

Amendment No. 490

Senate Amendment to Senate Bill No. 495

(BDR 23-566)

Proposed by: Senate Committee on Legislative Operations and Elections**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____			Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____			Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____			Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

CAF/BJE



Date: 4/21/2007

S.B. No. 495—Makes various changes relating to ethics in government.

(BDR 23-566)



SENATE BILL NO. 495—COMMITTEE ON LEGISLATIVE
OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

MARCH 26, 2007

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to ethics in government.
(BDR 23-566)

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; ~~clarifying the jurisdiction of the Commission on Ethics; revising the restrictions concerning the employment of certain former public officers or employees; authorizing the Executive Director of the Commission to prescribe duties of the Commission Counsel; imposing a 3 year statute of limitations for enforcement of ethics violations; revising certain time limits associated with investigating requests for opinions and rendering opinions;~~ revising provisions concerning the filing of disclosures of certain representation ~~and ethics acknowledgments;~~ **authorizing the imposition of a penalty against a public officer or employee who realizes financial benefit from an ethics violation;** revising the penalty for the acceptance or receipt of an honorarium; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Ethics in Government Law sets forth standards for the conduct of public officers and employees, which standards are interpreted and enforced by the Commission on Ethics. (NRS 281.411-281.581) ~~[This bill clarifies that, with one exception, the jurisdiction of the Commission only extends to the provisions of that Law.]~~

~~Existing law imposes a "cooling off" period during which certain businesses and industries are prohibited from employing certain former public officers and employees. (NRS 281.226) Section 1 of this bill makes this prohibition applicable to the former public officer or employee instead of the business or industry. Under existing law, the Commission is authorized, upon the request of a public officer or employee who may be subject to such a "cooling off" period, to issue an opinion that grants relief from this period in certain circumstances. (NRS 281.226) Section 1 clarifies that the Commission may also issue an opinion when it does not grant such relief.~~

~~Section 3 of this bill specifies the number of members of the Commission that is required for a quorum and to take official action. (NRS 281.461) Existing law requires the Commission to appoint an Executive Director and a Commission Counsel, both of whose duties are~~

prescribed in existing law and by the Commission. (NRS 281.462, 281.4625, 281.464) Section 6 of this bill authorizes the Executive Director to also prescribe the duties of the Commission Counsel.

~~Section 8 of this bill prescribes a 2 year statute of limitations for enforcement of ethics violations. (NRS 281.465)]~~ **Section 18 of this bill requires the Legislative Counsel to move those provisions of NRS to a new chapter of NRS to be numbered 281A which will include the provisions currently codified as NRS 281.411 to 281.581, inclusive.**

Section 10 of this bill moves the deadline for the annual filing of a disclosure of representation before certain agencies by certain public officers and employees from January 10 to January 15, which is consistent with the deadlines by which statements of financial disclosure are required to be filed. (NRS 281.491, 281.559, 281.561)

~~[Existing law prescribes a procedure for the investigation, determination and rendering of opinions by the Commission concerning the conduct of public officers and employees. Under this procedure, the Executive Director is required to complete an investigation and make recommendations to a panel of the Commission within 45 days after a request or motion for an opinion is requested or made, unless the subject of the request or motion waives this time limit. If a panel determines that an opinion is required, the Commission is required to hold a hearing and render an opinion on the matter within 30 days after the panel's determination, unless the subject of the request or motion waives this time limit. (NRS 281.511) Section 11 of this bill extends both of those time limits to 60 days and authorizes the Executive Director to request an extension of the time limit for investigating and reporting to a panel.]~~

Under existing law, if a violation of the ethics provisions by a current or former public officer or employee results in the realization by another person of a financial benefit, the Commission is authorized to impose an additional civil penalty against the officer or employee. (NRS 281.551) **Section 14** of this bill authorizes the imposition of such an additional penalty if the public officer or employee that committed the violation realizes any financial benefit.

