

SENATE BILL NO. 228—SENATOR PARKS (BY REQUEST)

MARCH 11, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to public servants.
(BDR 23-445)

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

~

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

AN ACT relating to public servants; revising provisions relating to public officers and employees; revising provisions relating to statements of financial disclosure; revising provisions relating to ethics in government and the enforcement of such provisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes to provisions relating to public officers and employees, ethics in government and the ethics laws. (Chapters 281 and 281A of NRS)

Existing law requires certain candidates for public office and certain public officers to file annual statements of financial disclosure with the Secretary of State. (NRS 281.558-281.581) **Sections 2-9** of this bill define certain terms relating to the statements of financial disclosure.

Sections 11-13, 42 and 49-55 of this bill revise provisions prohibiting public officers and employees from being interested in or benefiting from governmental contracts and clarify certain procedures for voiding governmental contracts or other actions which violate ethics laws.

Sections 18-24 and 30-32 of this bill enact and revise various definitions in the Nevada Ethics in Government Law. **Section 19** revises and makes applicable throughout the Ethics Law the existing definition of “commitment in a private capacity to the interests of others” in NRS 281A.420.

Section 23 defines “pecuniary interest,” and **sections 40 and 42** of this bill require proof of a significant pecuniary interest in defining various types of unethical conduct.

Section 25 of this bill enacts provisions for computing periods prescribed or allowed under the Ethics Law. **Sections 26 and 40** of this bill move and revise certain existing provisions from NRS 281A.410 requiring certain public officers to file disclosures if they have represented or counseled a private person for compensation before certain agencies. **Section 27** of this bill authorizes the



Commission on Ethics to apply for and accept grants, contributions, services and money for the purposes of carrying out the Ethics Law.

Sections 33-37 of this bill make various changes concerning the Commission on Ethics and the duties of the Executive Director of the Commission and the Commission Counsel. Those changes include: (1) adjusting the eligibility requirements for certain members of the Commission; (2) requiring the Chair of the Commission to designate a qualified person to perform the duties of the Executive Director if the Executive Director is disqualified or unable to act on a particular matter; (3) revising the administration of the assessments paid by cities and counties in semiannual installments to the Commission; and (4) expanding the Commission's authority to adopt regulations to carry out the Ethics Law.

Section 38 of this bill directs public officers and employees who request the issuance of a subpoena on their behalf in ethics proceedings to serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure and to pay the costs of such service.

Sections 39-44 of this bill make various changes to provisions in the Ethics Law, including provisions relating to conflicts of interests for public officers and employees, disclosures and abstentions, the rendering of opinions and conduct of investigations by the Commission on Ethics and the duties of specialized and local ethics committees.

Section 39 revises provisions proscribing various types of unethical conduct.

Section 40 revises restrictions on various public officers and employees representing or counseling private persons for compensation before certain agencies, and moves and revises the existing "cooling off" provisions from NRS 281A.550 prohibiting various public officers and employees from accepting compensation from certain persons or entities for a specified period after leaving public service.

Section 46 of this bill provides new requirements relating to informing, educating and instructing public officers and employees concerning the statutory ethical standards and the duties of public officers and employees under the Ethics Law.

Section 48 of this bill authorizes the Commission on Ethics to request the drafting of 2 legislative measures for each regular session of the Legislature.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in NRS 281.558 to 281.581, inclusive, and sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 281.558 and sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Business entity" means an organization or enterprise operated for economic gain, including, without limitation, a proprietorship, partnership, firm, business, company, trust, joint venture, syndicate, corporation or association.*



1 **Sec. 4. “Domestic partner” means a person in a domestic**
2 **partnership.**

3 **Sec. 5. “Domestic partnership” means:**

4 1. *A domestic partnership as defined in NRS 122A.040; or*

5 2. *A domestic partnership which was validly formed in*
6 *another jurisdiction and which is substantially equivalent to a*
7 *domestic partnership as defined in NRS 122A.040, regardless of*
8 *whether it bears the name of a domestic partnership or is*
9 *registered in this State.*

10 **Sec. 6. “Household” means an association of persons who**
11 **live in the same home or dwelling.**

12 **Sec. 7. “Intentionally” means voluntarily or deliberately,**
13 **rather than accidentally or inadvertently. The term does not**
14 **require proof of bad faith, ill will, evil intent or malice.**

15 **Sec. 8. “Knowingly” imports a knowledge that the facts exist**
16 **which constitute the act or omission, and does not require**
17 **knowledge of the prohibition against the act or omission.**
18 **Knowledge of any particular fact may be inferred from the**
19 **knowledge of such other facts as should put an ordinarily prudent**
20 **person upon inquiry.**

21 **Sec. 9. “Member of the candidate’s or public officer’s**
22 **household” means:**

23 1. *The spouse or domestic partner of the candidate or public*
24 *officer;*

25 2. *A person who lives in the household of the candidate or*
26 *public officer;*

27 3. *A person who does not live in the household of the*
28 *candidate or public officer, but who is dependent on and receiving*
29 *substantial support from the candidate or public officer; or*

30 4. *A person who lives in the household of the candidate or*
31 *public officer for 6 months or more in the year immediately*
32 *preceding the year in which the candidate or public officer files a*
33 *statement of financial disclosure.*

34 **Sec. 10. (Deleted by amendment.)**

35 **Sec. 11. 1. In addition to any other penalty provided by law,**
36 **any governmental grant, contract or lease made or other**
37 **governmental action taken by a public officer or employee in**
38 **violation of this chapter or chapter 281A of NRS is voidable by the**
39 **State, county, city or political subdivision.**

40 2. *The Attorney General, district attorney or city attorney*
41 *shall give notice of the intent to void a governmental grant,*
42 *contract or lease or other governmental action pursuant to this*
43 *section not later than 30 days after adjudication of the violation.*

44 3. *In determining whether to void a governmental grant,*
45 *contract or lease or other governmental action pursuant to this*



* S B 2 2 8 R 1 *

1 *section, the interests of innocent third parties who could be*
2 *damaged must be taken into account.*

3 *4. In addition to any other penalty provided by law, the*
4 *Attorney General, district attorney or city attorney may:*

5 *(a) Pursue any other available legal or equitable remedies as a*
6 *result of a violation of this chapter or chapter 281A of NRS by a*
7 *public officer or employee; and*

8 *(b) Recover any fee, compensation, gift or benefit received by a*
9 *person as a result of a violation of this chapter or chapter 281A of*
10 *NRS by a public officer or employee. An action to recover*
11 *pursuant to this section must be brought within 2 years after the*
12 *violation or reasonable discovery of the violation.*

13 *5. As used in this section, "political subdivision" means any*
14 *county, city or other local government as defined in NRS 354.474.*

15 **Sec. 12.** NRS 281.221 is hereby amended to read as follows:

16 281.221 1. Except as otherwise provided in this section ~~§~~
17 *and NRS 281A.430*, it is unlawful for ~~any~~ *a* state officer who is
18 not a member of the Legislature to:

19 (a) Become a contractor under any contract or order for supplies
20 or other kind of contract authorized by or for the State or any of its
21 departments, or the Legislature or either of its houses, or to be
22 interested, directly or indirectly, as principal, in any kind of contract
23 so authorized.

