

ASSEMBLY BILL NO. 538—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF THE COMMISSION ON ETHICS)

MARCH 29, 2005

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Makes various changes relating to ethics in
government. (BDR 23-272)

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

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

AN ACT relating to ethics in government; revising the restrictions upon the association of a former Commissioner of the Public Utilities Commission of Nevada with a public utility; authorizing the Commission on Ethics to employ legal counsel in certain circumstances; revising the date for submission of a disclosure of representation or counseling of a private person for compensation before a state agency; revising provisions governing abstention from voting for members of a county or city planning commission in larger counties; providing a time limitation for the submission of certain requests for opinions by the Commission on Ethics; revising the penalty for the acceptance or receipt of an honorarium; revising the requirements relating to the filing of statements of financial disclosure; and providing other matters properly relating thereto.



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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in NRS 281.559 to 281.581, inclusive, unless the context otherwise requires:

1. "Public officer" means a person elected or appointed to a position which is established by the Constitution of the State of Nevada, a statute of this State or an ordinance of any of its counties or incorporated cities and which involves the exercise of a public power, trust or duty. As used in this section, "the exercise of a public power, trust or duty" means:

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

(b) The expenditure of public money; and

(c) The enforcement of laws and rules of the State, a county or a city.

2. "Public officer" does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a board of trustees for a general improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

3. "Public office" does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a board of trustees for a general improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

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

281.236 1. A former Commissioner of the Public Utilities Commission of Nevada shall not appear before the Public Utilities Commission of Nevada on behalf of a public utility or be employed by a public utility, that is regulated by the Commission or a parent organization or subsidiary of such a public utility ~~*shall not employ*~~



1 ~~a former member of the Public Utilities Commission of Nevada]~~ for
2 1 year after the termination of his service on the Commission.

3 2. A person who holds a license issued pursuant to chapter 463
4 or 464 of NRS or who is required to register with the Nevada
5 Gaming Commission pursuant to chapter 463 of NRS shall not
6 employ a former member of the State Gaming Control Board or the
7 Nevada Gaming Commission for 1 year after the termination of the
8 member's service on the Board or Commission.

9 3. In addition to the prohibitions set forth in subsections 1 and
10 2, a business or industry whose activities are governed by
11 regulations adopted by a department, division or other agency of the
12 Executive Branch of government shall not, except as otherwise
13 provided in subsection 4, employ a former public officer or
14 employee of the agency, except a clerical employee, for 1 year after
15 the termination of his service or period of employment if:

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

18 (b) During the immediately preceding year he directly
19 performed activities, or controlled or influenced an audit, decision,
20 investigation or other action, which significantly affected the
21 business or industry which might, but for this section, employ him;
22 or

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

26 4. A public officer or employee may request the Commission
27 on Ethics to apply the relevant facts in his case to the provisions of
28 subsection 3 and determine whether relief from the strict application
29 of the provisions is proper. If the Commission on Ethics determines
30 that relief from the strict application of the provisions of subsection
31 3 is not contrary to:

32 (a) The best interests of the public;

33 (b) The continued integrity of state government; and

34 (c) The code of ethical standards prescribed in NRS 281.481,
35 ➔ it may issue an opinion to that effect and grant such relief. The
36 opinion of the Commission on Ethics in such a case is subject to
37 judicial review.

38 5. As used in this section, "regulation" has the meaning
39 ascribed to it in NRS 233B.038.

40 **Sec. 3.** NRS 281.411 is hereby amended to read as follows:

41 281.411 NRS 281.411 to 281.581, inclusive, *and section 1 of*
42 *this act* may be cited as the Nevada Ethics in Government Law.

43 **Sec. 4.** NRS 281.4365 is hereby amended to read as follows:

44 281.4365 1. "Public officer" means a person elected or
45 appointed to a position which is established by the Constitution of



1 the State of Nevada, a statute of this State or an ordinance of any of
2 its counties or incorporated cities and which involves the exercise of
3 a public power, trust or duty. As used in this section, "the exercise
4 of a public power, trust or duty" means:

5 (a) Actions taken in an official capacity which involve a
6 substantial and material exercise of administrative discretion in the
7 formulation of public policy;

8 (b) The expenditure of public money; ~~and~~ or

9 (c) The enforcement of laws and rules of the State, a county or a
10 city.

