

SENATE BILL NO. 160—COMMITTEE ON JUDICIARY

FEBRUARY 25, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to public officers and employees. (BDR 3-1164)

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 government; implementing the constitutional doctrines of separation of powers and legislative privilege and immunity by codifying in statutory form the constitutional right of State Legislators to be protected from having to defend themselves, from being held liable and from being questioned or sanctioned in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity; confirming that the constitutional doctrine of legislative privilege and immunity provides a testimonial privilege and an evidentiary privilege; revising provisions of the Nevada Ethics in Government Law and other provisions relating to ethics in government; making various statutory changes to comport with the constitutional doctrines of separation of powers and legislative privilege and immunity and with the constitutional provisions governing impeachment, expulsion and removal from office; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill provides that for any speech or debate in either House of
2 the Legislature, a member of the Senate or Assembly shall not be questioned in any
3 other place. The purpose and effect of **section 1** is to implement the constitutional
4 doctrines of separation of powers and legislative privilege and immunity by
5 codifying in statutory form the constitutional right of State Legislators to be
6 protected from having to defend themselves, from being held liable and from being
7 questioned or sanctioned in administrative or judicial proceedings for speech,



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8 debate, deliberation and other actions performed within the sphere of legitimate
9 legislative activity.

10 Under case law, the constitutional doctrine of legislative privilege and
11 immunity provides a testimonial privilege and an evidentiary privilege which
12 protect a Legislator from having to testify or disclose documents in administrative
13 or judicial proceedings when such acts would intrude upon, interfere with or pry
14 into the legislative process. (*Gravel v. United States*, 408 U.S. 606, 92 S.Ct. 2614
15 (1972); *United States v. Rayburn House Office Bldg.*, 497 F.3d 654 (D.C. Cir.
16 2007)). **Section 2** of this bill amends the Nevada statute governing testimonial and
17 evidentiary privileges to confirm that the constitutional doctrine of legislative
18 privilege and immunity provides a testimonial privilege and an evidentiary
19 privilege. (NRS 49.015)

20 **Sections 6, 7.4 and 9** of this bill amend provisions of the Nevada Ethics in
21 Government Law (Ethics Law) to make those provisions comport with the
22 constitutional doctrines of separation of powers and legislative privilege and
23 immunity. (Chapter 281A of NRS) In particular, **section 9** amends NRS 281A.420
24 to clarify that the responsibility of a State Legislator to make disclosures
25 concerning gifts, loans, interests or commitments and the responsibility of a State
26 Legislator to abstain from voting upon or advocating the passage or failure of a
27 matter are governed by the Standing Rules of the Legislative Department of State
28 Government. However, other provisions of the Ethics Law remain applicable to
29 State Legislators so that, for example, State Legislators will continue to be required
30 to file the same financial disclosure forms as other public officers and the
31 provisions prohibiting misuse of office that are applicable to other public officers
32 will continue to apply to State Legislators with regard to conduct that falls outside
33 the scope of legitimate legislative activity. **Section 9** also clarifies that the
34 provisions of NRS 281A.420 concerning disclosure, voting and abstention do not
35 apply to State Legislators or allow the Commission on Ethics to exercise
36 jurisdiction or authority over State Legislators with regard to disclosure, voting and
37 abstention.

38 On December 22, 2008, the First Judicial District Court in and for Carson City
39 held that the Commission on Ethics could not apply the provisions of NRS
40 281A.420 concerning disclosure, voting and abstention to State Legislators because
41 under the constitutional doctrines of separation of powers and legislative privilege
42 and immunity, the Legislator's own House is the only governmental entity that may
43 sanction the Legislator for performing legislative actions, like voting, that fall
44 within the sphere of legitimate legislative activity and are an essential part of the
45 legislative function. (*Warren B. Hardy II v. Commission on Ethics*, Nev. First Jud.
46 Dist. Ct. Case No. 08 OC 00381 1B (Dec. 22, 2008))

47 The decision of the district court was based on the Nevada Supreme Court's
48 pronouncement that "[u]nder the separation of powers doctrine, individual
49 legislators cannot, nor should they, be subject to fines or other penalties for voting
50 in a particular way." (*Guinn v. Legislature*, 119 Nev. 460, at 472 (2003)) The
51 decision of the district court was also based on a long line of cases from the United
52 States Supreme Court which hold that under the constitutional doctrines of
53 separation of powers and legislative privilege and immunity, Federal and State
54 Legislators must be free to represent the interests of their constituents with
55 assurance that they will not later be called to task for that representation by the
56 other branches of government. (*Tenney v. Brandhove*, 341 U.S. 367, 71 S.Ct. 783
57 (1951); *Powell v. McCormack*, 395 U.S. 486, 89 S.Ct. 1944 (1969); *Gravel v.*
58 *United States*, 408 U.S. 606, 92 S.Ct. 2614 (1972); *Supreme Court of Virginia v.*
59 *Consumers Union*, 446 U.S. 719, 100 S.Ct. 1967 (1980)) Given this well-
60 established and long-standing precedent, the district court found that the
61 constitutional doctrines of separation of powers and legislative privilege and
62 immunity are intended to protect the independence of individual Legislators by



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giving them broad freedom of speech, debate, deliberation and action during the legislative process and by shielding them from executive and judicial oversight that realistically threatens to control their conduct as Legislators.

Thus, because of the constitutional doctrines of separation of powers and legislative privilege and immunity, the district court determined that any inquiry into the ethical propriety of legislative actions concerning disclosure, voting and abstention must be conducted by the Legislative Department and cannot be conducted by an administrative agency of the Executive Department, such as the Commission on Ethics. The district court also determined that because each House is given the exclusive constitutional power to determine the rules of its legislative proceedings and to punish its members for improper conduct related to those legislative proceedings, the Standing Rules adopted by each House concerning disclosure, voting and abstention take precedence over NRS 281A.420. Therefore, out of respect for the separation of powers under **Section 1** of Article 3 of the Nevada Constitution and out of respect for the exclusive constitutional power of each House to determine its rules and punish its members under **Section 6** of Article 4 of the Nevada Constitution, the district court held that the determination of whether a State Legislator has properly followed the Standing Rules concerning disclosure, voting and abstention is a matter reserved exclusively to the Legislator's own House.

Finally, the district court emphasized that its decision applied only to the provisions of NRS 281A.420 concerning disclosure, voting and abstention and that the constitutional doctrines of separation of powers and legislative privilege and immunity do not provide State Legislators with blanket protection from the Nevada Ethics in Government Law. Rather, State Legislators remain subject to the Ethics Law for conduct that falls outside the scope of legitimate legislative activity.

Sections 3.4-5.4 and 7.2-8.23 of this bill clarify the meaning of terms used in the Ethics Law and codify long-standing interpretations of those terms. Additionally, the definitions in **sections 4 and 5** ensure that the Ethics Law accurately reflects the constitutional and legal differences between a "State Legislator" and a "member of a local legislative body." The definition of "investigatory panel" in **section 8.1** recognizes that when the two-member panel is deciding whether there is just and sufficient cause to refer an ethics complaint to the Commission for a hearing, the panel is performing an investigatory function, not an adjudicatory function. **Section 8.2** revises and clarifies the definition of "public officer" in the Ethics Law by employing terminology used in the definition of "public officer" in NRS 281.005 and by including members of boards of trustees of general improvement districts within the meaning of the term "public officer."

Sections 3.4, 3.6, 8.23 and 17.5 of this bill define the terms "intentionally," "knowingly," "willful violation" and "willfully" in the Ethics Law to conform with the legal meanings generally ascribed to those terms. A "willful" act is an act done intentionally and knowingly. (*In re Fine*, 116 Nev. 1001 (2000); *Black's Law Dictionary* 1593 (7th ed. 1999) (defining "willful")) A person acts "intentionally" when he acts voluntarily or deliberately, rather than accidentally or inadvertently. (*Batt v. State*, 111 Nev. 1127 (1995); *In re Fine*, 116 Nev. 1001 (2000); *Nevada Service Employees Union v. Orr*, 121 Nev. 675 (2005)) A person acts "knowingly" when he has knowledge of the facts which constitute the act or omission. (NRS 193.017, 624.024; *State v. Rhodig*, 101 Nev. 608 (1985); *Garcia v. Sixth Jud. Dist. Ct.*, 117 Nev. 697 (2001))

Section 5.6 of this bill clarifies that public officers and employees cannot assert common-law privileges and immunities in proceedings under the Ethics Law but may assert constitutional or statutory privileges and immunities in such proceedings.

Section 5.8 of this bill moves the existing provisions of NRS 281.236 into the Ethics Law so that those provisions may be enforced by the Commission on Ethics.



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Under the existing provisions of NRS 281.236, certain regulated businesses and industries must observe a 1-year "cooling off" period before they may hire a former public officer or employee who had significant involvement in regulating the business or industry. **Section 5.8** contains the same substantive provisions as NRS 281.236, except that the requirement to observe the 1-year "cooling off" period is imposed on the former public officer or employee instead of on the regulated business or industry.

Sections 8.25, 8.35 and 8.45 of this bill clarify existing provisions of the Ethics Law which prohibit members of the Commission on Ethics and the Commission's Executive Director and Counsel from performing certain lobbying activities on behalf of private parties. (NRS 281A.200, 281A.230, 281A.250) **Section 8.35** also provides that the Executive Director must have experience in administration, investigations and law.

The Ethics Law imposes civil penalties for certain violations (NRS 281A.480), but it does not contain an express statute of limitations. When a law imposes civil penalties but does not contain an express statute of limitations, it is presumed that the Legislature intended for a generally applicable statute of limitations to apply to proceedings brought under the law. (*DelCostello v. Int'l Bhd. of Teamsters*, 462 U.S. 151, 103 S.Ct. 2281 (1983); *3M Co. v. Browner*, 17 F.3d 1453 (D.C. Cir. 1994); 51 Am. Jur. 2d *Limitation of Actions* § 129 (2000)) Because NRS 11.190 contains a generally applicable 2-year statute of limitations for actions brought upon a statute for a penalty or forfeiture, the 2-year period in NRS 11.190 is presumptively applicable to proceedings brought under the Ethics Law. (*Community Cause v. Boatwright*, 177 Cal. Rptr. 657 (Cal. Ct. App. 1981)) For purposes of clarity and certainty of application, **sections 8.55 and 26** of this bill codify the existing 2-year statute of limitations expressly into the Ethics Law. (NRS 281A.280)

The Ethics Law places restrictions on certain public officers and employees with regard to representing or counseling a private person for compensation before various agencies. (NRS 281A.410) **Section 8.7** of this bill clarifies those restrictions by replacing the terms "member of the executive branch" and "member of the legislative branch" with more specific, descriptive and accurate terms. **Section 8.7** also clarifies the methods for filing the disclosure form certain public officers must file if they have represented or counseled a private person for compensation before certain agencies.

