upon or advocate the passage or failure of, but  
22 may otherwise participate in the consideration of a matter with respect to  
23 which the independence of judgment of a reasonable person in his situation  
24 would be materially affected by:

- 25 (a) His acceptance of a gift or loan;
- 26 (b) His pecuniary interest; or
- 27 (c) His commitment in a private capacity to the interests of others.

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

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

- 40 (a) Regarding which he has accepted a gift or loan;
- 41 (b) Which would reasonably be affected by his commitment in a private  
42 capacity to the interest of others; or
- 43 (c) In which he has a pecuniary interest,

44 without disclosing sufficient information concerning the gift, loan,  
45 commitment or interest to inform the public of the potential effect of the  
46 action or abstention upon the person who provided the gift or loan, upon  
47 the person to whom he has a commitment, or upon his interest. Except as  
48 otherwise provided in subsection 6, such a disclosure must be made at the  
49 time the matter is considered. If the officer or employee is a member of a



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1 body which makes decisions, he shall make the disclosure in public to the  
2 chairman and other members of the body. If the officer or employee is not  
3 a member of such a body and holds an appointive office, he shall make the  
4 disclosure to the supervisory head of his organization or, if he holds an  
5 elective office, to the general public in the area from which he is elected.  
6 This subsection does not require a public officer to disclose any campaign  
7 contributions that the public officer reported pursuant to NRS 294A.120 or  
8 294A.125 in a timely manner.

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

15 5. ~~HH~~ *Except as otherwise provided in subsection 6, if* a public officer  
16 is voting on a matter which affects public employees, he shall make a full  
17 public disclosure of any personal pecuniary interest which he may have in  
18 the matter.

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

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

29 (a) Prohibit a member of the legislative branch from requesting or  
30 introducing a legislative measure; or

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

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

35 (a) Who is a member of his household;

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

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

39 (d) With whom he has a substantial and continuing business *or personal*  
40 relationship; or

41 (e) Any other commitment or relationship that is substantially similar to  
42 a commitment or relationship described in this subsection.

43 **Sec. 8.** NRS 281.525 is hereby amended to read as follows:

44 281.525 1. It is unlawful for any person to make, use, publish or  
45 disseminate any statement which is known or through the exercise of  
46 reasonable care should be known to be false, deceptive or misleading in  
47 order to induce the commission to render an opinion *pursuant to*  
48 *subsection 1 of NRS 281.511* or to take any action related to the rendering  
49 of an opinion ~~HH~~ *pursuant to subsection 1 of NRS 281.511.*



1     2. Any person who knowingly violates the provisions of subsection 1  
2     is guilty of a misdemeanor.

3     3. The commission shall inform the attorney general or the district  
4     attorney of any case involving a violation of subsection 1.

5     **Sec. 9.** NRS 281.552 is hereby amended to read as follows:  
6     281.552 **1.** Every public officer shall acknowledge that he has  
7     received, read and understands the statutory ethical standards. The  
8     acknowledgment must be on a form prescribed by the commission and  
9     must accompany the first statement of financial disclosure that the public  
10    officer is required to file with the commission pursuant to NRS 281.561.

11    **2. *The commission shall retain an acknowledgment filed pursuant to***  
12    ***this section for 6 years after the date on which the acknowledgment was***  
13    ***filed.***

14    **3.** Willful refusal to execute and file the acknowledgment required by  
15    this section constitutes nonfeasance in office and is a ground for removal  
16    pursuant to NRS 283.440.

17    **Sec. 10.** NRS 281.561 is hereby amended to read as follows:  
18    281.561 **1.** Except as otherwise provided in subsection 2 or 3, if a  
19    candidate for public or judicial office or a public or judicial officer is  
20    entitled to receive compensation for serving in the office in question, he  
21    shall file with the commission, and with the officer with whom declarations  
22    of candidacy for the office in question are filed, a statement of financial  
23    disclosure, as follows:

24    (a) A candidate for nomination, election or reelection shall file a  
25    statement of financial disclosure no later than the 10th day after the last  
26    day to qualify as a candidate for the office.