11 2. "Public officer" does not include:

12 (a) Any justice, judge or other officer of the court system;

13 (b) Any member of a board, commission or other body whose
14 function is advisory;

15 (c) Any member of a board of trustees for a general
16 improvement district or special district whose official duties do not
17 include the formulation of a budget for the district or the
18 authorization of the expenditure of the district's money; or

19 (d) A county health officer appointed pursuant to NRS 439.290.

20 3. "Public office" does not include an office held by:

21 (a) Any justice, judge or other officer of the court system;

22 (b) Any member of a board, commission or other body whose
23 function is advisory;

24 (c) Any member of a board of trustees for a general
25 improvement district or special district whose official duties do not
26 include the formulation of a budget for the district or the
27 authorization of the expenditure of the district's money; or

28 (d) A county health officer appointed pursuant to NRS 439.290.

29 **Sec. 5.** NRS 281.4635 is hereby amended to read as follows:

30 281.4635 1. In addition to any other duties imposed upon
31 him, the Executive Director shall:

32 (a) Maintain complete and accurate records of all transactions
33 and proceedings of the Commission.

34 (b) Receive requests for opinions pursuant to NRS 281.511,
35 294A.345 or 294A.346.

36 (c) Gather information and conduct investigations regarding
37 requests for opinions received by the Commission and submit
38 recommendations to the panel appointed pursuant to NRS 281.462
39 regarding whether there is just and sufficient cause to render an
40 opinion in response to a particular request.

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



(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

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

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

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

(b) ~~[(The review of statements of financial disclosure; and~~
~~—(e)]~~ The investigation of matters under the jurisdiction of the Commission.

Sec. 6. NRS 281.464 is hereby amended to read as follows:

281.464 1. The Commission shall appoint, within the limits of legislative appropriation, a Commission Counsel who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the ~~[Commission.]~~ *Executive Director.*

2. The Commission Counsel must be an attorney who is licensed to practice law in this State.

3. The Commission Counsel is in the unclassified service of the State.

4. The Commission Counsel shall devote his entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of his duties.

5. The Commission Counsel may not:

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

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

Sec. 7. NRS 281.4645 is hereby amended to read as follows:

281.4645 1. The Commission Counsel is the legal adviser to the Commission. For each opinion 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



1 time set forth in subsection 4 of NRS 281.511. The Commission
2 Counsel shall not issue written opinions concerning the applicability
3 of the statutory ethical standards to a given set of facts and
4 circumstances except as directed by the Commission.

5 2. The ~~[Commission]~~ *Executive Director* may rely upon the
6 legal advice of the Commission Counsel in conducting ~~[its]~~ *the*
7 daily operations ~~[of the Commission]~~.

8 3. If the Commission Counsel is ~~[prohibited from acting]~~
9 *unable to act* on a particular matter ~~[pursuant to NRS 281.501, he~~
10 ~~shall disclose the reasons therefor to the Chairman and]~~ , *the*
11 *Commission may:*

12 (a) *Request* the Attorney General ~~[shall]~~ *to* appoint a deputy to
13 act in the place of the Commission Counsel ~~[for that particular~~
14 ~~matter.] ; or~~

15 (b) *Employ outside legal counsel.*

16 **Sec. 8.** NRS 281.465 is hereby amended to read as follows:

17 281.465 1. The Commission has jurisdiction to investigate
18 and take appropriate action regarding an alleged violation of:

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

21 (1) The filing of a request for an opinion with the
22 Commission; or

23 (2) The Commission on its own motion.

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

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

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

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

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

32 (2) Within ~~[1-year]~~ *3 years* after the alleged violation or
33 reasonable discovery of the alleged violation.

34 **Sec. 9.** NRS 281.471 is hereby amended to read as follows:

35 281.471 The Commission shall:

36 1. Adopt procedural regulations:

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

38 (b) For the filing of a request for an opinion with the
39 Commission;

40 (c) For the withdrawal of a request for an opinion by the person
41 who filed the request; and

42 (d) To facilitate the prompt rendition of opinions by the
43 Commission.