The Ethics Law requires public officers to disclose conflicts of interest and to abstain from voting because of certain types of conflicts. (NRS 281A.420) Because public officers must disclose conflicts before determining whether to abstain, **section 9.5** of this bill rearranges the order of the existing disclosure and abstention provisions in the statute so that the disclosure provisions come before the abstention provisions. **Section 9.5** also changes the abstention requirements which apply to members of certain county and city planning commissions so that those members are subject to the same abstention requirements which apply to other public officers under the statute.

Section 9.5 additionally requires the Commission to give appropriate weight and proper deference to the public policy of this State which favors the right of public officers to vote, provided they have properly disclosed all conflicts. Under this public policy, abstention is required only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the conflicts. This public policy demands proper disclosures of conflicts but prefers fewer instances of abstention because abstention disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs.

The Ethics Law allows public officers and employees to bid on or enter into contracts with governmental agencies when certain requirements are met, including



that the contracting process is controlled by the rules of competitive bidding. (NRS 281A.430) **Section 11** of this bill allows public officers and employees to enter into such contracts in situations where existing law exempts the contracts from the rules of competitive bidding because the contract is an emergency contract or because no responsible bids were received in response to a previous request for bids on the contract. (NRS 332.112, 332.148)

The Ethics Law contains procedures for investigating and adjudicating alleged ethical violations. (NRS 281A.440) **Section 12** of this bill: (1) authorizes a public officer or employee who requested an advisory opinion regarding his own conduct to waive certain time limits; (2) provides a public officer or employee with 30 days to file an informational response to an ethics complaint and also provides that no objection or defense is waived by the failure to assert it in the informational response or during the investigatory stage of the proceedings; (3) grants the Executive Director an additional 10 days to complete his investigation of an ethics complaint and to present a recommendation regarding just and sufficient cause to the investigatory panel; and (4) grants the Commission a total of 60 days to hold a hearing and render an opinion if the investigatory panel finds just and sufficient cause, unless the public officer or employee waives the time limit.

The Ethics Law requires public officers to file a form acknowledging that they have received, read and understand the statutory ethical standards. (NRS 281A.500) **Section 14** of this bill requires public officers to file the form at certain times while holding office and to acknowledge in the form that they have a responsibility to inform themselves of any amendments to the statutory ethical standards. **Section 14** provides methods for public officers to obtain hard copies of the statutory ethical standards and also provides for Internet access to the statutory ethical standards. **Section 14** additionally clarifies the methods for filing the form and provides that the willful refusal to execute and file the form constitutes a willful violation of the Ethics Law.

Finally, when the Nevada Constitution specifies a particular method for removing a public officer from office for misconduct, that constitutional method is exclusive, and the public officer may not be removed from office through statutory removal proceedings. Because certain elected and appointed state officers may be removed from office only through impeachment pursuant to Article 7 of the Nevada Constitution, they may not be removed from office through statutory removal proceedings. (*Robison v. First Jud. Dist. Ct.*, 73 Nev. 169 (1957)) Similarly, because State Legislators may be removed from office only through expulsion by their own House pursuant to Section 6 of Article 4 of the Nevada Constitution, they may not be removed from office through impeachment or statutory removal proceedings. (*Hiss v. Bartlett*, 69 Mass. 468 (1855); *State ex rel. Martin v. Gilmore*, 20 Kan. 551 (1878); *In re Speakership*, 25 P. 707 (Colo. 1891); *State ex rel. Haviland v. Beadle*, 111 P. 720 (Mont. 1910); *State ex rel. Ezzell v. Shumate*, 113 S.W.2d 381 (Tenn. 1938); *State ex rel. Danforth v. Hickey*, 475 S.W.2d 617 (Mo. 1972)) **Sections 13 and 18-24** of this bill conform existing statutory law with the constitutional provisions governing impeachment, expulsion and removal from office.

WHEREAS, The doctrine of separation of powers is fundamental to our system of State Government; and

WHEREAS, The constitutional source of the doctrine of separation of powers is Section 1 of Article 3 of the Nevada Constitution, which establishes a tripartite system of State



1 Government and which firmly fixes the principle of separation of
2 powers in the organic law of this State; and

3 WHEREAS, Under the doctrine of separation of powers, when the
4 Nevada Constitution expressly grants the Legislative Department an
5 exclusive power, the other Departments of State Government may
6 not usurp, exercise, infringe upon or interfere with that exclusive
7 power out of respect for an equal and coordinate branch of
8 government; and

9 WHEREAS, Under Section 6 of Article 4 of the Nevada
10 Constitution, each House of the Legislature has the exclusive
11 constitutional power to determine the rules of its legislative
12 proceedings and to punish its members for improper conduct related
13 to those legislative proceedings; and

14 WHEREAS, Because Section 6 of Article 4 of the Nevada
15 Constitution creates an exclusive constitutional power in each
16 House, neither the Legislature nor one of the Houses may delegate
17 that exclusive constitutional power to another branch of
18 government; and

19 WHEREAS, For centuries, freedom of speech, debate,
20 deliberation and action in National and State Legislatures has been
21 recognized as essential to protect the integrity of the legislative
22 process by ensuring that individual Legislators may perform their
23 core or essential legislative functions without harassment,
24 intimidation or interference by the other branches of government;
25 and

26 WHEREAS, Legislative privilege and immunity has its origins in
27 the Parliamentary struggles of the 16th and 17th centuries when the
28 English monarchs used civil and criminal proceedings to harass,
29 intimidate and suppress members of Parliament who were critical of
30 the Crown; and

31 WHEREAS, Legislative privilege and immunity was first codified
32 in the English Bill of Rights of 1689, which provided "That the
33 Freedom of Speech, and Debates or Proceedings in Parliament,
34 ought not to be impeached or questioned in any Court or Place out
35 of Parliament"; and

36 WHEREAS, Legislative privilege and immunity was extended to
37 Legislators in the American Colonies where freedom of speech,
38 debate, deliberation and action in the legislative process was taken
39 as a matter of course by those who severed the American Colonies
40 from the Crown and who became the Founders of our Nation; and

41 WHEREAS, The Founders of our Nation viewed legislative
42 privilege and immunity as fundamental to the system of checks and
43 balances and indispensable to the constitutional structure of
44 separate, coequal and independent branches of government; now,
45 therefore,



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

Section 1. Chapter 41 of NRS is hereby amended by adding
thereto a new section to read as follows:

1. The Legislature hereby finds and declares that:

*(a) The Framers of the Nevada Constitution created a system
of checks and balances so that the constitutional powers
separately vested in the Legislative, Executive and Judicial
Departments of State Government may be exercised without
intrusion from the other Departments.*

*(b) As part of the system of checks and balances, the
constitutional doctrines of separation of powers and legislative
privilege and immunity facilitate the autonomy of the Legislative
Department by curtailing intrusions by the Executive or Judicial
Department into the sphere of legitimate legislative activities.*

*(c) The constitutional doctrines of separation of powers and
legislative privilege and immunity protect State Legislators from
having to defend themselves, from being held liable and from
being questioned or sanctioned in administrative or judicial
proceedings for speech, debate, deliberation and other actions
performed within the sphere of legitimate legislative activity.*

*(d) Under the constitutional doctrines of separation of powers
and legislative privilege and immunity, State Legislators must not
be hindered or obstructed by executive or judicial oversight that
realistically threatens to control their conduct as Legislators.*

*(e) Under the constitutional doctrines of separation of powers
and legislative privilege and immunity, State Legislators must be
free to represent the interests of their constituents with assurance
that they will not later be called to task for that representation by
the other branches of government.*

*(f) Under the constitutional doctrines of separation of powers
and legislative privilege and immunity, State Legislators must not
be questioned or sanctioned by the other branches of government
for their actions in carrying out their core or essential legislative
functions.*

*(g) Under the constitutional doctrines of separation of powers
and legislative privilege and immunity, the only governmental
entity that may question or sanction a State Legislator for any
actions taken within the sphere of legitimate legislative activity is
the Legislator's own House pursuant to Section 6 of Article 4 of
the Nevada Constitution.*

*(h) Therefore, the purpose and effect of this section is to
implement the constitutional doctrines of separation of powers and
legislative privilege and immunity by codifying in statutory form*



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1 *the constitutional right of State Legislators to be protected from*
2 *having to defend themselves, from being held liable and from*
3 *being questioned or sanctioned in administrative or judicial*
4 *proceedings for speech, debate, deliberation and other actions*
5 *performed within the sphere of legitimate legislative activity.*

6 2. *For any speech or debate in either House, a State*
7 *Legislator shall not be questioned in any other place.*

8 3. *In interpreting and applying the provisions of this section,*
9 *the interpretation and application given to the constitutional*
10 *doctrines of separation of powers and legislative privilege and*
11 *immunity under the Speech or Debate Clause of Section 6 of*
12 *Article I of the Constitution of the United States must be*
13 *considered to be persuasive authority.*

14 4. *The rights, privileges and immunities recognized by this*
15 *section are in addition to any other rights, privileges and*
16 *immunities recognized by law.*

17 5. *As used in this section, "State Legislator" or "Legislator"*
18 *means a member of the Senate or Assembly of the State of*
19 *Nevada.*

20 **Sec. 2.** NRS 49.015 is hereby amended to read as follows:

21 49.015 1. Except as otherwise required by the Constitution of
22 the United States or of the State of Nevada, and except as *otherwise*
23 provided in this title or title 14 of NRS, *or section 1 of this act*, no
24 person has a privilege to:

- 25 (a) Refuse to be a witness;
26 (b) Refuse to disclose any matter;
27 (c) Refuse to produce any object or writing; or
28 (d) Prevent another from being a witness or disclosing any
29 matter or producing any object or writing.

30 2. This section does not:

31 (a) Impair any privilege created by title 14 of NRS or by the
32 Nevada Rules of Civil Procedure which is limited to a particular
33 stage of the proceeding; or

34 (b) Extend any such privilege to any other stage of a proceeding.

35 **Sec. 3.** Chapter 281A of NRS is hereby amended by adding
36 thereto the provisions set forth as sections 3.4 to 5.8, inclusive, of
37 this act.