~~[Existing law requires a public officer to file an acknowledgment that he has received, read and understands the ethics provisions with his first statement of financial disclosure. (NRS 281.552) Because some public officers who are appointed are not required to file a statement of financial disclosure, section 15 of this bill directs such a public officer to file his ethics acknowledgment within 30 days after appointment.]~~

Under existing law, a public officer or employee who accepts or receives an honorarium is guilty of a gross misdemeanor. (NRS 281.553) **Section 16** of this bill removes the criminal penalty and makes the punishment for such a violation a civil penalty, which is the same penalty as for violations of the other ethics provisions.

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

Section 1. ~~[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 Commission on behalf of a public utility that is regulated by the Commission 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 a former member of the Public Utilities Commission of Nevada] for 1 year after the termination of his service on the Commission.~~

~~2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not appear before the Board or Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the [Nevada Gaming] Commission pursuant to chapter 463 of NRS [shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission] or be employed by such a person, for 1 year after the termination of the member's service on the Board or Commission.~~

~~3. In addition to the prohibitions set forth in subsections 1 and 2, a former public officer or employee, except a clerical employee, shall not accept any employment with any business or in any industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of government [shall not, except as otherwise provided in subsection 4, employ a former public officer or employee of the agency, except a clerical employee,] by which the former public officer or employee was employed, for 1 year after the termination of his service or period of employment if:~~

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

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

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

~~4. A public officer or employee or former public officer or employee may request the Commission on Ethics to apply the relevant facts in his case to the provisions of subsection 3 and determine whether relief from the strict application of the provisions is [proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection 3 is] not contrary to:~~

~~(a) The best interests of the public;~~

~~(b) The continued integrity of State Government; and~~

~~(c) The [code of ethical standards prescribed in NRS 281.481,~~

~~it] provisions of NRS 281.411 to 281.581, inclusive;~~

~~The Commission on Ethics may issue an opinion [to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is] in response to such a request, whether or not the Commission grants such relief.~~

~~5. Each request for an opinion that a public officer or employee or former public officer or employee submits to the Commission on Ethics pursuant to subsection 4, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are subject to the requirements for confidentiality set forth in subsection 5 of NRS 281.511.~~

~~6. An opinion issued by the Commission on Ethics pursuant to subsection 4 is:~~

~~(a) Binding upon the requester and the Commission may impose any of the penalties set forth in NRS 281.551 if the requester acts in contravention of the opinion;~~

~~(b) Final and subject to judicial review [;~~

~~5.] pursuant to NRS 233B.130.~~

~~7. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.] (Deleted by amendment.)~~

Sec. 2. [NRS 281.4375 is hereby amended to read as follows:

~~281.4375 "Willful violation" means the public officer or employee knew or reasonably should have known that his conduct violated [this chapter.] NRS 281.411 to 281.581, inclusive.] (Deleted by amendment.)~~

Sec. 3. [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 281.236 or 281.511, and at other times upon the call of the Chairman.~~

~~2. Except as otherwise provided in this subsection, a majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those present at any meeting is sufficient for any official action taken by the Commission. If the Commission is considering a matter on which members of the Commission are ineligible to participate pursuant to subsection 4 of NRS 281.462, the necessary quorum to act upon and the number of votes necessary to act upon the matter established pursuant to this subsection is reduced as though those ineligible members were not members of the Commission.~~

~~3. 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.] 4. 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.~~

~~[4.] 5. The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.~~ (Deleted by amendment.)

Sec. 4. [NRS 281.463 is hereby amended to read as follows:]

~~281.463 1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties set forth in [this chapter] NRS 281.411 to 281.581, inclusive, and such other duties as may be prescribed by the Commission.~~

~~2. The Executive Director must have experience in administration, law enforcement, investigations or law.~~

~~3. The Executive Director is in the unclassified service of the State.~~

~~4. The Executive Director 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 Executive Director 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.] (Deleted by amendment.)~~

Sec. 5. [NRS 281.4635 is hereby amended to read as follows:]

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

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

~~(b) Receive requests for opinions pursuant to NRS 281.236 and 281.511.~~

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

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

~~(c) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of [this chapter.] NRS 281.411 to 281.581, inclusive, 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.] NRS 281.411 to 281.581, inclusive, 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;~~

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

~~(c) The investigation of matters under the jurisdiction of the Commission.]~~

(Deleted by amendment.)