24 (b) Be interested in any contract made by the officer or to be a
25 purchaser or interested in any purchase under a sale made by the
26 officer in the discharge of the officer's official duties.

27 2. ~~Any~~ *A* member of any board, commission or similar body
28 who is engaged in the profession, occupation or business regulated
29 by the board, commission or body may supply or contract to supply,
30 in the ordinary course of the member's business, goods, materials or
31 services to any state or local agency, except the board, ~~for~~
32 commission *or body* of which he or she is a member, if the member
33 has not taken part in developing the contract plans or specifications
34 and the member will not be personally involved in opening,
35 considering or accepting offers.

36 3. A full- or part-time faculty member in the Nevada System of
37 Higher Education may bid on or enter into a contract with a
38 governmental agency, or may benefit financially or otherwise from
39 a contract between a governmental agency and a private entity, if
40 the contract complies with the policies established by the Board of
41 Regents of the University of Nevada pursuant to NRS 396.255.

42 4. A state officer, other than an officer described in subsection
43 2 or 3, may bid on or enter into a contract with a governmental
44 agency if the contracting process is controlled by rules of open
45 competitive bidding, the sources of supply are limited, the officer



* S B 2 2 8 R 1 *

1 has not taken part in developing the contract plans or specifications
2 and the officer will not be personally involved in opening,
3 considering or accepting offers.

4 5. ~~{Any}~~ *In addition to any other penalty provided by law, any*
5 *governmental* contract made *or other governmental action taken* in
6 violation of this section may be declared void ~~{at the instance of the~~
7 ~~State or of any other person interested in the contract except an~~
8 ~~officer prohibited from making or being interested in the contract.~~
9 ~~—6. Any person violating}~~ *pursuant to section 11 of this act.*

10 6. *A person who violates* this section is guilty of a gross
11 misdemeanor and shall forfeit his or her office.

12 **Sec. 13.** NRS 281.230 is hereby amended to read as follows:

13 281.230 1. Except as otherwise provided in this section and
14 NRS 218A.970, ~~{281A.530}~~ *281A.430* and 332.800, the following
15 persons shall not, in any manner, directly or indirectly, receive any
16 commission, personal profit or compensation of any kind resulting
17 from any contract or other significant transaction in which the
18 employing state, county, municipality, township, district or quasi-
19 municipal corporation is in any way directly interested or affected:

20 (a) State, county, municipal, district and township officers of the
21 State of Nevada;

22 (b) Deputies and employees of state, county, municipal, district
23 and township officers; and

24 (c) Officers and employees of quasi-municipal corporations.

25 2. A member of any board, commission or similar body who is
26 engaged in the profession, occupation or business regulated by the
27 board, commission or body may, in the ordinary course of his or her
28 business, bid on or enter into a contract with any governmental
29 agency, except the board, ~~{or}~~ *or body* of which he or
30 she is a member, if the member has not taken part in developing the
31 contract plans or specifications and the member will not be
32 personally involved in opening, considering or accepting offers.

33 3. A full- or part-time faculty member or employee of the
34 Nevada System of Higher Education may bid on or enter into a
35 contract with a governmental agency, or may benefit financially or
36 otherwise from a contract between a governmental agency and a
37 private entity, if the contract complies with the policies established
38 by the Board of Regents of the University of Nevada pursuant to
39 NRS 396.255.

40 4. A public officer or employee, other than an officer or
41 employee described in subsection 2 or 3, may bid on or enter into a
42 contract with a governmental agency if the contracting process is
43 controlled by rules of open competitive bidding, the sources of
44 supply are limited, the public officer or employee has not taken part
45 in developing the contract plans or specifications and the public



* S B 2 2 8 R 1 *

1 officer or employee will not be personally involved in opening,
2 considering or accepting offers. If a public officer who is authorized
3 to bid on or enter into a contract with a governmental agency
4 pursuant to this subsection is a member of the governing body of the
5 agency, the public officer, pursuant to the requirements of NRS
6 281A.420, shall disclose his or her interest in the contract and shall
7 not vote on or advocate the approval of the contract.

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

10 (a) Where the commission, personal profit or compensation is
11 \$650 or more, for a category D felony as provided in NRS 193.130.

12 (b) Where the commission, personal profit or compensation is
13 less than \$650, for a misdemeanor.

14 6. *In addition to any other penalty provided by law:*

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

20 (b) *Any governmental contract made or other governmental*
21 *action taken in violation of this section may be declared void*
22 *pursuant to section 11 of this act.*

23 **Sec. 14.** NRS 281.558 is hereby amended to read as follows:

24 281.558 ~~As used in NRS 281.558 to 281.581, inclusive,~~
25 ~~“candidate”~~ *“Candidate”* means any person:

- 26 1. Who files a declaration of candidacy;
27 2. Who files an acceptance of candidacy; or
28 3. Whose name appears on an official ballot at any election.

29 **Sec. 15.** NRS 281.571 is hereby amended to read as follows:

30 281.571 1. Statements of financial disclosure, as approved
31 pursuant to NRS 281A.470 or in such electronic form as the
32 Secretary of State otherwise prescribes, must contain the following
33 information concerning the candidate for public office or public
34 officer:

35 (a) The candidate's or public officer's length of residence in the
36 State of Nevada and the district in which the candidate for public
37 office or public officer is registered to vote.