38 **Sec. 3.4.** *"Intentionally" means voluntarily or deliberately,*
39 *rather than accidentally or inadvertently. The term does not*
40 *require proof of bad faith, ill will, evil intent or malice.*

41 **Sec. 3.6.** *"Knowingly" imports a knowledge that the facts*
42 *exist which constitute the act or omission, and does not require*
43 *knowledge of the prohibition against the act or omission.*
44 *Knowledge of any particular fact may be inferred from the*



1 *knowledge of such other facts as should put an ordinarily prudent*
2 *person upon inquiry.*

3 **Sec. 4.** *“Member of a local legislative body” means a*
4 *member of a board of county commissioners, a governing body of*
5 *a city or a governing body of any other political subdivision who*
6 *performs any function that involves introducing, voting upon or*
7 *otherwise acting upon any matter of a permanent or general*
8 *character which may reflect public policy and which is not*
9 *typically restricted to identifiable persons or groups.*

10 **Sec. 4.4.** *“Opinion” includes, without limitation, the*
11 *disposition of a request for an opinion by stipulation,*
12 *agreed settlement, consent order or default as authorized by*
13 *NRS 233B.121.*

14 **Sec. 4.6.** *“Political subdivision” means any county, city or*
15 *other local government as defined in NRS 354.474.*

16 **Sec. 5.** *“State Legislator” or “Legislator” means a member*
17 *of the Senate or Assembly of the State of Nevada.*

18 **Sec. 5.4.** *In applying the provisions of this chapter to an*
19 *alleged violation by a former public officer or employee, the use of*
20 *the term “public officer” or “public employee” in this chapter*
21 *must be interpreted to include the former public officer or*
22 *employee, unless the commencement of proceedings against*
23 *the former public officer or employee concerning the alleged*
24 *violation is time-barred by the statute of limitations pursuant to*
25 *NRS 281A.280.*

26 **Sec. 5.6. 1.** *In any proceeding commenced against a public*
27 *officer or employee pursuant to the authority of this chapter,*
28 *including any judicial review thereof, the public officer or*
29 *employee who is the subject of the proceeding may not assert,*
30 *claim or raise any common-law privilege or immunity as an*
31 *affirmative defense, for testimonial or evidentiary purposes or for*
32 *any other purpose.*

33 **2.** *The provisions of this chapter are intended to abrogate*
34 *common-law privileges and immunities only in a proceeding*
35 *commenced pursuant to the authority of this chapter and only for*
36 *the public officer or employee who is the subject of the proceeding.*
37 *This abrogation of common-law privileges and immunities does*
38 *not apply to or affect:*

39 *(a) Any privilege or immunity granted by the Constitution of*
40 *the United States or of the State of Nevada or by section 1 of this*
41 *act, chapter 49 of NRS or any other statute;*

42 *(b) Any person who is not the subject of the proceeding; or*

43 *(c) Any other proceeding that is not commenced pursuant to*
44 *the authority of this chapter.*



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1 **Sec. 5.8. 1. A former member of the Public Utilities**
2 **Commission of Nevada shall not:**

3 **(a) Be employed by a public utility or parent organization or**
4 **subsidiary of a public utility; or**

5 **(b) Appear before the Public Utilities Commission of Nevada**
6 **to testify on behalf of a public utility or parent organization or**
7 **subsidiary of a public utility,**

8 **↳ for 1 year after the termination of his service on the Public**
9 **Utilities Commission of Nevada.**

10 **2. A former member of the State Gaming Control Board or**
11 **the Nevada Gaming Commission shall not:**

12 **(a) Appear before the State Gaming Control Board or the**
13 **Nevada Gaming Commission on behalf of a person who holds a**
14 **license issued pursuant to chapter 463 or 464 of NRS or who is**
15 **required to register with the Nevada Gaming Commission**
16 **pursuant to chapter 463 of NRS; or**

17 **(b) Be employed by such a person,**

18 **↳ for 1 year after the termination of his service on the State**
19 **Gaming Control Board or the Nevada Gaming Commission.**

20 **3. In addition to the prohibitions set forth in subsections 1**
21 **and 2, and except as otherwise provided in subsections 4 and 6, a**
22 **former public officer or employee of a board, commission,**
23 **department, division or other agency of the Executive Department**
24 **of State Government, except a clerical employee, shall not solicit**
25 **or accept employment from a business or industry whose activities**
26 **are governed by regulations adopted by the board, commission,**
27 **department, division or other agency for 1 year after the**
28 **termination of his service or period of employment if:**

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

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

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

39 **4. The provisions of subsection 3 do not apply to a former**
40 **public officer who was a member of a board, commission or**
41 **similar body of the State if:**

42 **(a) The former public officer is engaged in the profession,**
43 **occupation or business regulated by the board, commission or**
44 **similar body;**



1 (b) *The former public officer holds a license issued by the*
2 *board, commission or similar body; and*

3 (c) *Holding a license issued by the board, commission or*
4 *similar body is a requirement for membership on the board,*
5 *commission or similar body.*

6 5. *Except as otherwise provided in subsection 6, a former*
7 *public officer or employee of the State or a political subdivision,*
8 *except a clerical employee, shall not solicit or accept employment*
9 *from a person to whom a contract for supplies, materials,*
10 *equipment or services was awarded by the State or political*
11 *subdivision, as applicable, for 1 year after the termination of the*
12 *officer's or employee's service or period of employment, if:*

13 (a) *The amount of the contract exceeded \$25,000;*

14 (b) *The contract was awarded within the 12-month period*
15 *immediately preceding the termination of the officer's or*
16 *employee's service or period of employment; and*

17 (c) *The position held by the former public officer or employee*
18 *at the time the contract was awarded allowed him to affect or*
19 *influence the awarding of the contract.*

20 6. *A current or former public officer or employee may request*
21 *that the Commission apply the relevant facts in his case to the*
22 *provisions of subsection 3 or 5, as applicable, and determine*
23 *whether relief from the strict application of those provisions is*
24 *proper. If the Commission determines that relief from the strict*
25 *application of the provisions of subsection 3 or 5, as applicable, is*
26 *not contrary to:*

27 (a) *The best interests of the public;*

28 (b) *The continued ethical integrity of the State Government or*
29 *political subdivision, as applicable; and*

30 (c) *The provisions of this chapter,*

31 ↪ *it may issue an opinion to that effect and grant such relief. The*
32 *opinion of the Commission in such a case is final and subject to*
33 *judicial review pursuant to NRS 233B.130, except that a*
34 *proceeding regarding this review must be held in closed court*
35 *without admittance of persons other than those necessary to the*
36 *proceeding, unless this right to confidential proceedings is waived*
37 *by the current or former public officer or employee.*

38 7. *Each request for an opinion that a current or former*
39 *public officer or employee submits to the Commission pursuant to*
40 *subsection 6, each opinion rendered by the Commission in*
41 *response to such a request and any motion, determination,*
42 *evidence or record of a hearing relating to such a request are*
43 *confidential unless the current or former public officer or*
44 *employee who requested the opinion:*



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

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

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

11 8. *A meeting or hearing that the Commission or an*
12 *investigatory panel holds to receive information or evidence*
13 *concerning the propriety of the conduct of a current or former*
14 *public officer or employee pursuant to this section and the*
15 *deliberations of the Commission and the investigatory panel on*
16 *such information or evidence are not subject to the provisions of*
17 *chapter 241 of NRS.*

18 9. *As used in this section, "regulation" has the meaning*
19 *ascribed to it in NRS 233B.038 and also includes regulations*
20 *adopted by a board, commission, department, division or other*
21 *agency of the Executive Department of State Government that is*
22 *exempted from the requirements of chapter 233B of NRS.*

23 Sec. 6. NRS 281A.020 is hereby amended to read as follows:

24 281A.020 1. It is hereby declared to be the public policy of
25 this State that:

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

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

31 2. The Legislature finds *and declares* that:

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

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

39 (c) ~~[Members of the Legislature]~~ *In interpreting and applying*
40 *the provisions of this chapter that are applicable to State*
41 *Legislators, the Commission must give appropriate weight and*
42 *proper deference to the public policy of this State under which*
43 *State Legislators* serve as "citizen Legislators" who have other
44 occupations and business interests ~~[. Each Legislator has]~~, *who are*
45 *expected to have* particular philosophies and perspectives that are



1 necessarily influenced by the life experiences of ~~[that]~~ *the*
2 Legislator, including, without limitation, professional, family and
3 business experiences ~~[Our system assumes that Legislators will]~~ ,
4 *and who are expected to* contribute those philosophies and
5 perspectives to the debate over issues with which the Legislature is
6 confronted. ~~[The law concerning ethics in government is not~~
7 ~~intended to require a member of the Legislature to abstain on issues~~
8 ~~which might affect his interests, provided those interests are~~
9 ~~properly disclosed and that the benefit or detriment accruing to him~~
10 ~~is not greater than that accruing to any other member of the general~~
11 ~~business, profession, occupation or group.]~~

12 *(d) The provisions of this chapter do not, under any*
13 *circumstances, allow the Commission to exercise jurisdiction or*
14 *authority over or inquire into, intrude upon or interfere with the*
15 *functions of a State Legislator that are protected by legislative*
16 *privilege and immunity pursuant to the Constitution of the State of*
17 *Nevada or section 1 of this act.*

18 **Sec. 7.** NRS 281A.030 is hereby amended to read as follows:

19 281A.030 As used in this chapter, unless the context otherwise
20 requires, the words and terms defined in NRS 281A.040 to
21 281A.170, inclusive, *and sections 3.4 to 5, inclusive, of this act*
22 have the meanings ascribed to them in those sections.

23 **Sec. 7.2.** NRS 281A.040 is hereby amended to read as
24 follows:

25 281A.040 “Business entity” means ~~[any]~~ *an organization or*
26 *enterprise operated for economic gain, including, without*
27 *limitation, a* proprietorship, partnership, *firm, business, company,*
28 *trust, joint venture, syndicate,* corporation or ~~[other enterprise~~
29 ~~doing business in the State of Nevada.]~~ *association.*

30 **Sec. 7.4.** NRS 281A.080 is hereby amended to read as
31 follows:

32 281A.080 *1.* The making of a “decision” is the exercise of
33 governmental power to adopt laws, regulations or standards, render
34 quasi-judicial decisions, establish executive policy or determine
35 questions involving substantial discretion.

36 *2.* The term does not include ~~[the]~~ :

37 *(a) The* functions of the judiciary.

38 *(b) The functions of a State Legislator that are protected by*
39 *legislative privilege and immunity pursuant to the Constitution of*
40 *the State of Nevada or section 1 of this act.*

41 **Sec. 8.** (Deleted by amendment.)



1 **Sec. 8.1.** NRS 281A.140 is hereby amended to read as
2 follows:

3 281A.140 ~~["Panel" means the]~~ ***"Investigatory panel" or***
4 ***"panel" means an investigatory*** panel appointed by the
5 Commission pursuant to NRS 281A.220.