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] NRS 281.411 to 281.581, inclusive, and such other duties as may be prescribed by the Commission [.] or the 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.]~~ **(Deleted by amendment.)**

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] provisions of NRS 281.411 to 281.581, inclusive, 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] NRS 281.411 to 281.581, inclusive, 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 or is otherwise unable to act on a particular matter, the Commission may:~~

~~(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or~~

~~(b) Employ outside legal counsel.]~~ **(Deleted by amendment.)**

1 **Sec. 8.** ~~[NRS 281.465 is hereby amended to read as follows:~~

2 ~~281.465 1. The Commission has jurisdiction to investigate and take~~
3 ~~appropriate action regarding an alleged violation of [this chapter] NRS 281.411 to~~
4 ~~281.581, inclusive, by a public officer or employee or former public officer or~~
5 ~~employee in any proceeding commenced by:~~

6 ~~(a) The filing of a request for an opinion with the Commission; or~~

7 ~~(b) The Commission on its own motion.~~

8 ~~2. The provisions of subsection 1 apply to a public officer or employee who:~~

9 ~~(a) Currently holds public office or is publicly employed at the commencement~~
10 ~~of proceedings against him;~~

11 ~~(b) Resigns or otherwise leaves his public office or employment [:~~

12 ~~(1) After] after the commencement of proceedings against him. [; or~~

13 ~~(2) Within 1 year after the alleged violation or reasonable discovery of the~~
14 ~~alleged violation.]~~

15 ~~3. Except as otherwise provided in this subsection, the Commission may not~~
16 ~~commence an investigation, or take any action pursuant to subsection 1,~~
17 ~~regarding an alleged violation of NRS 281.411 to 281.581, inclusive, by a public~~
18 ~~officer or employee or former public officer or employee unless the Commission~~
19 ~~notifies the officer or employee of its intent to do so within 3 years after the~~
20 ~~commission or omission that constitutes the alleged violation. The 3-year period:~~

21 ~~(a) Does not commence until the discovery of the facts that lead or should~~
22 ~~lead to the discovery of the alleged violation;~~

23 ~~(b) Is suspended during the pendency of any action or proceeding to which~~
24 ~~the Commission or the public officer or employee is a party, which action or~~
25 ~~proceeding involves the conduct of the public officer or employee to which the~~
26 ~~alleged violation relates.] (Deleted by amendment.)~~

27 **Sec. 9.** ~~[NRS 281.471 is hereby amended to read as follows:~~

28 ~~281.471 The Commission shall:~~

29 ~~1. Adopt procedural regulations;~~

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

31 ~~(b) For the filing of a request for an opinion with the Commission;~~

32 ~~(c) For the withdrawal of a request for an opinion by the person who filed the~~
33 ~~request; and~~

34 ~~(d) To facilitate the prompt rendition of opinions by the Commission;~~

35 ~~2. Prescribe, by regulation, forms for the submission of statements of~~
36 ~~financial disclosure and procedures for the submission of statements of financial~~
37 ~~disclosure filed pursuant to NRS 281.559 and forms and procedures for the~~
38 ~~submission of statements of acknowledgment filed by public officers pursuant to~~
39 ~~NRS 281.552, maintain files of such statements and make the statements available~~
40 ~~for public inspection;~~

41 ~~3. Cause the making of such investigations as are reasonable and necessary~~
42 ~~for the rendition of its opinions pursuant to [this chapter.] NRS 281.411 to 281.581,~~
43 ~~inclusive;~~

44 ~~4. Except as otherwise provided in NRS 281.559, inform the Attorney~~
45 ~~General or district attorney of all cases of noncompliance with the requirements of~~
46 ~~[this chapter.] NRS 281.411 to 281.581, inclusive;~~

47 ~~5. Recommend to the Legislature such further legislation as the Commission~~
48 ~~considers desirable or necessary to promote and maintain high standards of ethical~~
49 ~~conduct in government;~~

50 ~~6. Publish a manual for the use of public officers and employees that contains:~~

51 ~~(a) Hypothetical opinions which are abstracted from opinions rendered~~
52 ~~pursuant to subsection 1 of NRS 281.511, for the future guidance of all persons~~

~~concerned with [ethical standards in government,] NRS 281.411 to 281.581, inclusive;~~

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

~~(c) An abstract of the requirements of [this chapter.] NRS 281.411 to 281.581, inclusive.~~

~~The Legislative Counsel shall prepare annotations to [this chapter.] NRS 281.411 to 281.581, inclusive, for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.] (Deleted by amendment.)~~

Sec. 10. 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 before an agency in which he does not serve. Any other member of the Executive Branch or public employee shall not represent a client for compensation before any state agency of the Executive or Legislative Branch of government.