38 (b) Each source of the candidate's or public officer's income, or
39 that of any member of the candidate's or public officer's household
40 who is 18 years of age or older. No listing of individual clients,
41 customers or patients is required, but if that is the case, a general
42 source such as “professional services” must be disclosed.

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



* S B 2 2 8 R 1 *

(1) In which the candidate for public office or public officer or a member of the candidate's or public officer's 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 the candidate for public office or public officer or a member of the candidate's or public officer's 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 *by blood, adoption, marriage or domestic partnership* 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 the candidate for public office or public officer or a member of the candidate's or public officer's 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 the candidate for public office or public officer for which this statement of financial disclosure is required.

2. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

~~3. As used in this section, "member of the candidate's or public officer's household" includes:~~

~~(a) The spouse of the candidate for public office or public officer;~~

~~(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~~



* S B 2 2 8 R 1 *

~~(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. 16. NRS 281.573 is hereby amended to read as follows:

281.573 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS ~~281.558 to 281.572, inclusive,~~ **281.559 and 281.561** must be retained by the Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 17. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27, inclusive, of this act.

Sec. 18. *"Agency" means any state agency or local agency.*

Sec. 19. *"Commitment in a private capacity," with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:*

1. Who is the spouse or domestic partner of the public officer or employee;

2. Who is a member of the household of the public officer or employee;

3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;

4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;

5. With whom the public officer or employee has a substantial and continuing business relationship; or

6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

Sec. 20. *"Domestic partner" means a person in a domestic partnership.*

Sec. 21. *"Domestic partnership" means:*

1. A domestic partnership as defined in NRS 122A.040; or

2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of



* S B 2 2 8 R 1 *

1 *whether it bears the name of a domestic partnership or is*
2 *registered in this State.*

3 **Sec. 22.** *"Local agency" means any local legislative body,*
4 *agency, bureau, board, commission, department, division, office or*
5 *other unit of any county, city or other political subdivision.*

6 **Sec. 23.** *"Pecuniary interest" means any beneficial or*
7 *detrimental interest in a matter that consists of or is measured in*
8 *money or is otherwise related to money, including, without*
9 *limitation:*

10 1. *Anything of economic value; and*

11 2. *Payments or other money which a person is owed or*
12 *otherwise entitled to by virtue of any statute, regulation, code,*
13 *ordinance or contract or other agreement.*

14 **Sec. 24.** *"State agency" means any agency, bureau, board,*
15 *commission, department, division, office or other unit of the*
16 *Executive Department of the State Government.*

17 **Sec. 25.** *In computing any period prescribed or allowed by*
18 *this chapter:*

19 1. *If the period begins to run on the occurrence of an act or*
20 *event, the day on which the act or event begins is excluded from*
21 *the computation.*

22 2. *The last day of the period is included in the computation,*
23 *except that if the last day falls on a Saturday, Sunday, legal*
24 *holiday or holiday proclaimed by the Governor or on a day on*
25 *which the office of the Commission is not open for the conduct of*
26 *business, the period is extended to the close of business on the*
27 *next business day.*

28 **Sec. 26.** 1. *Not later than January 15 of each year, a State*
29 *Legislator or public officer who has, within the preceding*
30 *calendar year, represented or counseled a private person for*
31 *compensation before an agency shall disclose for each occurrence*
32 *of such representation or counseling during the preceding*
33 *calendar year:*

34 (a) *The name of the private person;*

35 (b) *The nature of the representation or counseling; and*

36 (c) *The name of the agency.*

37 2. *The disclosure required pursuant to subsection 1 must be*
38 *made in writing and timely filed with the Commission on a form*
39 *prescribed by the Commission. For the purposes of this*
40 *subsection, the disclosure is timely filed if, on or before the last*
41 *day for filing, the disclosure is:*

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 disclosure with the*
2 *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 *disclosure with the third-party commercial carrier.*

7 *(d) Transmitted to the Commission by facsimile machine or*
8 *other electronic means authorized by the Commission. Filing by*
9 *facsimile machine or other electronic means is complete upon*
10 *receipt of the transmission by the Commission.*

11 *3. The Commission shall retain a disclosure filed pursuant to*
12 *this section for 6 years after the date on which the disclosure was*
13 *filed.*

14 **Sec. 27.** *The Commission may apply for and accept grants,*
15 *contributions, services or money for the purposes of carrying out*
16 *the provisions of this chapter only if the action is approved by a*
17 *majority vote in an open public meeting of the Commission.*

18 **Sec. 28.** (Deleted by amendment.)

19 **Sec. 29.** NRS 281A.030 is hereby amended to read as follows:

20 281A.030 As used in this chapter, unless the context otherwise
21 requires, the words and terms defined in NRS 281A.040 to
22 281A.170, inclusive, *and sections 18 to 24, inclusive, of this act*
23 *have the meanings ascribed to them in those sections.*

24 **Sec. 30.** NRS 281A.100 is hereby amended to read as follows:

25 281A.100 "Household" means an association of persons who
26 live in the same home or dwelling . ~~[-, sharing its expenses, and who~~
27 ~~are related by blood, adoption or marriage.]~~

28 **Sec. 31.** NRS 281A.125 is hereby amended to read as follows:

29 281A.125 "Member of a local legislative body" means a
30 member of a board of county commissioners, a governing body of a
31 city or a governing body of any other political subdivision who
32 performs any function that involves introducing, voting upon or
33 otherwise acting upon any matter of a permanent or general
34 character which may reflect public policy . ~~[and which is not~~
35 ~~typically restricted to identifiable persons or groups.]~~

36 **Sec. 32.** NRS 281A.160 is hereby amended to read as follows:

37 281A.160 1. "Public officer" means a person elected or
38 appointed to a position which:

39 (a) Is established by the Constitution of the State of Nevada, a
40 statute of this State or a charter or ordinance of any county, city or
41 other political subdivision; and

42 (b) Involves the exercise of a public power, trust or duty. ~~[As~~
43 ~~used in this section, "the]~~

44 **2. For the purposes of subsection 1:**



* S B 2 2 8 R 1 *

1 (a) *A position is established by the Constitution of the State of*
2 *Nevada, a statute of this State or a charter or ordinance of any*
3 *county, city or other political subdivision if the position is*
4 *established or created directly by the source of authority or if the*
5 *source of authority authorizes a public body or officer to establish*
6 *or create the position.*

7 (b) “The exercise of a public power, trust or duty” means:

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

11 (2) The expenditure of public money; and

12 (3) The administration of laws and rules of the State or any
13 county, city or other political subdivision.