6 **Sec. 8.15.** NRS 281A.150 is hereby amended to read as
7 follows:

8 281A.150 "Public employee" means any person who performs
9 public duties under the direction and control of a public officer for
10 compensation paid by the State ~~[, a county or an incorporated city.]~~
11 ***or any county, city or other political subdivision.***

12 **Sec. 8.2.** NRS 281A.160 is hereby amended to read as
13 follows:

14 281A.160 1. "Public officer" means a person elected or
15 appointed to a position which ~~[is]~~ :

16 ~~(a)~~ ***Is*** established by the Constitution of the State of Nevada, a
17 statute of this State or ~~[an]~~ ***a charter or*** ordinance of any ~~[of its~~
18 ~~counties or incorporated cities and which involves]~~ ***county, city or***
19 ***other political subdivision; and***

20 ~~(b)~~ ***Involves*** the exercise of a public power, trust or duty. As
21 used in this section, "the exercise of a public power, trust or duty"
22 means:

23 ~~[(a)]~~ ***(1)*** Actions taken in an official capacity which involve a
24 substantial and material exercise of administrative discretion in the
25 formulation of public policy;

26 ~~[(b)]~~ ***(2)*** The expenditure of public money; and

27 ~~[(c)]~~ ***(3)*** The administration of laws and rules of the State ~~[, a~~
28 ~~county or a city.]~~ ***or any county, city or other political subdivision.***

29 2. "Public officer" does not include:

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

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

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

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

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

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

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

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



1 (d) A county health officer appointed pursuant to NRS 439.290.
2 **Sec. 8.23.** NRS 281A.170 is hereby amended to read as
3 follows:

4 281A.170 "Willful violation" means *a violation where* the
5 public officer or employee ~~[knew or reasonably should have known~~
6 ~~that his conduct violated]~~ :

- 7 *1. Acted intentionally and knowingly; or*
8 *2. Was in a situation where this chapter imposed a duty to act*
9 *and the public officer or employee intentionally and knowingly*
10 *failed to act in the manner required by* this chapter.

11 **Sec. 8.25.** NRS 281A.200 is hereby amended to read as
12 follows:

13 281A.200 1. The Commission on Ethics, consisting of eight
14 members, is hereby created.

15 2. The Legislative Commission shall appoint to the
16 Commission four residents of the State, at least two of whom are
17 former public officers, and at least one of whom must be an attorney
18 licensed to practice law in this State.

19 3. The Governor shall appoint to the Commission four
20 residents of the State, at least two of whom must be former public
21 officers or public employees, and at least one of whom must be an
22 attorney licensed to practice law in this State.

23 4. Not more than four members of the Commission may be
24 members of the same political party. Not more than four members
25 may be residents of the same county.

26 5. None of the members of the Commission may ~~[:]~~, *while he*
27 *is serving on the Commission:*

28 (a) Hold another public office;
29 (b) Be actively involved in the work of any political party or
30 political campaign; or

31 (c) Communicate directly with *a State Legislator or* a member
32 of ~~[the legislative branch]~~ *a local legislative body* on behalf of
33 someone other than himself or the Commission, for compensation,
34 to influence ~~[legislative action,~~

35 ~~→ while he is serving on the Commission.] :~~

36 *(1) The State Legislator with regard to introducing or*
37 *voting upon any matter or taking other legislative action; or*

38 *(2) The member of the local legislative body with regard to*
39 *introducing or voting upon any ordinance or resolution, taking*
40 *other legislative action or voting upon:*

41 *(I) The appropriation of public money;*

42 *(II) The issuance of a license or permit; or*

43 *(III) Any proposed subdivision of land or special*
44 *exception or variance from zoning regulations.*



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

Sec. 8.3. NRS 281A.220 is hereby amended to read as follows:

281A.220 1. The Chairman shall appoint one or more *investigatory* panels of two members of the Commission on a rotating basis to review the determinations of just and sufficient cause made by the Executive Director pursuant to NRS 281A.440 and make a final determination regarding whether *there is* just and sufficient cause ~~[exists]~~ for the Commission to render an opinion ~~[]~~ *in a matter.*

2. The Chairman and Vice Chairman of the Commission may not serve together on ~~[a]~~ *an investigatory* panel.

3. The members of ~~[a]~~ *an investigatory* panel may not be members of the same political party.

4. If ~~[a]~~ *an investigatory* panel ~~[finds]~~ *determines that there is* just and sufficient cause for the Commission to render an opinion in a matter, the members of the *investigatory* panel shall not participate in any further proceedings of the Commission relating to that matter.

Sec. 8.35. NRS 281A.230 is hereby amended to read as follows:

281A.230 1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Executive Director must have experience in administration, ~~[law enforcement, investigations or]~~ *investigations and* 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]~~ *Except in pursuit of the business of the Commission, communicate* directly or indirectly with *a State Legislator or* a member of ~~[the legislative branch]~~ *a local legislative body* on behalf of someone other than himself to influence ~~[legislative action, except in pursuit of the business of the Commission.]~~ ;



1 *(1) The State Legislator with regard to introducing or*
2 *voting upon any matter or taking other legislative action; or*

3 *(2) The member of the local legislative body with regard to*
4 *introducing or voting upon any ordinance or resolution, taking*
5 *other legislative action or voting upon:*

6 *(I) The appropriation of public money;*

7 *(II) The issuance of a license or permit; or*

8 *(III) Any proposed subdivision of land or special*
9 *exception or variance from zoning regulations.*

10 **Sec. 8.4.** NRS 281A.240 is hereby amended to read as
11 follows:

12 281A.240 1. In addition to any other duties imposed upon
13 him, the Executive Director shall:

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

16 (b) Receive requests for opinions pursuant to NRS 281A.440.

17 (c) Gather information and conduct investigations regarding
18 requests for opinions received by the Commission and submit
19 recommendations to the *investigatory* panel appointed pursuant to
20 NRS 281A.220 regarding whether there is just and sufficient cause
21 to render an opinion in response to a particular request.

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

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

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

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

41 (a) The administration of the affairs of the Commission;

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

43 (c) The investigation of matters under the jurisdiction of the
44 Commission.



1 **Sec. 8.45.** NRS 281A.250 is hereby amended to read as
2 follows:

3 281A.250 1. The Commission shall appoint, within the limits
4 of legislative appropriation, a Commission Counsel who shall
5 perform the duties set forth in this chapter and such other duties as
6 may be prescribed by the Commission.

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

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

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

15 5. The Commission Counsel may not:

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

18 (b) ~~Communicate~~ *Except in pursuit of the business of the*
19 *Commission, communicate* directly or indirectly with *a State*
20 *Legislator or* a member of ~~the legislative branch~~ *a local legislative*
21 *body* on behalf of someone other than himself to influence
22 ~~legislative action, except in pursuit of the business of the~~
23 ~~Commission.~~ :

24 *(1) The State Legislator with regard to introducing or*
25 *voting upon any matter or taking other legislative action; or*

26 *(2) The member of the local legislative body with regard to*
27 *introducing or voting upon any ordinance or resolution, taking*
28 *other legislative action or voting upon:*

29 *(I) The appropriation of public money;*

30 *(II) The issuance of a license or permit; or*

31 *(III) Any proposed subdivision of land or special*
32 *exception or variance from zoning regulations.*

33 **Sec. 8.5.** NRS 281A.260 is hereby amended to read as
34 follows:

35 281A.260 1. The Commission Counsel is the legal adviser to
36 the Commission. For each opinion of the Commission, the
37 Commission Counsel shall prepare, at the direction of the
38 Commission, the appropriate findings of fact and conclusions as to
39 relevant standards and the propriety of particular conduct within the
40 time set forth in subsection ~~4~~ 6 of NRS 281A.440. The
41 Commission Counsel shall not issue written opinions concerning the
42 applicability of the statutory ethical standards to a given set of facts
43 and circumstances except as directed by the Commission.

44 2. The Commission may rely upon the legal advice of the
45 Commission Counsel in conducting its daily operations.



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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.

Sec. 8.55. NRS 281A.280 is hereby amended to read as follows:

281A.280 1. The Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of this chapter by a public officer or employee or former public officer or employee in any proceeding commenced by:

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

(b) The Commission on its own motion ~~[-~~

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

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

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

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

~~(2) Within 1 year],~~

↪ *within 2 years* after the alleged violation or reasonable discovery of the alleged violation.

2. For the purposes of this section, a proceeding is commenced:

(a) On the date on which a request for an opinion is filed in the proper form with the Commission in accordance with the regulations of the Commission; or

(b) If the proceeding is commenced by the Commission on its own motion, on the date on which the Commission serves the public officer or employee or former public officer or employee with notice of the proceeding in accordance with the regulations of the Commission.

Sec. 8.6. NRS 281A.300 is hereby amended to read as follows:

281A.300 1. The Chairman and Vice Chairman of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or public employee who is the subject of a request for an opinion, the Chairman or, in his absence, the Vice Chairman, may issue a subpoena to compel the attendance of a witness and the production of books and papers.



3. Before issuing a subpoena to a public officer or public employee who is the subject of a request for an opinion, the Executive Director shall submit a written request to the public officer or public employee requesting:

(a) His appearance as a witness; or

(b) His production of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or public employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or public employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chairman may issue the subpoena. Failure of the public officer or public employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or public employee of the time set forth in subsections ~~3 and~~ 4, 5 and 6 of NRS 281A.440.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chairman of the Commission may report to the district court by petition, setting forth that:

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

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

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

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers.



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1 Upon failure to obey the order, the witness must be dealt with as for
2 contempt of court.

3 **Sec. 8.65.** NRS 281A.400 is hereby amended to read as
4 follows:

5 281A.400 A code of ethical standards is hereby established to
6 govern the conduct of public officers and employees:

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

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

18 (a) "Commitment in a private capacity to the interests of that
19 person" has the meaning ascribed to "commitment in a
20 private capacity to the interests of others" in subsection 8 of
21 NRS 281A.420.

22 (b) "Unwarranted" means without justification or adequate
23 reason.

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

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

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

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

40 7. ~~[A]~~ *Except for State Legislators who are subject to the*
41 *restrictions set forth in subsection 8, a* public officer or employee ~~;~~
42 ~~other than a member of the Legislature.]~~ shall not use governmental
43 time, property, equipment or other facility to benefit his personal or
44 financial interest. This subsection does not prohibit:



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

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

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

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

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

(b) 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

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

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

8. A ~~member of the Legislature~~ *State Legislator* 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. 8.7. NRS 281A.410 is hereby amended to read as follows:

281A.410 In addition to the requirements of the code of ethical standards:

1. ~~[A member of the executive branch or]~~ If a public officer or employee ~~[of the executive branch shall]~~ serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:

(a) 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]~~; and

(b) If the public 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,]~~ paragraph, "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 State Legislator or a member of ~~[the legislative branch,]~~ a local legislative body, or a ~~[member of the executive branch or]~~ public officer or 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 officer or employee shall not represent or counsel a ~~[client]~~ private person for compensation before any state agency of the Executive or Legislative ~~[Branch of Government,]~~ Department.