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

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

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

Sec. 11. ~~[NRS 281.511 is hereby amended to read as follows:]~~

~~281.511 1. The Commission shall render an opinion interpreting [the statutory ethical standards.] NRS 281.411 to 281.581, inclusive, and apply [the standards] those provisions 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:~~

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

~~(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance~~

1 of persons other than those necessary to the proceeding, unless this right to
2 confidential proceedings is waived by the requester.

3 ~~2. The Commission may render an opinion interpreting [the statutory ethical~~
4 ~~standards] NRS 281.411 to 281.581, inclusive, and apply [the standards] those~~
5 ~~provisions to a given set of facts and circumstances:~~

6 ~~(a) Upon request from a specialized or local ethics committee;~~

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

9 ~~(1) The request on a form prescribed by the Commission; and~~

10 ~~(2) All related evidence deemed necessary by the Executive Director [and]~~
11 ~~for the panel to make a determination of whether there is just and sufficient cause~~
12 ~~to render an opinion in the matter;~~

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

16 ~~The Commission shall not render an opinion interpreting [the statutory ethical~~
17 ~~standards] NRS 281.411 to 281.581, inclusive, or apply those [standards]~~
18 ~~provisions to a given set of facts and circumstances if the request is submitted by~~
19 ~~a person who is incarcerated in a correctional facility in this State [.] or is submitted~~
20 ~~3 years or more after the alleged violation of NRS 281.411 to 281.581, inclusive,~~
21 ~~occurred, was discovered or reasonably should have been discovered, whichever~~
22 ~~is later.~~

23 ~~3. Upon receipt of a request for an opinion by the Commission or upon the~~
24 ~~motion of the Commission pursuant to subsection 2, the Executive Director shall~~
25 ~~investigate the facts and circumstances relating to the request to determine whether~~
26 ~~there is just and sufficient cause for the Commission to render an opinion in the~~
27 ~~matter. The public officer or employee that is the subject of the request may submit~~
28 ~~to the Executive Director any information relevant to the request. The Executive~~
29 ~~Director shall complete an investigation and present his recommendation relating to~~
30 ~~just and sufficient cause to the panel within [45] 60 days after the receipt of or the~~
31 ~~motion of the Commission for the request, unless the public officer or employee~~
32 ~~waives this time limit [.] or, upon the written request of the Executive Director,~~
33 ~~the Commission grants an extension for good cause shown. If the Executive~~
34 ~~Director determines after an investigation that just and sufficient cause exists for~~
35 ~~the Commission to render an opinion in the matter, he shall state such a~~
36 ~~recommendation in writing, including, without limitation, the specific evidence that~~
37 ~~supports his recommendation. If, after an investigation, the Executive Director does~~
38 ~~not determine that just and sufficient cause exists for the Commission to render an~~
39 ~~opinion in the matter, he shall state such a recommendation in writing, including,~~
40 ~~without limitation, the specific reasons for his recommendation. Within 15 days~~
41 ~~after the Executive Director has provided his recommendation in the matter to the~~
42 ~~panel, the panel shall make a final determination regarding whether just and~~
43 ~~sufficient cause exists for the Commission to render an opinion in the matter, unless~~
44 ~~the public officer or employee waives this time limit. The panel shall not determine~~
45 ~~that there is just and sufficient cause for the Commission to render an opinion~~
46 ~~unless the panel has provided the public officer or employee an opportunity to~~
47 ~~respond to the allegations against him. The panel shall cause a record of its~~
48 ~~proceedings in each matter to be kept, and such a record must remain confidential~~
49 ~~until the panel determines whether there is just and sufficient cause for the~~
50 ~~Commission to render an opinion in the matter.~~