14 ~~12-1~~ 3. “Public officer” includes, without limitation, a person
15 appointed, contracted with or otherwise employed, with or without
16 compensation, to perform the duties of a position which is a public
17 office or to serve in such a position on a temporary, interim or
18 acting basis.

19 4. “Public officer” does not include:

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

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

23 (c) Any member of a special district whose official duties do not
24 include the formulation of a budget for the district or the
25 authorization of the expenditure of the district’s money; or

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

27 ~~13-1~~ 5. “Public office” does not include an office held by:

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

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

31 (c) Any member of a special district whose official duties do not
32 include the formulation of a budget for the district or the
33 authorization of the expenditure of the district’s money; or

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

35 Sec. 33. NRS 281A.200 is hereby amended to read as follows:

36 281A.200 1. The Commission on Ethics, consisting of eight
37 members, is hereby created.

38 2. The Legislative Commission shall appoint to the
39 Commission four residents of the State, at least two of whom ~~are~~
40 *must be* former public officers ~~or~~ *or employees*, and at least one of
41 whom must be an attorney licensed to practice law in this State.

42 3. The Governor shall appoint to the Commission four
43 residents of the State, at least two of whom must be former public
44 officers or ~~public~~ employees, and at least one of whom must be an
45 attorney licensed to practice law in this State.



4. Not more than four members of the Commission may be members of the same political party. *The provisions of NRS 281.057 do not apply to this subsection.*

5. Not more than four members *of the Commission* may be residents of the same county.

~~16-1~~ 6. None of the members of the Commission may, while the member is serving on the Commission:

(a) Hold another public office;

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

(c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

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

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

(I) The appropriation of public money;

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

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

~~16-1~~ 7. 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. 34. NRS 281A.240 is hereby amended to read as follows:

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

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

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

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

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

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the



* S B 2 2 8 R 1 *

1 Executive Director shall emphasize that the Executive Director is
2 not a member of the Commission and that only the Commission
3 may issue opinions concerning the application of the statutory
4 ethical standards to any given set of facts and circumstances. The
5 Commission may charge a reasonable fee to cover the costs of
6 training provided by the Executive Director pursuant to this
7 subsection.

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

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

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

14 (b) The investigation of matters under the jurisdiction of the
15 Commission.

16 ***3. If the Executive Director is prohibited from acting on a***
17 ***particular matter or is otherwise unable to act on a particular***
18 ***matter, the Chair of the Commission shall designate a qualified***
19 ***person to perform the duties of the Executive Director with regard***
20 ***to that particular matter.***

21 **Sec. 35.** NRS 281A.260 is hereby amended to read as follows:

22 281A.260 1. The Commission Counsel is the legal adviser to
23 the Commission. For each opinion of the Commission, the
24 Commission Counsel shall prepare, at the direction of the
25 Commission, the appropriate findings of fact and conclusions as to
26 relevant standards and the propriety of particular conduct . ~~within~~
27 ~~the time set forth in subsection 6 of NRS 281A.440.~~ The
28 Commission Counsel shall not issue written opinions concerning the
29 applicability of the statutory ethical standards to a given set of facts
30 and circumstances except as directed by the Commission.

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

33 3. If the Commission Counsel is prohibited from acting on a
34 particular matter or is otherwise unable to act on a particular matter,
35 the Commission may:

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

38 (b) Employ outside legal counsel.

39 **Sec. 36.** NRS 281A.270 is hereby amended to read as follows:

40 281A.270 1. Each county whose population is 10,000 or
41 more and each city whose population is 15,000 or more and that is
42 located within such a county shall pay an assessment for the costs
43 incurred by the Commission each biennium in carrying out its
44 functions pursuant to this chapter. The total amount of money to be
45 derived from assessments paid pursuant to this subsection for a



1 biennium must be determined by the Legislature in the legislatively
2 approved budget of the Commission for that biennium. The
3 assessments must be apportioned among each such city and county
4 based on the proportion that the total population of the city or the
5 total population of the unincorporated area of the county bears to the
6 total population of all such cities and the unincorporated areas of all
7 such counties in this State.

8 2. On or before July 1 of each odd-numbered year, the
9 Executive Director shall, in consultation with the Budget Division
10 of the Department of Administration and the Fiscal Analysis
11 Division of the Legislative Counsel Bureau, determine for the next
12 ensuing biennium the amount of the assessments due for each city
13 and county that is required to pay an assessment pursuant to
14 subsection 1. The assessments must be paid to the Commission in
15 semiannual installments that are due on or before August 1 and
16 February 1 of each year of the biennium. The Executive Director
17 shall send out a billing statement to each such city or county which
18 states the amount of the semiannual installment payment due from
19 the city or county.

20 3. Any money that the Commission receives pursuant to
21 subsection 2:

22 (a) Must be deposited in the State Treasury, accounted for
23 separately in the State General Fund and credited to the budget
24 account for the Commission;

25 (b) May only be used to carry out the provisions of this chapter
26 and only to the extent authorized for expenditure by the Legislature;

27 ~~and~~

28 (c) Does not revert to the State General Fund at the end of any
29 fiscal year ~~+~~; and

30 (d) *Does not revert to a city or county if:*

31 (1) *The actual expenditures by the Commission are less*
32 *than the amount of the assessments approved by the Legislature*
33 *pursuant to subsection 1 and the city or county has already*
34 *remitted its semiannual installment to the Commission for the*
35 *billing period; or*

36 (2) *The budget of the Commission is modified after the*
37 *amount of the assessments has been approved by the Legislature*
38 *pursuant to subsection 1 and the city or county has already*
39 *remitted its semiannual installment to the Commission for the*
40 *billing period.*

41 4. If any installment payment is not paid on or before the date
42 on which it is due, the Executive Director shall make reasonable
43 efforts to collect the delinquent payment. If the Executive Director
44 is not able to collect the arrearage, the Executive Director shall
45 submit a claim for the amount of the unpaid installment payment to



* S B 2 2 8 R 1 *

1 the Department of Taxation. If the Department of Taxation receives
2 such a claim, the Department shall deduct the amount of the claim
3 from money that would otherwise be allocated from the Local
4 Government Tax Distribution Account to the city or county that
5 owes the installment payment and shall transfer that amount to the
6 Commission.