3. Not later than January 15 of each year, any State 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]~~ Department 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.

~~[→]~~

4. The disclosure required by subsection 3 must be made in writing and filed with the Commission ~~[,]~~ on a form prescribed by



1 the Commission. *For the purposes of this subsection, the*
2 *disclosure is timely filed if, on or before the last day for filing, the*
3 *disclosure is filed in one of the following ways:*

4 (a) *Delivered in person to the principal office of the*
5 *Commission in Carson City.*

6 (b) *Mailed to the Commission by first-class mail, or other class*
7 *of mail that is at least as expeditious, postage prepaid. Filing by*
8 *mail is complete upon timely depositing the disclosure with the*
9 *United States Postal Service.*

10 (c) *Dispatched to a third-party commercial carrier for delivery*
11 *to the Commission within 3 calendar days. Filing by third-party*
12 *commercial carrier is complete upon timely depositing the*
13 *disclosure with the third-party commercial carrier.*

14 5. The Commission shall retain a disclosure filed pursuant to
15 ~~{this subsection}~~ *subsections 3 and 4* for 6 years after the date on
16 which the disclosure was filed.

17 **Sec. 9.** NRS 281A.420 is hereby amended to read as follows:

18 281A.420 1. Except as otherwise provided in ~~{subsection 2, 3~~
19 ~~or 4.}~~ *this section*, a public officer may vote upon a matter if the
20 benefit or detriment accruing to him as a result of the decision either
21 individually or in a representative capacity as a member of a general
22 business, profession, occupation or group is not greater than that
23 accruing to any other member of the general business, profession,
24 occupation or group.

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

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

32 (b) His pecuniary interest; or

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

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



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

(a) His acceptance of a gift or loan;

(b) His direct pecuniary interest; or

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

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

4. ~~[A]~~ *Except as otherwise provided in this section, a* public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

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

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

(c) In which he has a pecuniary interest,

➤ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. ~~[Except as otherwise provided in subsection 6, such]~~

Such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 or any contributions to a legal defense fund that the public officer reported pursuant to NRS 294A.286 in a timely manner.



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5. 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. [After a member of the Legislature makes a disclosure pursuant to subsection 4, 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.]~~ The provisions of this section do not, under any circumstances:

(a) Prohibit a member of ~~[the legislative branch]~~ *a local legislative body* from requesting or introducing a legislative measure; or

(b) Require a member of ~~[the legislative branch]~~ *a local legislative body* to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section ~~[“commitment”]~~:

(a) *“Commitment* in a private capacity to the interests of others” means a commitment to a person:

~~[(a)]~~ (1) Who is a member of his household;

~~[(b)]~~ (2) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

~~[(c)]~~ (3) Who employs him or a member of his household;

~~[(d)]~~ (4) With whom he has a substantial and continuing business relationship; or



~~[(e)]~~ (5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this ~~[subsection.]~~ paragraph.

(b) "Public officer" and "public employee" do not include a State Legislator.

Sec. 9.5. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in this section, a public officer ~~[may]~~ *or employee shall not approve, disapprove, vote, abstain from voting or otherwise act* upon a matter ~~[if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.]~~

~~—2.]~~ :

(a) *Regarding which he has accepted a gift or loan;*
(b) *In which he has a pecuniary interest; or*
(c) *Which would reasonably be affected by his commitment in a private capacity to the interest of others,*
 ↳ without disclosing sufficient information concerning the gift, loan, interest or commitment to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's pecuniary interest, or upon the persons to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) *Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or*

(b) *Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.*

3. Except as otherwise provided in this section, in addition to the requirements of ~~[the code of ethical standards,]~~ *subsection 1*, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter



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1 with respect to which the independence of judgment of a reasonable
2 person in ~~[his]~~ *the public officer's* situation would be materially
3 affected by:

- 4 (a) His acceptance of a gift or loan;
- 5 (b) His pecuniary interest; or
- 6 (c) His commitment in a private capacity to the interests of
7 others.

8 ~~{→}~~

9 **4. *In interpreting and applying the provisions of subsection 3:***

10 (a) It must be presumed that the independence of judgment of a
11 reasonable person *in the public officer's situation* would not be
12 materially affected by his pecuniary interest or his commitment in a
13 private capacity to the interests of others where the resulting benefit
14 or detriment accruing to him , or *if he has a commitment in a*
15 *private capacity to the interests of others, accruing* to the other
16 persons , ~~[whose interests to which the member is committed in a~~
17 ~~private capacity]~~ is not greater than that accruing to any other
18 member of the general business, profession, occupation or group ~~[.]~~
19 *that is affected by the matter.* The presumption set forth in this
20 ~~[subsection]~~ *paragraph* does not affect the applicability of the
21 requirements set forth in subsection ~~[4]~~ **1** relating to the disclosure
22 of the pecuniary interest or commitment in a private capacity to the
23 interests of others.

24 (b) *The Commission must give appropriate weight and proper*
25 *deference to the public policy of this State which favors the right*
26 *of a public officer to perform the duties for which he was elected*
27 *or appointed and to vote or otherwise act upon a matter, provided*
28 *he has properly disclosed his acceptance of a gift or loan, his*
29 *pecuniary interest or his commitment in a private capacity to the*
30 *interests of others in the manner required by subsection 1.*
31 *Because abstention by a public officer disrupts the normal course*
32 *of representative government and deprives the public and the*
33 *public officer's constituents of a voice in governmental affairs, the*
34 *provisions of this section are intended to require abstention only in*
35 *clear cases where the independence of judgment of a reasonable*
36 *person in the public officer's situation would be materially*
37 *affected by his acceptance of a gift or loan, his pecuniary interest*
38 *or his commitment in a private capacity to the interests of others.*

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

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



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1 ~~—(b) His direct pecuniary interest; or~~
2 ~~—(c) His commitment to a member of his household or a person~~
3 ~~who is related to him by blood, adoption or marriage within the third~~
4 ~~degree of consanguinity or affinity.~~

5 ~~➤ It must be presumed that the independence of judgment of a~~
6 ~~reasonable person would not be materially affected by his direct~~
7 ~~pecuniary interest or his commitment described in paragraph (c)~~
8 ~~where the resulting benefit or detriment accruing to him or to the~~
9 ~~other persons whose interests to which the member is committed is~~
10 ~~not greater than that accruing to any other member of the general~~
11 ~~business, profession, occupation or group. The presumption set forth~~
12 ~~in this subsection does not affect the applicability of the~~
13 ~~requirements set forth in subsection 4 relating to the disclosure of~~
14 ~~the direct pecuniary interest or commitment.~~

15 ~~—4. Except as otherwise provided in this section, a public officer~~
16 ~~or employee shall not approve, disapprove, vote, abstain from~~
17 ~~voting or otherwise act upon any matter:~~

18 ~~—(a) Regarding which he has accepted a gift or loan;~~

19 ~~—(b) Which would reasonably be affected by his commitment in a~~
20 ~~private capacity to the interest of others; or~~

21 ~~—(c) In which he has a pecuniary interest;~~

22 ~~➤ without disclosing sufficient information concerning the gift,~~
23 ~~loan, commitment or interest to inform the public of the potential~~
24 ~~effect of the action or abstention upon the person who provided the~~
25 ~~gift or loan, upon the person to whom he has a commitment, or upon~~
26 ~~his interest. Such a disclosure must be made at the time the matter is~~
27 ~~considered. If the officer or employee is a member of a body which~~
28 ~~makes decisions, he shall make the disclosure in public to the~~
29 ~~Chairman and other members of the body. If the officer or employee~~
30 ~~is not a member of such a body and holds an appointive office, he~~
31 ~~shall make the disclosure to the supervisory head of his organization~~
32 ~~or, if he holds an elective office, to the general public in the area~~
33 ~~from which he is elected. This subsection does not require a public~~
34 ~~officer to disclose any campaign contributions that the public officer~~
35 ~~reported pursuant to NRS 294A.120 or 294A.125 or any~~
36 ~~contributions to a legal defense fund that the public officer reported~~
37 ~~pursuant to NRS 294A.286 in a timely manner.]~~

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



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

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

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

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section:

(a) "Commitment in a private capacity to the interests of others" means a commitment to a person:

(1) Who is a member of his household;

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

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

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

(5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.

(b) "Public officer" and "public employee" do not include a State Legislator.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 281A.430 is hereby amended to read as follows:

281A.430 1. Except as otherwise provided in this section and NRS 281A.530 and 332.800, a public officer or employee shall not bid on or enter into a contract between a governmental agency and any ~~private~~ business *entity* in which he has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board ~~for commission,~~ *commission or body* may, in the ordinary course of his business, bid on or enter into a contract with any governmental agency, except the board, commission or body of which he is a member, if he has not taken part in developing the



1 contract plans or specifications and he will not be personally
2 involved in opening, considering or accepting offers.

3 3. A full- or part-time faculty member or employee of the
4 Nevada System of Higher Education may bid on or enter into a
5 contract with a governmental agency, or may benefit financially or
6 otherwise from a contract between a governmental agency and a
7 private entity, if the contract complies with the policies established
8 by the Board of Regents of the University of Nevada pursuant to
9 NRS 396.255.

10 4. A public officer or employee, other than ~~an~~ *a public* officer
11 or employee described in subsection 2 or 3, may bid on or enter into
12 a contract with a governmental agency if ~~the~~ :

13 (a) *The* contracting process is controlled by *the* rules of open
14 competitive bidding ~~[-the]~~ *or the rules of open competitive bidding*
15 *are not employed as a result of the applicability of NRS 332.112 or*
16 *332.148;*

17 (b) *The* sources of supply are limited ~~[-he]~~ ;

18 (c) *He* has not taken part in developing the contract plans or
19 specifications ; and ~~he~~

20 (d) *He* will not be personally involved in opening, considering
21 or accepting offers.

22 ➔ If a public officer who is authorized to bid on or enter into a
23 contract with a governmental agency pursuant to this subsection is a
24 member of the governing body of the agency, the public officer,
25 pursuant to the requirements of NRS 281A.420, shall disclose his
26 interest in the contract and shall not vote on or advocate the
27 approval of the contract.

28 **Sec. 12.** NRS 281A.440 is hereby amended to read as follows:

29 281A.440 1. The Commission shall render an opinion
30 interpreting the statutory ethical standards and apply the standards to
31 a given set of facts and circumstances ~~as soon as practicable or~~
32 within 45 days after receiving a request, ~~whichever is sooner,~~ on a
33 form prescribed by the Commission, from a public officer or
34 employee who is seeking guidance on questions which directly
35 relate to the propriety of his own past, present or future conduct as
36 an officer or employee ~~[-He]~~ , *unless the public officer or*
37 *employee waives the time limit. The public officer or employee*
38 may also request the Commission to hold a public hearing regarding
39 the requested opinion. If a requested opinion relates to the propriety
40 of his own present or future conduct, the opinion of the Commission
41 is:

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

43 (b) Final and subject to judicial review pursuant to NRS
44 233B.130, except that a proceeding regarding this review must be
45 held in closed court without admittance of persons other than those



1 necessary to the proceeding, unless this right to confidential
2 proceedings is waived by the requester.