51 ~~4. If the panel determines that just and sufficient cause exists for the~~
52 ~~Commission to render an opinion requested pursuant to this section, the~~
53 ~~Commission shall hold a hearing and render an opinion in the matter within [30] 60~~

~~days after the determination of just and sufficient cause by the panel, unless the public officer or employee waives this time limit.~~

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

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

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

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

~~6. Except as otherwise provided in this subsection, each document in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the Commission's copy of the request and all materials and information gathered in an investigation of the request, is confidential until the panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the Commission to make its files, material and information which are related to the request publicly available.~~

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

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

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

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

~~(b) Gives testimony before the Commission may:~~

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

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

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

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

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

~~(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on his own behalf.~~

~~The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.~~

~~9. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to~~

paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if he deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

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

~~(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.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 281.521 is hereby amended to read as follows:~~

~~281.521 The Commission's opinions may include guidance to a public officer or employee on questions whether:~~

~~1. A conflict exists between his personal interest and his official duty;~~

~~2. His official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter;~~

~~3. The conflict would materially affect the independence of the judgment of a reasonable person in his situation;~~

~~4. He possesses special knowledge which is an indispensable asset of his public agency and is needed by it to reach a sound decision;~~

~~5. It would be appropriate for him to withdraw or abstain from participation, disclose the nature of his conflicting personal interest or pursue some other designated course of action in the matter;~~

~~6. Any other provision of NRS 281.411 to 281.581, inclusive, applies to his situation.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 281.541 is hereby amended to read as follows:~~

~~281.541 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:~~

~~(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than [the statutory ethical standards.] NRS 281.411 to 281.581, inclusive;~~

~~(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly [related] relating to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission;~~

~~(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been~~

~~(1) Submitted, at least 60 days before its anticipated distribution, to the Commission for review; and~~

~~(2) Upon review, approved by the Commission.~~

~~2. A specialized or local ethics committee shall not attempt to interpret, or render an opinion regarding [the statutory ethical standards.], **NRS 281.411 to 281.581, inclusive.**~~

~~3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:~~

~~(a) The public officer or employee acts in contravention of the opinion; or~~

~~(b) The requester discloses the content of the opinion.] (Deleted by amendment.)~~

Sec. 14. 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:

(a) Not to exceed \$5,000 for a first willful violation of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive;**

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive;** and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive.**

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 prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive.**

3. If the Commission finds that a violation of a provision of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive,** by a public officer or employee or former public officer or employee has resulted in the realization **of a financial benefit** by **the current or former public officer or employee or** another person, ~~[of a financial benefit.]~~ the Commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. If the Commission finds that:

(a) A willful violation of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive,** has been committed by a public officer removable from office by impeachment only, the Commission shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.

(b) A willful violation of ~~[this chapter.]~~ **NRS 281.411 to 281.581, inclusive,** has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.

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

5. An action taken by a public officer or employee or former public officer or employee relating to NRS ~~[281.481, 281.491, 281.501 or 281.505]~~ **281.411 to**

1 **281.581, inclusive**, is not a willful violation of a provision of those sections if the
2 public officer or employee establishes by sufficient evidence that he satisfied all of
3 the following requirements:

4 (a) He relied in good faith upon the advice of the legal counsel retained by the
5 public body which the public officer represents or by the employer of the public
6 employee or upon the manual published by the Commission pursuant to NRS
7 281.471;

8 (b) He was unable, through no fault of his own, to obtain an opinion from the
9 Commission before the action was taken; and

10 (c) He took action that was not contrary to a prior published opinion issued by
11 the Commission.

12 6. In addition to other penalties provided by law, a public employee who
13 willfully violates a provision of NRS ~~{281.481, 281.491, 281.501 or 281.505}~~
14 **281.411 to 281.581, inclusive**, is subject to disciplinary proceedings by his
15 employer and must be referred for action in accordance to the applicable provisions
16 governing his employment.