44 2. Prescribe, by regulation, forms for the submission of
45 statements of financial disclosure and procedures for the submission



1 of statements of financial disclosure filed pursuant to NRS 281.559
2 and forms and procedures for the submission of statements of
3 acknowledgment filed by public officers pursuant to NRS 281.552,
4 maintain files of such statements and make the statements available
5 for public inspection.

6 3. Cause the making of such investigations as are reasonable
7 and necessary for the rendition of its opinions pursuant to this
8 chapter.

9 4. ~~Except as otherwise provided in NRS 281.559, inform the~~
10 ~~Attorney General or district attorney of all cases of noncompliance~~
11 ~~with the requirements of this chapter.~~

12 ~~5.]~~ Recommend to the Legislature such further legislation as
13 the Commission considers desirable or necessary to promote and
14 maintain high standards of ethical conduct in government.

15 ~~6.]~~ 5. Publish a manual for the use of public officers and
16 employees that contains:

17 (a) Hypothetical opinions which are abstracted from opinions
18 rendered pursuant to subsection 1 of NRS 281.511, for the future
19 guidance of all persons concerned with ethical standards in
20 government;

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

23 (c) An abstract of the requirements of this chapter.

24 ➤ The Legislative Counsel shall prepare annotations to this chapter
25 for inclusion in the Nevada Revised Statutes based on the abstracts
26 and published opinions of the Commission.

27 **Sec. 10.** NRS 281.481 is hereby amended to read as follows:

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

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

35 2. A public officer or employee shall not use his position in
36 government to secure or grant unwarranted privileges, preferences,
37 exemptions or advantages for himself, any business entity in which
38 he has a significant pecuniary interest, or any person to whom he
39 has a commitment in a private capacity to the interests of that
40 person. As used in this subsection:

41 (a) "Commitment in a private capacity to the interests of that
42 person" has the meaning ascribed to "commitment in a private
43 capacity to the interests of others" in subsection ~~8]~~ 7 of
44 NRS 281.501.



1 (b) "Unwarranted" means without justification or adequate
2 reason.

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

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

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

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

19 7. A public officer or employee, other than a member of the
20 Legislature, shall not use governmental time, property, equipment or
21 other facility to benefit his personal or financial interest. This
22 subsection does not prohibit:

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

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

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

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

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

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

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

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

43 8. A member of the Legislature shall not:



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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11. NRS 281.491 is hereby amended to read as follows:

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

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

2. A member of the legislative branch, or a member of the executive branch or public employee whose public service requires less than half of his time, may represent or counsel a private person



1 before an agency in which he does not serve. Any other member of
2 the executive branch or public employee shall not represent a client
3 for compensation before any state agency of the Executive or
4 Legislative Branch of government.

5 3. Not later than January ~~10~~ 15 of each year, any Legislator
6 or other public officer who has, within the preceding year,
7 represented or counseled a private person for compensation before a
8 state agency of the Executive Branch shall disclose for each such
9 representation or counseling during the previous calendar year:

10 (a) The name of the client;

11 (b) The nature of the representation; and

12 (c) The name of the state agency.

13 ➔ The disclosure must be made in writing and filed with the
14 Commission, on a form prescribed by the Commission. The
15 Commission shall retain a disclosure filed pursuant to this
16 subsection for 6 years after the date on which the disclosure was
17 filed.

18 **Sec. 12.** NRS 281.501 is hereby amended to read as follows:

19 281.501 1. Except as otherwise provided in subsection 2 ~~1, 3~~
20 ~~or 4,~~ or 3, a public officer may vote upon a matter if the benefit or
21 detriment accruing to him as a result of the decision either
22 individually or in a representative capacity as a member of a general
23 business, profession, occupation or group is not greater than that
24 accruing to any other member of the general business, profession,
25 occupation or group.