3 2. The Commission may render an opinion interpreting the
4 statutory ethical standards and apply the standards to a given set of
5 facts and circumstances:

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

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

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

11 (2) All related evidence deemed necessary by the Executive
12 Director and the *investigatory* panel to make a determination of
13 whether there is just and sufficient cause to render an opinion in the
14 matter.

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

19 ➔ The Commission shall not render an opinion interpreting the
20 statutory ethical standards or apply those standards to a given set of
21 facts and circumstances if the request is submitted by a person who
22 is incarcerated in a correctional facility in this State.

23 3. Upon receipt of a request for an opinion by the Commission
24 or upon the motion of the Commission pursuant to subsection 2, the
25 Executive Director shall investigate the facts and circumstances
26 relating to the request to determine whether there is just and
27 sufficient cause for the Commission to render an opinion in the
28 matter. The *Executive Director shall notify the* public officer or
29 employee ~~that~~ *who* is the subject of the request ~~may~~ *and provide*
30 *the public officer or employee an opportunity to* submit to the
31 Executive Director *a response to the allegations against him within*
32 *30 days after the date on which the public officer or employee*
33 *received the notice of the request. The purpose of the response is*
34 *to provide the Executive Director with* any information relevant to
35 the request ~~and~~ *which the public officer or employee believes may*
36 *assist the Executive Director and the investigatory panel in*
37 *conducting the investigation. The public officer or employee is not*
38 *required in the response or in any proceeding before the*
39 *investigatory panel to assert, claim or raise any objection or*
40 *defense, in law or fact, to the allegations against him, and no*
41 *objection or defense, in law or fact, is waived, abandoned or*
42 *barred by the failure to assert, claim or raise it in the response or*
43 *in any proceeding before the investigatory panel.*

44 4. The Executive Director shall complete ~~an~~ *the* investigation
45 and present his recommendation relating to just and sufficient cause



1 to the *investigatory* panel within ~~[60]~~ 70 days after the receipt of or
2 the motion of the Commission for the request, unless the public
3 officer or employee waives this time limit. If , *after the*
4 *investigation*, the Executive Director determines ~~[after an~~
5 ~~investigation]~~ that *there is* just and sufficient cause ~~[exists]~~ for the
6 Commission to render an opinion in the matter, he shall state such a
7 recommendation in writing, including, without limitation, the
8 specific evidence that supports his recommendation. If, after ~~[an]~~
9 *the* investigation, the Executive Director ~~[does not determine]~~
10 *determines* that *there is not* just and sufficient cause ~~[exists]~~ for the
11 Commission to render an opinion in the matter, he shall state such a
12 recommendation in writing, including, without limitation, the
13 specific reasons for his recommendation.

14 5. Within 15 days after the Executive Director has provided his
15 recommendation in the matter to the *investigatory* panel, the
16 *investigatory* panel shall make a final determination regarding
17 whether *there is* just and sufficient cause ~~[exists]~~ for the
18 Commission to render an opinion in the matter, unless the public
19 officer or employee waives this time limit. The *investigatory* panel
20 shall not determine that there is just and sufficient cause for the
21 Commission to render an opinion *in the matter* unless the ~~[panel]~~
22 *Executive Director* has provided the public officer or employee an
23 opportunity to respond to the allegations against him ~~[.]~~ *as required*
24 *by subsection 3*. The *investigatory* panel shall cause a record of its
25 proceedings in each matter to be kept, and such a record must
26 remain confidential until the *investigatory* panel determines whether
27 there is just and sufficient cause for the Commission to render an
28 opinion in the matter.

29 ~~[4.]~~ 6. If the *investigatory* panel determines that *there is* just
30 and sufficient cause ~~[exists]~~ for the Commission to render an
31 opinion ~~[requested pursuant to this section,]~~ *in the matter*, the
32 Commission shall hold a hearing and render an opinion in the matter
33 within ~~[30]~~ 60 days after the determination of just and sufficient
34 cause by the *investigatory* panel, unless the public officer or
35 employee waives this time limit.

36 ~~[5.]~~ 7. Each request for an opinion that a public officer or
37 employee submits to the Commission pursuant to subsection 1, each
38 opinion rendered by the Commission in response to such a request
39 and any motion, determination, evidence or record of a hearing
40 relating to such a request are confidential unless the public officer or
41 employee who requested the opinion:

42 (a) Acts in contravention of the opinion, in which case the
43 Commission may disclose the request for the opinion, the contents
44 of the opinion and any motion, evidence or record of a hearing
45 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-]~~ 8. 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 *investigatory* 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-]~~ 9. Except as otherwise provided in paragraphs (a) and (b), the proceedings of ~~[a]~~ *the investigatory* panel are confidential until the *investigatory* panel determines whether there is just and sufficient cause to render an opinion ~~[i]~~ *in the matter*. 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 *investigatory* 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 *investigatory* 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-]~~ 10. 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-]~~ **11.** 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-]~~ **12.** 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-]~~ **13.** For good cause shown, the Commission may take testimony from a person by telephone or video conference.

~~[12-]~~ **14.** 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-]~~ **15.** A meeting or hearing that the Commission or the *investigatory* 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 *investigatory* panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

Sec. 13. NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other ~~[penalty]~~ *penalties* 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;

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

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

2. In addition to *any* 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 281A.440 against a person



1 who prevents, interferes with or attempts to prevent or interfere with
2 the discovery or investigation of a violation of this chapter.

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

11 4. ~~[If the Commission finds]~~ *In addition to any other penalties*
12 *provided by law, if a proceeding results in an opinion* that:

13 (a) ~~[A willful violation]~~ *One or more willful violations* of this
14 chapter ~~[has]~~ *have* been committed by a ~~[public officer]~~ *State*
15 *Legislator* removable from office ~~[by impeachment only, the~~
16 ~~Commission shall file a report with the appropriate person~~
17 ~~responsible for commencing impeachment proceedings as to its~~
18 ~~finding. The report must contain a statement of the facts alleged to~~
19 ~~constitute the violation.~~

20 ~~—(b) A willful violation of this chapter has been committed by a~~
21 ~~public officer removable from office pursuant to NRS 283.440, the~~
22 ~~Commission may file a proceeding in the appropriate court for~~
23 ~~removal of the officer.~~

24 ~~—(c) Three or more willful violations have been committed by a~~
25 ~~public officer removable from office pursuant to NRS 283.440, the~~
26 ~~Commission shall file a proceeding in the appropriate court for~~
27 ~~removal of the officer.]~~ *only through expulsion by his own House*
28 *pursuant to Section 6 of Article 4 of the Nevada Constitution, the*
29 *Commission shall:*

30 (1) *If the State Legislator is a member of the Senate, submit*
31 *the opinion to the Majority Leader of the Senate or, if the Majority*
32 *Leader of the Senate is the subject of the opinion or the person*
33 *who the requested the opinion, to the President Pro Tempore of*
34 *the Senate; or*

35 (2) *If the State Legislator is a member of the Assembly,*
36 *submit the opinion to the Speaker of the Assembly or, if the*
37 *Speaker of the Assembly is the subject of the opinion or the person*
38 *who the requested the opinion, to the Speaker Pro Tempore of the*
39 *Assembly.*

40 (b) *One or more willful violations of this chapter have been*
41 *committed by a state officer removable from office only through*
42 *impeachment pursuant to Article 7 of the Nevada Constitution, the*
43 *Commission shall submit the opinion to the Speaker of the*
44 *Assembly and the Majority Leader of the Senate or, if the Speaker*
45 *of the Assembly or the Majority Leader of the Senate is the person*



1 *who the requested the opinion, to the Speaker Pro Tempore of the*
2 *Assembly or the President Pro Tempore of the Senate, as*
3 *appropriate.*

4 *(c) One or more willful violations of this chapter have been*
5 *committed by a public officer other than a public officer described*
6 *in paragraphs (a) and (b), the willful violations shall be deemed to*
7 *be malfeasance in office for the purposes of NRS 283.440 and the*
8 *Commission:*

9 *(1) May file a complaint in the appropriate court for*
10 *removal of the public officer pursuant to NRS 283.440 when the*
11 *public officer is found in the opinion to have committed fewer*
12 *than three willful violations of this chapter.*

13 *(2) Shall file a complaint in the appropriate court for*
14 *removal of the public officer pursuant to NRS 283.440 when the*
15 *public officer is found in the opinion to have committed three or*
16 *more willful violations of this chapter.*

17 *↳ This paragraph grants an exclusive right to the Commission,*
18 *and no other person may file a complaint against the public*
19 *officer pursuant to NRS 283.440 based on any violation found in*
20 *the opinion.*

21 5. An action taken by a public officer or employee or former
22 public officer or employee relating to this chapter is not a willful
23 violation of a provision of those sections if the public officer or
24 employee establishes by sufficient evidence that he satisfied all of
25 the following requirements:

26 (a) He relied in good faith upon the advice of the legal counsel
27 retained by the public body which the public officer represents or by
28 the employer of the public employee or upon the manual published
29 by the Commission pursuant to NRS 281A.290;

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

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

34 6. In addition to *any* other penalties provided by law, a public
35 employee who ~~[willfully violates a provision]~~ *commits a willful*
36 *violation* of this chapter is subject to disciplinary proceedings by his
37 employer and must be referred for action in accordance to the
38 applicable provisions governing his employment.

39 7. The provisions of this chapter do not abrogate or decrease
40 the effect of the provisions of the Nevada Revised Statutes which
41 define crimes or prescribe punishments with respect to the conduct
42 of public officers or employees. If the Commission finds that a
43 public officer or employee has committed a willful violation of this
44 chapter which it believes may also constitute a criminal offense, the
45 Commission shall refer the matter to the Attorney General or the



1 district attorney, as appropriate, for a determination of whether a
2 crime has been committed that warrants prosecution.

3 8. The imposition of a civil penalty pursuant to subsection 1, 2
4 or 3 is a final decision for the purposes of judicial review ~~[.]~~
5 *pursuant to NRS 233B.130.*

6 9. A finding by the Commission that a public officer or
7 employee has violated any provision of this chapter must be
8 supported by a preponderance of the evidence unless a greater
9 burden is otherwise prescribed by law.