27    (b) A public or judicial officer appointed to fill the unexpired term of  
28    ~~an elected~~ **a** public or judicial officer shall file a statement of financial  
29    disclosure within 30 days after his appointment.

30    (c) Every public or judicial officer, whether appointed or elected, shall  
31    file a statement of financial disclosure on or before March 31 of each year  
32    of the term, including the year **in which** the term expires.

33    (d) A public or judicial officer who leaves office on a date other than  
34    the expiration of his term or anniversary of his appointment or election,  
35    shall file a statement of financial disclosure within 60 days after leaving  
36    office.

37    **2.** A statement filed pursuant to one of the paragraphs of subsection 1  
38    may be used to satisfy the requirements of another paragraph of subsection  
39    1 if the initial statement was filed not more than 3 months before the other  
40    statement is required to be filed. The public or judicial officer shall notify  
41    the commission in writing of his intention to use the previously filed  
42    statement to fulfill the present requirement.

43    **3.** If a person is serving in a public or judicial office for which he is  
44    required to file a statement pursuant to subsection 1, he may use the  
45    statement he files for that initial office to satisfy the requirements of  
46    subsection 1 for every other public or judicial office in which he is also  
47    serving. The person shall notify the commission in writing of his intention  
48    to use the statement for the initial office to fulfill the requirements of  
49    subsection 1 for every other office.



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1       4. A person may satisfy the requirements of subsection 1 by filing with  
2 the commission a copy of a statement of financial disclosure that was filed  
3 pursuant to the requirements of a specialized or local ethics committee if  
4 the form of the statement has been approved by the commission.  
5       **Sec. 11.** NRS 281.581 is hereby amended to read as follows:  
6       281.581 1. A candidate or public or judicial officer who fails to file  
7 his statement of financial disclosure in a timely manner pursuant to NRS  
8 281.561 is subject to a civil penalty and payment of court costs and  
9 attorney's fees. ~~The~~ *Except as otherwise provided in subsection 3, the*  
10 amount of the civil penalty is:  
11       (a) If the statement is filed not more than 7 days late, \$25 for each day  
12 the statement is late.  
13       (b) If the statement is filed more than 7 days late but not more than 15  
14 days late, \$175 for the first 7 days, plus \$50 for each additional day the  
15 statement is late.  
16       (c) If the statement is filed more than 15 days late, \$575 for the first 15  
17 days, plus \$100 for each additional day the statement is late.  
18       2. The commission may, for good cause shown, waive or reduce the  
19 civil penalty.  
20       3. *The civil penalty imposed for a violation of this section must not*  
21 *exceed the annual compensation for the office for which the statement*  
22 *was filed.*  
23       4. The civil penalty must be recovered in a civil action brought in the  
24 name of the State of Nevada by the commission in a court of competent  
25 jurisdiction and deposited with the state treasurer for credit to the state  
26 general fund.  
27       ~~4-1~~ 5. If the commission waives a civil penalty pursuant to subsection  
28 2, the commission shall:  
29       (a) Create a record which sets forth that the civil penalty has been  
30 waived and describes the circumstances that constitute the good cause  
31 shown; and  
32       (b) Ensure that the record created pursuant to paragraph (a) is available  
33 for review by the general public.  
34       **Sec. 12.** Section 26 of chapter 535, Statutes of Nevada 1999, at page  
35 2750, is hereby amended to read as follows:  
36       Sec. 26. ~~1-1~~ Section 19.5 of this act becomes effective at 12:01  
37 a.m. on October 1, 1999.  
38       ~~2.—Section 5.5 of this act expires by limitation on June 30, 2001.—~~  
39       **Sec. 13.** 1. This section and section 12 of this act become effective  
40 upon passage and approval.  
41       2. Sections 1 to 11, inclusive, of this act become effective on  
42 October 1, 2001.