7 5. As used in this section, "population" means the current
8 population estimate for that city or county as determined and
9 published by the Department of Taxation and the demographer
10 employed pursuant to NRS 360.283.

11 **Sec. 37.** NRS 281A.290 is hereby amended to read as follows:

12 281A.290 The Commission shall:

13 1. Adopt ~~procedural~~ regulations:

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

15 (b) For the filing of a request for an opinion with the
16 Commission;

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

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

21 (e) *Specifying the information sufficient to satisfy the*
22 *disclosure requirements of subsection 1 of NRS 281A.420; and*

23 (f) *Which are proper and necessary to carry out the provisions*
24 *of this chapter.*

25 2. *Define by regulation the term "gift" for the purposes of*
26 *this chapter.*

27 3. Prescribe, by regulation, forms and procedures for the
28 submission of statements of acknowledgment filed by public
29 officers pursuant to NRS 281A.500, maintain files of such
30 statements and make the statements available for public inspection.

31 ~~3-1~~ 4. Cause the making of such investigations as are
32 reasonable and necessary for the rendition of its opinions pursuant
33 to this chapter.

34 ~~4-1~~ 5. Inform the Attorney General or district attorney of all
35 cases of noncompliance with the requirements of this chapter.

36 ~~5-1~~ 6. Recommend to the Legislature such further legislation
37 as the Commission considers desirable or necessary to promote and
38 maintain high standards of ethical conduct in government.

39 ~~6-1~~ 7. Publish a manual for the use of public officers and
40 employees that ~~contains:~~

41 ~~—(a) Hypothetical opinions which are abstracted from opinions~~
42 ~~rendered pursuant to subsection 1 of NRS 281A.440, for the future~~
43 ~~guidance of all persons concerned with ethical standards in~~
44 ~~government;~~



* S B 2 2 8 R 1 *

~~1 (b) Abstracts of selected opinions rendered pursuant to~~
~~2 subsection 2 of NRS 281A.440; and~~

~~3 (c) An abstract of~~ *explains* the requirements of this chapter.

4 ➔ The Legislative Counsel shall prepare annotations to this chapter
5 for inclusion in the Nevada Revised Statutes based on the ~~abstracts~~
6 ~~and~~ published opinions of the Commission.

7 **Sec. 38.** NRS 281A.300 is hereby amended to read as follows:

8 281A.300 1. The Chair and Vice Chair of the Commission
9 may administer oaths.

10 2. The Commission, upon majority vote, may issue a subpoena
11 to compel the attendance of a witness and the production of books
12 and papers. Upon the request of the Executive Director or the public
13 officer or ~~public~~ employee who is the subject of a request for an
14 opinion, the Chair or, in the Chair's absence, the Vice Chair, may
15 issue a subpoena to compel the attendance of a witness and the
16 production of books and papers. *A public officer or employee who*
17 *requests the issuance of a subpoena pursuant to this subsection*
18 *must serve the subpoena in the manner provided in the Nevada*
19 *Rules of Civil Procedure for service of subpoenas in a civil action*
20 *and must pay the costs of such service.*

21 3. Before issuing a subpoena to a public officer or ~~public~~
22 employee who is the subject of a request for an opinion ~~to~~ *to*
23 *compel his or her attendance as a witness or his or her production*
24 *of books or papers*, the Executive Director shall submit a written
25 request to the public officer or ~~public~~ employee requesting:

26 (a) The appearance of the public officer or ~~public~~ employee as
27 a witness; or

28 (b) The production by the public officer or ~~public~~ employee of
29 any books and papers relating to the request for an opinion.

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

43 5. If any witness refuses to attend, testify or produce any books
44 and papers as required by the subpoena, the Chair 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 the witness, 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 the witness 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. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 39. NRS 281A.400 is hereby amended to read as follows:

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

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

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for ~~the~~ :

(a) *The* public officer or employee ~~any~~ ;

(b) *Any* business entity in which the public officer or employee has a significant pecuniary interest ~~any~~ ; or

(c) *Any* person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. ~~As used in this subsection:~~

~~—(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private~~



~~capacity to the interests of others” in subsection 8 of NRS 281A.420.~~

~~—(b) “Unwarranted” means without justification or adequate reason.~~

3. A public officer or employee shall not participate as an agent of government in the negotiation, ~~for~~ execution *or approval* of a contract between the government and ~~any~~ :

(a) The public officer or employee;

(b) Any business entity in which the public officer or employee has a significant pecuniary interest ~~+~~ ; or

(c) Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of the public officer’s or employee’s *public* duties. ~~as a public officer or employee.~~

5. If a public officer or employee acquires, through the public officer’s or employee’s public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further ~~the~~ *a significant* pecuniary ~~interests of the~~ *interest of:*

(a) The public officer or employee ; or ~~any~~

(b) Any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other *official* document because it might tend to affect unfavorably ~~the public officer’s or employee’s~~ *a significant* pecuniary ~~interests~~ *interest of:*

(a) The public officer or employee;

(b) Any business entity in which the public officer or employee has a significant pecuniary interest; or

(c) Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit ~~the public officer’s or employee’s~~ *a significant* personal or ~~financial~~ *pecuniary* interest ~~+~~ *of the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.* This subsection does not prohibit:

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



* S B 2 2 8 R 1 *

(1) The public officer *or employee* 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 the public officer's or employee's 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 State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator 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 the State Legislator's 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 State Legislator or legislative employee to perform that person's official duties; or

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

9. A public officer or employee shall not , *through the influence of a subordinate*, attempt to benefit ~~the public officer's~~



* S B 2 2 8 R 1 *

~~or employee's~~ a significant personal or ~~financial~~ pecuniary interest ~~[through the influence]~~ of ~~[a subordinate]~~.