10 **Sec. 14.** NRS 281A.500 is hereby amended to read as follows:
11 281A.500 1. ~~[Every]~~ *Each* public officer shall acknowledge
12 that he ~~[has]~~ :

13 (a) *Has* received, read and understands the statutory ethical
14 standards ~~[.]~~ ; and

15 (b) *Has a responsibility to inform himself of any amendments*
16 *to the statutory ethical standards as soon as reasonably practicable*
17 *after each session of the Legislature.*

18 2. The acknowledgment must be *executed* on a form prescribed
19 by the Commission and must ~~[accompany the first statement of~~
20 ~~financial disclosure that the public officer is required to file]~~ *be filed*
21 with the Commission ~~[pursuant to NRS 281A.600 or the Secretary~~
22 ~~of State pursuant to NRS 281A.610.~~
23 ~~—2.]~~ :

24 (a) *If the public officer is elected to office at the general*
25 *election, on or before January 15 of the year following his*
26 *election.*

27 (b) *If the public officer is elected to office at an election other*
28 *than the general election or is appointed to office, on or before the*
29 *30th day following the date on which he takes office.*

30 3. *Except as otherwise provided in this subsection, a public*
31 *officer shall execute and file the acknowledgment once for each*
32 *term of office. If the public officer serves at the pleasure of the*
33 *appointing authority and does not have a definite term of office,*
34 *the public officer, in addition to executing and filing the*
35 *acknowledgment after he takes office in accordance with*
36 *subsection 2, shall execute and file the acknowledgment on or*
37 *before January 15 of each even-numbered year while he holds*
38 *that office.*

39 4. *For the purposes of this section, the acknowledgment is*
40 *timely filed if, on or before the last day for filing, the*
41 *acknowledgment is filed in one of the following ways:*

42 (a) *Delivered in person to the principal office of the*
43 *Commission in Carson City.*

44 (b) *Mailed to the Commission by first-class mail, or other class*
45 *of mail that is at least as expeditious, postage prepaid. Filing by*



1 *mail is complete upon timely depositing the acknowledgment with*
2 *the United States Postal Service.*

3 *(c) Dispatched to a third-party commercial carrier for delivery*
4 *to the Commission within 3 calendar days. Filing by third-party*
5 *commercial carrier is complete upon timely depositing the*
6 *acknowledgment with the third-party commercial carrier.*

7 *5. The form for making the acknowledgment must contain:*

8 *(a) The address of the Internet website of the Commission*
9 *where a public officer may view the statutory ethical standards*
10 *and print a hard copy; and*

11 *(b) The telephone number and mailing address of the*
12 *Commission where a public officer may make a request to obtain a*
13 *hard copy of the statutory ethical standards from the Commission.*

14 *6. Whenever the Commission, or any public officer or*
15 *employee as part of his official duties, provides a public officer*
16 *with a hard copy of the form for making the acknowledgment, a*
17 *hard copy of the statutory ethical standards must be included with*
18 *the form.*

19 *7. The Commission ~~[and the Secretary of State]~~ shall retain*
20 *~~[an]~~ each acknowledgment filed pursuant to this section for 6 years*
21 *after the date on which the acknowledgment was filed.*

22 ~~[3.]~~ *8. Willful refusal to execute and file the acknowledgment*
23 *required by this section ~~[constitutes nonfeasance]~~ shall be deemed*
24 *to be:*

25 *(a) A willful violation of this chapter for the purposes of NRS*
26 *281A.480; and*

27 *(b) Nonfeasance in office ~~[and is a ground for removal]~~ for the*
28 *purposes of NRS 283.440 and, if the public officer is removable*
29 *from office pursuant to NRS 283.440 ~~[]~~, the Commission may file*
30 *a complaint in the appropriate court for removal of the public*
31 *officer pursuant to that section. This paragraph grants an*
32 *exclusive right to the Commission, and no other person may file a*
33 *complaint against the public officer pursuant to NRS 283.440*
34 *based on any violation of this section.*

35 *9. As used in this section, "general election" has the meaning*
36 *ascribed to it in NRS 293.060.*

37 **Sec. 15.** NRS 281A.520 is hereby amended to read as follows:

38 281A.520 1. Except as otherwise provided in subsections 4
39 and 5, a public officer or employee shall not request or otherwise
40 cause a governmental entity to incur an expense or make an
41 expenditure to support or oppose:

42 (a) A ballot question.

43 (b) A candidate.

44 2. For the purposes of paragraph (b) of subsection 1, an
45 expense incurred or an expenditure made by a governmental entity



1 shall be considered an expense incurred or an expenditure made in
2 support of a candidate if:

3 (a) The expense is incurred or the expenditure is made for the
4 creation or dissemination of a pamphlet, brochure, publication,
5 advertisement or television programming that prominently features
6 the activities of a current public officer of the governmental entity
7 who is a candidate for a state, local or federal elective office; and

8 (b) The pamphlet, brochure, publication, advertisement or
9 television programming described in paragraph (a) is created or
10 disseminated during the period specified in subsection 3.

11 3. The period during which the provisions of subsection 2
12 apply to a particular governmental entity begins when a current
13 public officer of that governmental entity files a declaration of
14 candidacy or acceptance of candidacy and ends on the date of the
15 general election, general city election or special election for the
16 office for which the current public officer of the governmental entity
17 is a candidate.

18 4. The provisions of this section do not prohibit the creation or
19 dissemination of, or the appearance of a candidate in or on, as
20 applicable, a pamphlet, brochure, publication, advertisement or
21 television programming that:

22 (a) Is made available to the public on a regular basis and merely
23 describes the functions of:

24 (1) The public office held by the public officer who is the
25 candidate; or

26 (2) The governmental entity by which the public officer who
27 is the candidate is employed; or

28 (b) Is created or disseminated in the course of carrying out a
29 duty of:

30 (1) The public officer who is the candidate; or

31 (2) The governmental entity by which the public officer who
32 is the candidate is employed.

33 5. The provisions of this section do not prohibit an expense or
34 an expenditure incurred to create or disseminate a television
35 program that provides a forum for discussion or debate regarding a
36 ballot question, if persons both in support of and in opposition to the
37 ballot question participate in the television program.

38 6. As used in this section:

39 (a) "Governmental entity" means:

40 (1) The government of this State;

41 (2) An agency of the government of this State;

42 (3) A political subdivision of this State; and

43 (4) An agency of a political subdivision of this State.

44 (b) "Pamphlet, brochure, publication, advertisement or
45 television programming" includes, without limitation, a publication,



* S B 1 6 0 R 1 *

1 a public service announcement and any programming on a television
2 station created to provide community access to cable television. The
3 term does not include:

4 (1) A press release issued to the media by a governmental
5 entity; or

6 (2) The official website of a governmental entity.

7 ~~[(c) "Political subdivision" means a county, city or any other~~
8 ~~local government as defined in NRS 354.474.]~~

9 **Sec. 16.** NRS 281A.540 is hereby amended to read as follows:

10 281A.540 1. In addition to any other ~~[penalty]~~ *penalties*
11 provided by law, a governmental grant, contract or lease entered
12 into in violation of this chapter is voidable by the State, county, city
13 or ~~[town]~~ *political subdivision*. In a determination under this
14 section of whether to void a grant, contract or lease, the interests of
15 innocent third parties who could be damaged must be taken into
16 account. The Attorney General, district attorney or city attorney
17 must give notice of his intent to void a grant, contract or lease under
18 this section no later than 30 days after the Commission has
19 determined that there has been a related violation of this chapter.

20 2. In addition to any other ~~[penalty]~~ *penalties* provided by law,
21 a contract prohibited by NRS 281.230 which is knowingly entered
22 into by a person designated in subsection 1 of NRS 281.230 is void.

23 3. Any action taken by the State in violation of this chapter is
24 voidable, except that the interests of innocent third parties in the
25 nature of the violation must be taken into account. The Attorney
26 General may also pursue any other available legal or equitable
27 remedies.

28 4. In addition to any other ~~[penalty]~~ *penalties* provided by law,
29 the Attorney General may recover any fee, compensation, gift or
30 benefit received by a person as a result of a violation of this chapter
31 by a public officer. An action to recover pursuant to this section
32 must be brought within 2 years after the *violation or reasonable*
33 *discovery* of the violation.

34 **Sec. 17.** NRS 281A.620 is hereby amended to read as follows:

35 281A.620 1. Statements of financial disclosure, as approved
36 pursuant to NRS 281A.470 or in such form as the Commission
37 otherwise prescribes, must contain the following information
38 concerning the candidate for public office or public officer:

39 (a) His length of residence in the State of Nevada and the district
40 in which he is registered to vote.

41 (b) Each source of his income, or that of any member of his
42 household who is 18 years of age or older. No listing of individual
43 clients, customers or patients is required, but if that is the case, a
44 general source such as "professional services" must be disclosed.



(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.

3. As used in this section ~~f~~:

~~(a) “Business entity” means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.~~

~~(b) “Household”], “member of his household”~~ includes:



~~[(4)]~~ (a) The spouse of a candidate for public office or public officer;

~~[(2)]~~ (b) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

~~[(3)]~~ (c) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 17.5. NRS 281A.660 is hereby amended to read as follows:

281A.660 1. If the Secretary of State receives information that a candidate for public office or public officer willfully fails to file his statement of financial disclosure or willfully fails to file his statement of financial disclosure in a timely manner pursuant to NRS 281A.600 or 281A.610, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a candidate for public office or public officer who willfully fails to file his statement of financial disclosure or willfully fails to file his statement of financial disclosure in a timely manner pursuant to NRS 281A.600 or 281A.610 is subject to a civil penalty and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. The amount of the civil penalty is:

(a) If the statement is filed not more than 10 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, \$25.

(b) If the statement is filed more than 10 days but not more than 20 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, \$50.

(c) If the statement is filed more than 20 days but not more than 30 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, \$100.

(d) If the statement is filed more than 30 days but not more than 45 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, \$250.

(e) If the statement is not filed or is filed more than 45 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, \$2,000.



4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

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

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

5. As used in this section, "willfully" means ~~deliberately,~~ intentionally and knowingly.

Sec. 18. NRS 283.040 is hereby amended to read as follows:

283.040 1. Every office becomes vacant upon the occurring of any of the following events before the expiration of the term:

(a) The death or resignation of the incumbent.

(b) The removal of the incumbent from office.

(c) The confirmed insanity of the incumbent, found by a court of competent jurisdiction.

(d) A conviction of the incumbent of any felony or offense involving a violation of his official oath or bond or a violation of NRS 241.040, 293.1755 or 293C.200.

(e) A refusal or neglect of the person elected or appointed to take the oath of office, as prescribed in NRS 282.010, or, when a bond is required by law, his refusal or neglect to give the bond within the time prescribed by law.