26 2. ~~Except as otherwise provided in subsection 3, in~~ In
27 addition to the requirements of the code of ethical standards, a
28 public officer shall not vote upon or advocate the passage or failure
29 of, but may otherwise participate in the consideration of, a matter
30 with respect to which the independence of judgment of a reasonable
31 person in his situation would be materially affected by:

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

33 (b) His pecuniary interest; or

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

36 ➔ It must be presumed that the independence of judgment of a
37 reasonable person would not be materially affected by his pecuniary
38 interest or his commitment in a private capacity to the interests of
39 others where the resulting benefit or detriment accruing to him or to
40 the other persons to whose interests ~~to which~~ the member is
41 committed in a private capacity is not greater than that accruing to
42 any other member of the general business, profession, occupation or
43 group. The presumption set forth in this subsection does not affect
44 the applicability of the requirements set forth in subsection ~~4~~ 3



1 relating to the disclosure of the pecuniary interest or commitment in
2 a private capacity to the interests of others.

3 ~~3. [In a county whose population is 400,000 or more, a member~~
4 ~~of a county or city planning commission shall not vote upon or~~
5 ~~advocate the passage or failure of, but may otherwise participate in~~
6 ~~the consideration of, a matter with respect to which the~~
7 ~~independence of judgment of a reasonable person in his situation~~
8 ~~would be materially affected by:~~

9 ~~—(a) His acceptance of a gift or loan;~~

10 ~~—(b) His direct pecuniary interest; or~~

11 ~~—(c) His commitment to a member of his household or a person~~
12 ~~who is related to him by blood, adoption or marriage within the third~~
13 ~~degree of consanguinity or affinity.~~

14 ~~↪ It must be presumed that the independence of judgment of a~~
15 ~~reasonable person would not be materially affected by his direct~~
16 ~~pecuniary interest or his commitment described in paragraph (c)~~
17 ~~where the resulting benefit or detriment accruing to him or to the~~
18 ~~other persons whose interests to which the member is committed is~~
19 ~~not greater than that accruing to any other member of the general~~
20 ~~business, profession, occupation or group. The presumption set forth~~
21 ~~in this subsection does not affect the applicability of the~~
22 ~~requirements set forth in subsection 4 relating to the disclosure of~~
23 ~~the direct pecuniary interest or commitment.~~

24 ~~—4.]~~ A public officer or employee shall not approve, disapprove,
25 vote, abstain from voting or otherwise act upon any matter:

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

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

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

30 ↪ without disclosing sufficient information concerning the gift,
31 loan, commitment or interest to inform the public of the potential
32 effect of the action or abstention upon the person who provided the
33 gift or loan, upon the person to whom he has a commitment, or upon
34 his interest. Except as otherwise provided in subsection ~~[6.]~~ 5, such
35 a disclosure must be made at the time the matter is considered. If the
36 officer or employee is a member of a body which makes decisions,
37 he shall make the disclosure in public to the Chairman and other
38 members of the body. If the officer or employee is not a member of
39 such a body and holds an appointive office, he shall make the
40 disclosure to the supervisory head of his organization or, if he holds
41 an elective office, to the general public in the area from which he is
42 elected. This subsection does not require a public officer to disclose
43 any campaign contributions that the public officer reported pursuant
44 to NRS 294A.120 or 294A.125 in a timely manner.



~~[5.]~~ 4. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

~~[6.]~~ 5. After a member of the Legislature makes a disclosure pursuant to subsection ~~[4.]~~ 3, he may file with the Director of the Legislative Counsel Bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a Legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the Legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the Legislative Counsel Bureau.

~~[7.]~~ 6. The provisions of this section do not, under any circumstances:

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

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

~~[8.]~~ 7. As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:

(a) Who is a member of his household;

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

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

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

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

Sec. 13. NRS 281.511 is hereby amended to read as follows:

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



1 (a) Binding upon the requester as to his future conduct; and
2 (b) Final and subject to judicial review pursuant to NRS
3 233B.130, except that a proceeding regarding this review must be
4 held in closed court without admittance of persons other than those
5 necessary to the proceeding, unless this right to confidential
6 proceedings is waived by the requester.

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

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

11 (b) Except as otherwise provided in this subsection, upon
12 request from a person, if the requester submits:

13 (1) The request on a form prescribed by the Commission;
14 and

15 (2) All related evidence deemed necessary by the Executive
16 Director and the panel to make a determination of whether there is
17 just and sufficient cause to render an opinion in the matter.

18 (c) Upon the Commission's own motion regarding the propriety
19 of conduct by a public officer or employee. The Commission shall
20 not initiate proceedings pursuant to this paragraph based solely upon
21 an anonymous complaint.