17 7. **The provisions of** NRS ~~{281.481 to 281.541,}~~ **281.411 to 281.581,**
18 inclusive, do not abrogate or decrease the effect of the provisions of the Nevada
19 Revised Statutes which define crimes or prescribe punishments with respect to the
20 conduct of public officers or employees. If the Commission finds that a public
21 officer or employee has committed a willful violation of ~~{this chapter}~~ **NRS**
22 **281.411 to 281.581, inclusive**, which it believes may also constitute a criminal
23 offense, the Commission shall refer the matter to the Attorney General or the
24 district attorney, as appropriate, for a determination of whether a crime has been
25 committed that warrants prosecution.

26 8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final
27 decision for the purposes of judicial review.

28 9. A finding by the Commission that a public officer or employee has violated
29 any provision of ~~{this chapter}~~ **NRS 281.411 to 281.581, inclusive**, must be
30 supported by a preponderance of the evidence unless a greater burden is otherwise
31 prescribed by law.

32 **Sec. 15.** ~~{NRS 281.552 is hereby amended to read as follows:~~
33 ~~281.552 1. Every public officer shall acknowledge that he has received,~~
34 ~~read and understands [the statutory ethical standards.] NRS 281.411 to 281.581,~~
35 ~~inclusive. The acknowledgment must be on a form prescribed by the Commission~~
36 ~~and must:~~

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

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

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

48 ~~3. Willful refusal to execute and file the acknowledgment required by this~~
49 ~~section constitutes nonfeasance in office and is a ground for removal [pursuant to]~~
50 ~~if the public officer is subject to the provisions of NRS 283.440.] (Deleted by~~
51 **amendment.)**

1 **Sec. 16.** NRS 281.553 is hereby amended to read as follows:

2 281.553 1. A public officer or public employee shall not accept or receive
3 an honorarium.

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

8 3. This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

38 **Sec. 17.** ~~{NRS 281.557 is hereby amended to read as follows:~~

39 ~~281.557 1. In addition to any other penalty provided by law, a governmental~~
40 ~~grant, contract or lease entered into in violation of [this chapter] NRS 281.411 to~~
41 ~~281.581, inclusive, is voidable by the State, county, city or town. In a determination~~
42 ~~under this section of whether to void a grant, contract or lease, the interests of~~
43 ~~innocent third parties who could be damaged must be taken into account. The~~
44 ~~Attorney General, district attorney or city attorney must give notice of his intent to~~
45 ~~void a grant, contract or lease under this section [no] not later than 30 days after the~~
46 ~~Commission has determined that there has been a related violation of [this chapter.]~~
47 ~~NRS 281.411 to 281.581, inclusive.~~

48 ~~2. In addition to any other penalty provided by law, a contract prohibited by~~
49 ~~NRS 281.230 which is knowingly entered into by a person designated in subsection~~
50 ~~4 of NRS 281.230 is void.~~

51 ~~3. Any action taken by the State in violation of [this chapter] NRS 281.411 to~~
52 ~~281.581, inclusive, is voidable, except that the interests of innocent third parties in~~

1 ~~the nature of the violation must be taken into account. The Attorney General may~~
2 ~~also pursue any other available legal or equitable remedies.~~

3 ~~4. In addition to any other penalty provided by law, the Attorney General may~~
4 ~~recover any fee, compensation, gift or benefit received by a person as a result of a~~
5 ~~violation of [this chapter] **NRS 281.411 to 281.581, inclusive**, by a public officer.~~
6 ~~An action to recover pursuant to this section must be brought within 2 years after~~
7 ~~the discovery of the violation.] (Deleted by amendment.)~~

8 **Sec. 18. The Legislative Counsel shall:**

9 **1. In preparing the reprint and supplements to the Nevada Revised**
10 **Statutes, move NRS 281.411 to 281.581, inclusive, to a new chapter of NRS to**
11 **be numbered chapter 281A of NRS, preserving as much of the existing**
12 **numbering as practicable, and appropriately change any internal references to**
13 **reflect the change in location and numbering.**

14 **2. In preparing the supplements to the Nevada Administrative Code,**
15 **appropriately change any references to NRS 281.411 to 281.581, inclusive, to**
16 **reflect the change in the location and numbering of the provisions.**