~~10. A :~~

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest; or*

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

10. Except as otherwise provided in this subsection, a public officer or employee shall not *use the public officer's or employee's position in government to* seek other employment or contracts ~~[through the use of the public officer's or employee's official position]~~ for:

(a) *The public officer or employee;*

(b) *Any business entity in which the public officer or employee has a significant pecuniary interest; or*

(c) *Any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person.*

↪ *A public officer or employee may state or affirm that he or she holds a position as a public officer or employee and may describe or discuss his or her functions, duties and experiences as a public officer or employee, including, without limitation, providing such information on a resume or other application for future employment or appointment or election to a public office.*

11. *A public officer or employee shall not concurrently serve as a public officer or employee and hold a separate public office in which he or she exercises controlling influence over his or her employer or supervisor or the operation and activities of the agency by which he or she is employed.*

Sec. 40. NRS 281A.410 is hereby amended to read as follows:

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

1. ~~[If]~~ *Except as otherwise provided in this section,* a public officer or employee ~~[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] :~~

(a) *Accept additional* compensation ~~[from any private person]~~ to represent or counsel ~~[the]~~ a private person on any issue pending before *the Legislature or any agency, including* the agency in which that public officer or employee serves ; ~~[; if the agency makes decisions:]~~ and

(b) If the public officer or employee leaves the service of ~~[the]~~ an agency, ~~[shall not]~~ for 1 year after ~~[leaving the service of the agency, represent or counsel for]~~ the termination of his or her



1 *service, accept compensation to represent or counsel* a private
2 person ~~upon~~ *on* any issue which was under consideration by the
3 agency during the public officer's or employee's service. As used in
4 this paragraph, "issue" includes a case, proceeding, application,
5 contract or determination, but does not include the proposal or
6 consideration of legislative measures or administrative regulations.

7 2. A State Legislator or a member of a local legislative body,
8 or a public officer or employee whose public service requires less
9 than half of his or her time, may represent or counsel a private
10 person before an agency in which he or she does not serve ~~[- Any~~
11 ~~other]~~ *, except that a member of a local legislative body [public*
12 ~~officer or employee]~~ shall not represent or counsel a private person
13 for compensation before any ~~[state agency of the Executive or~~
14 ~~Legislative Department.~~

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

20 ~~—(a) The name of the client;~~

21 ~~—(b) The nature of the representation; and~~

22 ~~—(c) The name of the state agency.~~

23 ~~—4. The disclosure required by subsection 3 must be made in~~
24 ~~writing and filed with the Commission on a form prescribed by the~~
25 ~~Commission. For the purposes of this subsection, the disclosure is~~
26 ~~timely filed if, on or before the last day for filing, the disclosure is~~
27 ~~filed in one of the following ways:~~

28 ~~—(a) Delivered in person to the principal office of the~~
29 ~~Commission in Carson City.~~

30 ~~—(b) Mailed to the Commission by first class mail, or other class~~
31 ~~of mail that is at least as expeditious, postage prepaid. Filing by mail~~
32 ~~is complete upon timely depositing the disclosure with the United~~
33 ~~States Postal Service.~~

34 ~~—(c) Dispatched to a third party commercial carrier for delivery to~~
35 ~~the Commission within 3 calendar days. Filing by third party~~
36 ~~commercial carrier is complete upon timely depositing the~~
37 ~~disclosure with the third party commercial carrier.~~

38 ~~—5. The Commission shall retain a disclosure filed pursuant to~~
39 ~~subsections 3 and 4 for 6 years after the date on which the disclosure~~
40 ~~was filed.] local agency in the county in which he or she serves.~~

41 3. *A former member of the Public Utilities Commission of*
42 *Nevada shall not:*

43 (a) *Accept any compensation from a public utility or parent*
44 *organization or subsidiary of a public utility; or*



* S B 2 2 8 R 1 *

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

4 ↳ *for 1 year after the termination of the member's service on the*
5 *Public Utilities Commission of Nevada.*

6 4. *A former member of the State Gaming Control Board or*
7 *the Nevada Gaming Commission shall not:*

8 (a) *Accept any compensation from a person who holds a*
9 *license issued pursuant to chapter 463 or 464 of NRS or who is*
10 *required to register with the Nevada Gaming Commission*
11 *pursuant to chapter 463 of NRS; or*

12 (b) *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,*

17 ↳ *for 1 year after the termination of the member's service on the*
18 *State Gaming Control Board or the Nevada Gaming Commission.*

19 5. *In addition to the other prohibitions set forth in this*
20 *section, and except as otherwise provided in subsection 6, a former*
21 *public officer or employee of an agency, except a clerical*
22 *employee, shall not solicit or accept compensation from a person*
23 *or entity whose activities are governed by, or which is a part of a*
24 *business or industry whose activities are governed by, regulations*
25 *or local ordinances adopted by the agency for 1 year after the*
26 *termination of the former public officer's or employee's service or*
27 *period of employment if:*

28 (a) *During the immediately preceding year, the former public*
29 *officer's or employee's principal duties included the formulation*
30 *of policy contained in the regulations or local ordinances*
31 *governing that business or industry;*

32 (b) *During the immediately preceding year, the former public*
33 *officer or employee directly performed activities, or controlled or*
34 *influenced an audit, decision, investigation or other action, which*
35 *significantly affected the person or entity which is a part of that*
36 *business or industry; or*

37 (c) *As a result of the former public officer's or employee's*
38 *governmental service or employment, the former public officer or*
39 *employee possesses knowledge of the trade secrets of a direct*
40 *competitor in that business or industry.*

41 6. *The provisions of subsection 5 do not apply to a former*
42 *public officer who was a member of:*

43 (a) *The governing body of a state agency or an advisory body*
44 *thereto if:*



* S B 2 2 8 R 1 *

1 (1) *The governing body or the advisory body thereto*
2 *performs any function that involves introducing, voting upon or*
3 *otherwise acting upon any matter of a permanent or general*
4 *character which may reflect public policy; or*

5 (2) *The former public officer:*

6 (I) *Is engaged in the profession, occupation or business*
7 *regulated by the state agency;*

8 (II) *Holds a license issued by the state agency; and*

9 (III) *Is required to hold a license issued by the state*
10 *agency as a requirement for membership on the governing body of*
11 *the state agency.*

12 (b) *A local legislative body or an advisory body thereto.*

13 7. *In addition to the other prohibitions set forth in this*
14 *section, a former public officer or employee of an agency, except a*
15 *clerical employee, shall not solicit or accept compensation from a*
16 *person to whom a contract for supplies, materials, equipment or*
17 *services was awarded by the agency for 1 year after the*
18 *termination of the public officer's or employee's service or period*
19 *of employment, if:*