22 ➤ The Commission shall not render an opinion interpreting the
23 statutory ethical standards or apply those standards to a given set of
24 facts and circumstances if the request is submitted by a person who
25 is incarcerated in a correctional facility in this State ~~or~~ *or is*
26 *submitted 3 years or more after the alleged violation of this*
27 *chapter occurred or reasonably should have been discovered.*

28 3. Upon receipt of a request for an opinion by the Commission
29 or upon the motion of the Commission pursuant to subsection 2, the
30 Executive Director shall investigate the facts and circumstances
31 relating to the request to determine whether there is just and
32 sufficient cause for the Commission to render an opinion in the
33 matter. The public officer or employee that is the subject of the
34 request may submit to the Executive Director any information
35 relevant to the request. The Executive Director shall complete an
36 investigation and present his recommendation relating to just and
37 sufficient cause to the panel within 45 days after the receipt of or the
38 motion of the Commission for the request, unless the public officer
39 or employee waives this time limit. If the Executive Director
40 determines after an investigation that just and sufficient cause exists
41 for the Commission to render an opinion in the matter, he shall state
42 such a recommendation in writing, including, without limitation, the
43 specific evidence that supports his recommendation. If, after an
44 investigation, the Executive Director does not determine that just
45 and sufficient cause exists for the Commission to render an opinion



1 in the matter, he shall state such a recommendation in writing,
2 including, without limitation, the specific reasons for his
3 recommendation. Within 15 days after the Executive Director has
4 provided his recommendation in the matter to the panel, the panel
5 shall make a final determination regarding whether just and
6 sufficient cause exists for the Commission to render an opinion in
7 the matter, unless the public officer or employee waives this time
8 limit. The panel shall not determine that there is just and sufficient
9 cause for the Commission to render an opinion unless the panel has
10 provided the public officer or employee an opportunity to respond to
11 the allegations against him. The panel shall cause a record of its
12 proceedings in each matter to be kept, and such a record must
13 remain confidential until the panel determines whether there is just
14 and sufficient cause for the Commission to render an opinion in the
15 matter.

16 4. If the panel determines that just and sufficient cause exists
17 for the Commission to render an opinion requested pursuant to this
18 section, the Commission shall hold a hearing and render an opinion
19 in the matter within 30 days after the determination of just and
20 sufficient cause by the panel, unless the public officer or employee
21 waives this time limit.

22 5. Each request for an opinion that a public officer or employee
23 submits to the Commission pursuant to subsection 1, each opinion
24 rendered by the Commission in response to such a request and any
25 motion, determination, evidence or record of a hearing relating to
26 such a request are confidential unless the public officer or employee
27 who requested the opinion:

28 (a) Acts in contravention of the opinion, in which case the
29 Commission may disclose the request for the opinion, the contents
30 of the opinion and any motion, evidence or record of a hearing
31 related thereto;

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

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

38 6. Except as otherwise provided in this subsection, each
39 document in the possession of the Commission or its staff that is
40 related to a request for an opinion regarding a public officer or
41 employee submitted to or initiated by the Commission pursuant to
42 subsection 2, including, without limitation, the Commission's copy
43 of the request and all materials and information gathered in an
44 investigation of the request, is confidential until the panel
45 determines whether there is just and sufficient cause to render an



1 opinion in the matter. The public officer or employee who is the
2 subject of a request for an opinion submitted or initiated pursuant to
3 subsection 2 may in writing authorize the Commission to make its
4 files, material and information which are related to the request
5 publicly available.

6 7. Except as otherwise provided in paragraphs (a) and (b), the
7 proceedings of a panel are confidential until the panel determines
8 whether there is just and sufficient cause to render an opinion. A
9 person who:

10 (a) Requests an opinion from the Commission pursuant to
11 paragraph (b) of subsection 2 may:

12 (1) At any time, reveal to a third party the alleged conduct of
13 a public officer or employee underlying the request that he filed
14 with the Commission or the substance of testimony, if any, that he
15 gave before the Commission.

16 (2) After the panel determines whether there is just and
17 sufficient cause to render an opinion in the matter, reveal to a third
18 party the fact that he requested an opinion from the Commission.