(f) Except as otherwise provided in NRS 266.400, the ceasing of the incumbent to be an actual, as opposed to constructive, resident of the State, district, county, city, ward or other unit prescribed by law in which the duties of his office are to be exercised, or from which he was elected or appointed, or in which he was required to reside to be a candidate for office or appointed to office.

(g) The neglect or refusal of the incumbent to discharge the duties of his office for a period of 30 days, except when prevented by sickness or absence from the State or county, as provided by law. In a county whose population is less than 15,000, after an incumbent, other than a state officer, has been prevented by sickness from discharging the duties of his office for at least 6 months, the district attorney, either on his own volition or at the request of another person, may petition the district court to declare the office vacant. If the incumbent holds the office of district attorney, the Attorney General, either on his own volition or at the request of another person, may petition the district court to declare the office vacant. The district court shall hold a hearing to determine whether to declare the office vacant and, in making its determination, shall consider evidence relating to:



1 (1) The medical condition of the incumbent;
2 (2) The extent to which illness, disease or physical weakness
3 has rendered the incumbent unable to manage independently and
4 perform the duties of his office; and

5 (3) The extent to which the absence of the incumbent has had
6 a detrimental effect on the applicable governmental entity.

7 (h) The decision of a competent tribunal declaring the election
8 or appointment void or the office vacant.

9 (i) A determination pursuant to NRS 293.182 or 293C.186 that
10 the incumbent fails to meet any qualification required for the office.

11 2. Upon the happening of any of the events described in
12 subsection 1, if the incumbent fails or refuses to relinquish his
13 office, the Attorney General shall, if the office is a state office or
14 concerns more than one county, or the district attorney shall, if the
15 office is a county office or concerns territory within one county,
16 commence and prosecute, in a court of competent jurisdiction, any
17 proceedings for judgment and decree declaring that office vacant.

18 *3. The provisions of this section do not apply to the extent*
19 *that they conflict or are otherwise inconsistent with any provision*
20 *of the Constitution of the State of Nevada regarding the power to*
21 *judge of the qualifications, elections and returns of or to punish,*
22 *impeach, expel or remove from office the Governor, other state*
23 *and judicial officers or State Legislators.*

24 **Sec. 19.** NRS 283.140 is hereby amended to read as follows:

25 283.140 *1. Any state officer ~~[, created by state law,]~~ shall be*
26 *liable ~~[for]~~ to impeachment for ~~[any]~~ misdemeanor ~~or malfeasance~~*
27 *in office ~~[,]~~ pursuant to Article 7 of the Nevada Constitution.*

28 *2. As used in NRS 283.140 to 283.290, inclusive, "state*
29 *officer" means the Governor and other state and judicial officers,*
30 *except:*

31 *(a) Justices of the peace; and*

32 *(b) State Legislators removable from office only through*
33 *expulsion by their own House pursuant to Section 6 of Article 4 of*
34 *the Nevada Constitution.*

35 **Sec. 20.** NRS 283.160 is hereby amended to read as follows:

36 283.160 When ~~[an officer of the State]~~ *a state officer* is
37 impeached by the Assembly for ~~[a]~~ misdemeanor ~~or malfeasance~~
38 in office, the articles of impeachment shall be delivered to the
39 President of the Senate.

40 **Sec. 21.** NRS 283.300 is hereby amended to read as follows:

41 283.300 *1. An accusation in writing against any district,*
42 *county, township or municipal officer ~~[, except a justice or judge of~~*
43 *the court system,] for willful or corrupt misconduct in office, may
44 be presented by the grand jury of the county for or in which the
45 officer accused is elected or appointed.*



2. As used in this section, "district, county, township or municipal officer" does not include:

- (a) A justice or judge of the court system;
- (b) A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution; or
- (c) A State Legislator removable from office only through expulsion by his own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

Sec. 22. NRS 283.440 is hereby amended to read as follows:

283.440 1. Any person *who is* now holding or who shall hereafter hold any office in this State ~~[, except a justice or judge of the court system.]~~ and who refuses or neglects to perform any official act in the manner and form prescribed by law, or who is guilty of any malpractice or malfeasance in office, may be removed therefrom as hereinafter prescribed in this section ~~[.]~~, *except that this section does not apply to:*

- (a) A justice or judge of the court system;
- (b) A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution; or
- (c) A State Legislator removable from office only through expulsion by his own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

2. Whenever a complaint in writing, duly verified by the oath of any complainant, is presented to the district court alleging that any officer within the jurisdiction of the court:

(a) Has been guilty of charging and collecting any illegal fees for services rendered or to be rendered in his office;

(b) Has refused or neglected to perform the official duties pertaining to his office as prescribed by law; or

(c) Has been guilty of any malpractice or malfeasance in office, ➔ the court shall cite the party charged to appear before it on a certain day, not more than 10 days or less than 5 days from the day when the complaint was presented. On that day, or some subsequent day not more than 20 days from that on which the complaint was presented, the court, in a summary manner, shall proceed to hear the complaint and evidence offered by the party complained of. If, on the hearing, it appears that the charge or charges of the complaint are sustained, the court shall enter a decree that the party complained of shall be deprived of his office.

3. The clerk of the court in which the proceedings are had, shall, within 3 days thereafter, transmit to the Governor or the board of county commissioners of the proper county, as the case may be, a copy of any decree or judgment declaring any officer deprived of any office under this section. The Governor or the board of county commissioners, as the case may be, shall appoint some person to fill



1 the office until a successor shall be elected or appointed and
2 qualified. The person so appointed shall give such bond as security
3 as is prescribed by law and pertaining to the office.

4 4. If the judgment of the district court is against the officer
5 complained of and an appeal is taken from the judgment so
6 rendered, the officer so appealing shall not hold the office during the
7 pendency of the appeal, but the office shall be filled as in case of a
8 vacancy.

9 **Sec. 23.** NRS 283.450 is hereby amended to read as follows:

10 283.450 1. Any civil officer in this state who, during his term
11 of office, becomes intoxicated or is under the influence of alcoholic,
12 malt or vinous liquors, or becomes or is addicted to the use of
13 controlled substances, so that he is not at all times in proper
14 condition for the discharge of the duties of his office, is guilty of a
15 gross misdemeanor ~~[-and,] and~~ if he is ~~[a]~~ :

16 (a) A state officer, *he* is subject to removal from office ~~{by~~
17 ~~impeachment, or if he is a}~~ *through impeachment pursuant to*
18 *Article 7 of the Nevada Constitution;*

19 (b) *A State Legislator, he is subject to removal from office*
20 *through expulsion by his own House pursuant to Section 6 of*
21 *Article 4 of the Nevada Constitution; or*

22 (c) A county, city or township officer, he shall be removed from
23 office by the judgment of the court in which the conviction is had,
24 as a part of the penalty in such a conviction.

25 2. Upon receiving information from any person that the
26 provisions of this section have been violated, sheriffs and their
27 deputies, constables and their deputies, district attorneys, and all
28 other peace officers in this state shall immediately institute
29 proceedings in the proper court against the person complained of,
30 and shall prosecute the same with reasonable diligence to final
31 judgment.

32 3. If any person makes and files a complaint under oath
33 charging the district attorney with a violation of this section, the
34 Attorney General shall prosecute the district attorney pursuant to the
35 terms of this section.

36 4. If any state officer is convicted pursuant to this section, the
37 prosecuting officer obtaining the conviction shall file a certified
38 copy of the judgment roll with the Secretary of State. The Secretary
39 of State shall lay the certified copy of the judgment roll before the
40 *appropriate House of the* Legislature at its next session.

41 5. The provisions of this section must be specially charged to
42 the grand juries of the several counties by district judges.

43 **Sec. 24.** NRS 193.105 is hereby amended to read as follows:

44 193.105 1. If, during the course of his employment, an
45 employee of the State or of any political subdivision of the State is



1 convicted on or after October 1, 1989, of violating any federal or
2 state law prohibiting the sale of any controlled substance, the
3 employer upon discovery of the conviction shall terminate the
4 employment of the employee.

5 2. If, during the course of his tenure in office, an officer of
6 any county, city or township of the State is convicted on or after
7 October 1, 1989, of violating any federal or state law prohibiting the
8 sale of any controlled substance, the court as part of the penalty for
9 such a conviction shall remove the officer from his office.

10 3. If, during the course of his tenure in office, an elected or
11 appointed officer of the State is convicted on or after October 1,
12 1989, of violating any federal or state law prohibiting the sale of any
13 controlled substance, the prosecuting officer who obtained the
14 conviction shall file a certified copy of the judgment roll with the
15 Secretary of State. The Secretary of State shall lay the certified copy
16 of the judgment roll before the ~~[Assembly]~~ *appropriate House of*
17 *the Legislature* at its next session . ~~[for the preparation of articles of~~
18 ~~impeachment.]~~

19 4. This section does not apply to a justice or judge of the court
20 system.

21 **Sec. 25.** NRS 281.236, 281A.110, 281A.120 and 281A.130
22 are hereby repealed.

23 **Sec. 26.** The Legislature hereby finds and declares that:

24 1. NRS 11.190 contains a generally applicable 2-year statute of
25 limitations for any action upon a statute for a penalty or forfeiture,
26 where the action is given to a person or the State.

27 2. Because NRS 281A.480 authorizes the Commission on
28 Ethics to impose civil penalties on a current or former public officer
29 or employee for a violation of chapter 281A of NRS, the existing
30 2-year statute of limitations in NRS 11.190 is applicable to
31 proceedings commenced against a current or former public officer
32 or employee pursuant to chapter 281A of NRS.

33 3. By enacting the 2-year statute of limitations in NRS
34 281A.280, as amended by section 8.55 of this act, the Legislature is
35 substituting in a continuing way the 2-year statute of limitations in
36 NRS 281A.280 for the existing 2-year statute of limitations in NRS
37 11.190 with regard to violations of chapter 281A of NRS.

38 4. Therefore, the 2-year statute of limitations in NRS
39 281A.280, as amended by section 8.55 of this act, is applicable to
40 any proceeding against a current or former public officer or
41 employee for a violation of chapter 281A of NRS if the proceeding
42 is commenced on or after the effective date of section 8.55 of this
43 act, whether or not the violation occurred before that effective date.

44 **Sec. 27.** 1. This section and sections 1, 2, 3, 4, 5, 6, 7, 7.4
45 and 9 of this act become effective on January 1, 2009.



- 1 2. Sections 3.4, 3.6, 4.4, 4.6, 5.4, 5.6, 5.8, 7.2, 8 to 8.7,
2 inclusive, and 9.5 to 26, inclusive, of this act become effective upon
3 passage and approval.

LEADLINES OF REPEALED SECTIONS

281.236 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission on Ethics.

281A.110 “Legislative function” defined.

281A.120 “Member of the executive branch” defined.

281A.130 “Member of the legislative branch” defined.