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

21 (b) *The contract was awarded within the 12-month period*
22 *immediately preceding the termination of the public officer's or*
23 *employee's service or period of employment; and*

24 (c) *The position held by the former public officer or employee*
25 *at the time the contract was awarded allowed for the former public*
26 *officer or employee to affect or influence the awarding of the*
27 *contract.*

28 8. *The Commission may relieve a current or former public*
29 *officer or employee from the strict application of the provisions of*
30 *this section if:*

31 (a) *The current or former public officer or employee requests*
32 *an opinion from the Commission pursuant to subsection 1 of NRS*
33 *281A.440; and*

34 (b) *The Commission determines that such relief is not contrary*
35 *to:*

36 (1) *The best interests of the public;*

37 (2) *The continued ethical integrity of the agency; and*

38 (3) *The provisions of this chapter.*

39 9. *As used in this section:*

40 (a) *"Local ordinance" means any ordinance, code or other*
41 *governing law adopted by a local agency.*

42 (b) *"Regulation" has the meaning ascribed to it in NRS*
43 *233B.038 and also includes regulations adopted by an agency that*
44 *is not subject to the requirements of chapter 233B of NRS.*



* S B 2 2 8 R 1 *

1 **Sec. 41.** NRS 281A.420 is hereby amended to read as follows:

2 281A.420 1. Except as otherwise provided in this section, a
3 public officer or employee shall not approve, disapprove, vote,
4 abstain from voting or otherwise act upon a matter:

5 (a) Regarding which the public officer or employee has accepted
6 a gift or loan;

7 (b) In which the public officer or employee has a *significant*
8 pecuniary interest; or

9 (c) Which would reasonably be affected by the public officer's
10 or employee's commitment in a private capacity to the ~~interest of~~
11 ~~others,~~ *interests of another person,*

12 ↳ without disclosing ~~sufficient~~ information concerning the gift ~~or~~
13 or loan, *significant pecuniary* interest or commitment *in a private*
14 *capacity to the interests of the person that is sufficient* to inform
15 the public of the potential effect of the action or abstention upon the
16 person who provided the gift or loan, upon the public officer's or
17 employee's *significant* pecuniary interest, or upon the ~~persons~~
18 *person* to whom the public officer or employee has a commitment in
19 a private capacity. Such a disclosure must be made at the time the
20 matter is considered. If the public officer or employee is a member
21 of a body which makes decisions, the public officer or employee
22 shall make the disclosure in public to the chair and other members
23 of the body. If the public officer or employee is not a member of
24 such a body and holds an appointive office, the public officer or
25 employee shall make the disclosure to the supervisory head of the
26 public officer's or employee's organization or, if the public officer
27 holds an elective office, to the general public in the area from which
28 the public officer is elected.

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

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

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

35 3. Except as otherwise provided in this section, in addition to
36 the requirements of subsection 1, a public officer shall not vote upon
37 or advocate the passage or failure of, but may otherwise participate
38 in the consideration of, a matter with respect to which the
39 independence of judgment of a reasonable person in the public
40 officer's situation would be materially affected by:

41 (a) The public officer's acceptance of a gift or loan;

42 (b) The public officer's *significant* pecuniary interest; or

43 (c) The public officer's commitment in a private capacity to the
44 interests of ~~others,~~ *another person.*

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



* S B 2 2 8 R 1 *

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's *acceptance of a gift or loan, significant* pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others~~ *another person* where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of ~~others~~ *another person*, accruing to the other ~~persons~~ *person*, is not greater than that accruing to any other member of ~~the~~ *any* general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of ~~others~~ *another person*.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which ~~favours~~ :

(1) *Favors* the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, ~~the public officer's~~ *significant* pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others~~ *another person* in the manner required by subsection 1 ~~Because~~ ; and

(2) *Acknowledges that* abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs . ~~the provisions of this section are intended to require abstention 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 public officer's acceptance of a gift or loan, the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others.~~

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 the public officer 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. 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 the public officer’s or employee’s household;~~

~~—(2) Who is related to the public officer or employee by blood, adoption or marriage within the third degree of consanguinity or affinity;~~

~~—(3) Who employs the public officer or employee or a member of the public officer’s or employee’s household;~~

~~—(4) With whom the public officer or employee 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† , “public~~ officer” and “public employee” do not include a State Legislator.

Sec. 42. NRS 281A.430 is hereby amended to read as follows:

281A.430 1. ~~†Except†~~ *Notwithstanding the provisions of NRS 281.221 and 281.230, and except* as otherwise provided in this section and NRS ~~†281A.530†~~ *218A.970* and 332.800, a public officer or employee shall not , *directly or through a third party, perform any contract,* bid on or enter into ~~†a†~~ *any contract or modify or renew any contract if:*

(a) The contract is between †a governmental† the agency in which the public officer or employee serves and †any† :

(1) The public officer or employee; or

(2) Any business entity in which the public officer or employee has a significant pecuniary interest †† ; or



(b) The contract is between an agency that has any connection, relation or affiliation with the agency in which the public officer or employee serves and:

(1) The public officer or employee; or

(2) Any business entity in which the public officer or employee has a significant pecuniary interest,
↳ if the duties or services to be performed or provided for the agency pursuant to the contract are the same or similar duties performed by the public officer or employee for the agency in which he or she serves.

2. A ~~member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.~~ public officer or employee may perform a contract, bid on or enter into a contract or modify or renew a contract with an agency in which the public officer or employee serves, or a related agency as described in paragraph (b) of subsection 1, if:

(a) The contract is subject to competitive selection and, at the time the contract is bid on, entered into, modified or renewed:

(1) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not used as a result of the applicability of NRS 332.112 or 332.148;

(2) The sources of supply are limited and no other person expresses an interest in the contract;

(3) The public officer or employee has not taken part in developing the contract plans or specifications; and

(4) The public officer or employee is not personally involved in opening, considering or accepting offers.