19 (b) Gives testimony before the Commission may:

20 (1) At any time, reveal to a third party the substance of
21 testimony that he gave before the Commission.

22 (2) After the panel determines whether there is just and
23 sufficient cause to render an opinion in the matter, reveal to a third
24 party the fact that he gave testimony before the Commission.

25 8. Whenever the Commission holds a hearing pursuant to this
26 section, the Commission shall:

27 (a) Notify the person about whom the opinion was requested of
28 the place and time of the Commission's hearing on the matter;

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

30 (c) Allow the person to hear the evidence presented to the
31 Commission and to respond and present evidence on his own behalf.
32 ➔ The Commission's hearing may be held no sooner than 10 days
33 after the notice is given unless the person agrees to a shorter time.

34 9. If a person who is not a party to a hearing before the
35 Commission, including, without limitation, a person who has
36 requested an opinion pursuant to paragraph (a) or (b) of subsection
37 2, wishes to ask a question of a witness at the hearing, the person
38 must submit the question to the Executive Director in writing. The
39 Executive Director may submit the question to the Commission if he
40 deems the question relevant and appropriate. This subsection does
41 not require the Commission to ask any question submitted by a
42 person who is not a party to the proceeding.

43 10. If a person who requests an opinion pursuant to subsection
44 1 or 2 does not:

45 (a) Submit all necessary information to the Commission; and



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

11. For good cause shown, the Commission may take testimony from a person by telephone or video conference.

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

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 deliberations of the Commission and the panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

Sec. 14. NRS 281.552 is hereby amended to read as follows:

281.552 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must :

(a) If the public officer is required to file a statement of financial disclosure pursuant to NRS 281.559 or 281.561, accompany the first statement of financial disclosure that the public officer is required to file with the Commission pursuant to NRS 281.559 or the Secretary of State pursuant to NRS 281.561 ~~and~~ after the election or appointment of the public officer.

(b) If the public officer is not required to file a statement of financial disclosure pursuant to NRS 281.559, be filed with the Commission within 30 days after the appointment of the public officer.

2. The Commission and the Secretary of State shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal ~~pursuant to~~ *if the public officer is subject to the provisions of NRS 283.440.*

Sec. 15. NRS 281.553 is hereby amended to read as follows:

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

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

3. This section does not prohibit:



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

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

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

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

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

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

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

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

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

5. ~~[A]~~ *In addition to any other penalty imposed pursuant to NRS 281.551, a public officer or public employee who violates the provisions of this section ~~is guilty of a gross misdemeanor and, upon conviction, forfeits~~ shall forfeit* the amount of the honorarium.

Sec. 16. NRS 281.559 is hereby amended to read as follows:

281.559 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to *fill the unexpired term of an appointed public officer or appointed to* the office for which he is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, he shall file with the Commission a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an ~~elect~~ appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.



(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

4. The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:

(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;

(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the Commission:

(a) On the date that it was mailed if it was sent by certified mail; or



(b) On the date that it was received by the Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 17. NRS 281.561 is hereby amended to read as follows:

281.561 1. Each candidate for public office ~~[who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking]~~ , *each public officer appointed to fill the unexpired term of an elected public officer* and each public officer who was elected to the office for which he is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office; ~~{and}~~

(b) *A public officer appointed to fill the unexpired term of an elected public officer shall file a statement of financial disclosure within 30 days after his appointment; and*

(c) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

2. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

3. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

4. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281.471.

5. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

Sec. 18. NRS 241.0355 is hereby amended to read as follows:

241.0355 1. A public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the



1 action. For purposes of this subsection, a public body may not count
2 an abstention as a vote in favor of an action.
3 2. In a county whose population is 40,000 or more, the
4 provisions of subsection ~~5~~ 4 of NRS 281.501 do not apply to a
5 public body that is required to be composed of elected officials only,
6 unless before abstaining from the vote, the member of the public
7 body receives and discloses the opinion of the legal counsel
8 authorized by law to provide legal advice to the public body that the
9 abstention is required pursuant to NRS 281.501. The opinion of
10 counsel must be in writing and set forth with specificity the factual
11 circumstances and analysis leading to that conclusion.