(b) The contract, by its nature, is not adapted to be awarded by competitive selection and, at the time the contract is bid on, entered into, modified or renewed:

(1) The public officer or employee has not taken part in developing the contract plans or specifications and is not personally involved in opening, considering, or accepting offers; and

(2) The contract:

(1) Has been approved by the agency through the application of internal procedures in which a public officer or employee may obtain approval to engage in such contracts; or



(II) Is not exclusive to the public officer or employee and is the type of contract that is available to all persons with the requisite qualifications.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may *perform a contract*, bid on or enter into a contract *or modify or renew a contract* with ~~†a governmental†~~ *an* agency, or may benefit financially or otherwise from a contract between ~~†a governmental†~~ *an* agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

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

~~—(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;~~

~~—(b) The sources of supply are limited;~~

~~—(c) The public officer or employee has not taken part in developing the contract plans or specifications; and~~

~~—(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.~~

~~†~~ If a public officer who is authorized to *perform a contract*, bid on or enter into a contract *or modify or renew a contract* with ~~†a governmental†~~ *an* agency pursuant to this ~~†subsection†~~ *section* is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. *A public officer who is a member of the governing body of any county, city or other political subdivision shall not sell goods or services to the county, city or other political subdivision unless:*

(a) The public officer, or an entity in which the public officer has a significant pecuniary interest, offers the sole source of supply of the goods or services within the area served by the governing body; and

(b) The governing body:

(1) Issues a public notice of the meeting which specifically mentions that such a purchase of goods or services will be considered; and

(2) Approves the purchase in accordance with the applicable provisions of law.

6. *The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:*



(a) *The public officer or employee requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and*

(b) *The Commission determines that such relief is not contrary to:*

(1) *The best interests of the public;*

(2) *The continued ethical integrity of the agency; and*

(3) *The provisions of this chapter.*

7. *As used in this section, "contract, by its nature, is not adapted to be awarded by competitive selection" includes, without limitation:*

(a) *A contract for services which may only be contracted from a sole or limited source;*

(b) *A contract for professional services, including, without limitation, a contract for the services of:*

(1) *An expert witness;*

(2) *A professional engineer;*

(3) *A registered architect;*

(4) *An attorney;*

(5) *An accountant; or*

(6) *Any other professional, if the services of that professional are not adapted to competitive selection;*

(c) *A contract for services necessitated by an emergency affecting the national, state or local defense or an emergency caused by a natural or human-caused disaster or any other unforeseeable circumstances; or*

(d) *Any other contract which is open or available to the public at large.*

Sec. 43. NRS 281A.440 is hereby amended to read as follows:

281A.440 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as ~~an~~ *a public* officer or employee, unless the public officer or employee waives the time limit. ~~¶The public officer or employee may also request the Commission to hold a public hearing regarding the requested opinion.¶~~ If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to the requester's future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance 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 who is the subject of the request and provide the public
30 officer or employee an opportunity to submit to the Executive
31 Director a response to the allegations against the public officer or
32 employee within 30 days after the date on which the public officer
33 or employee received the notice of the request. The purpose of the
34 response is to provide the Executive Director with any information
35 relevant to the request which the public officer or employee believes
36 may 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 defense,
40 in law or fact, to the allegations against the public officer or
41 employee and no objection or defense, in law or fact, is waived,
42 abandoned or barred by the failure to assert, claim or raise it in the
43 response or in any proceeding before the investigatory panel.

44 4. The Executive Director shall complete the investigation and
45 present a *written* recommendation relating to just and sufficient



* S B 2 2 8 R 1 *

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

16 5. Within 15 days after the Executive Director has provided the
17 ~~[Executive Director's]~~ *written* recommendation in the matter to the
18 investigatory panel ~~[]~~ *pursuant to subsection 4,* the investigatory
19 panel shall *conclude the investigation and* make a final
20 determination regarding whether there is just and sufficient cause
21 for the Commission to render an opinion in the matter, unless the
22 public officer or employee waives this time limit. The investigatory
23 panel shall not determine that there is just and sufficient cause for
24 the Commission to render an opinion in the matter unless the
25 Executive Director has provided the public officer or employee an
26 opportunity to respond to the allegations against the public officer or
27 employee as required by subsection 3. The investigatory panel shall
28 cause a record of its proceedings in each matter to be kept . ~~[] and~~
29 ~~such a record must remain confidential until the investigatory panel~~
30 ~~determines whether there is just and sufficient cause for the~~
31 ~~Commission to render an opinion in the matter.]~~

32 6. If the investigatory panel determines that there is just and
33 sufficient cause for the Commission to render an opinion in the
34 matter, the Commission shall hold a hearing and render an opinion
35 in the matter within 60 days after the determination of just and
36 sufficient cause by the investigatory panel, unless the public officer or
37 employee waives this time limit.

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

44 (a) Acts in contravention of the opinion, in which case the
45 Commission may disclose the request for the opinion, the contents



1 of the opinion and any motion, evidence or record of a hearing
2 related thereto;

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

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

9 8. Except as otherwise provided in ~~this~~ subsection ~~each~~
10 ~~document~~ *9, all information, communications, records,*
11 *documents or other material* in the possession of the Commission
12 or its staff that is related to a request for an opinion regarding a
13 public officer or employee submitted to or initiated by the
14 Commission pursuant to subsection 2, including, without limitation,
15 ~~the Commission's copy of the request~~ *the record of the*
16 *proceedings of the investigatory panel* ~~and all materials and~~
17 ~~information gathered in an investigation of the request, is~~ *made*
18 *pursuant to subsection 5, are confidential and not public records*
19 *pursuant to chapter 239 of NRS until the :*

20 (a) *The* investigatory panel determines whether there is just and
21 sufficient cause to render an opinion in the matter ~~The~~ *and serves*
22 *written notice of such a determination on the public officer or*
23 *employee who is the subject of the request for an opinion*
24 *submitted or initiated pursuant to subsection 2; or*

25 (b) *The* public officer or employee who is the subject of a
26 request for an opinion submitted or initiated pursuant to subsection
27 2 ~~may in writing authorize~~ *authorizes* the Commission *in writing*
28 to make its ~~files, material and~~ *information, communications,*
29 *records, documents or other material* which are related to the
30 request publicly available ~~it~~ ,

31 *whichever occurs first.*

32 9. Except as otherwise provided in ~~paragraphs (a) and (b), the~~
33 ~~proceedings of the investigatory panel are~~ *this section, the*
34 *investigative file of the Commission is confidential. until* *At any*
35 *time after being served with written notice of the determination of*
36 *the investigatory panel determines whether there is* *regarding the*
37 *existence of* just and sufficient cause *for the Commission* to render
38 an opinion in the matter ~~A person who:~~

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

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

, the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the matter becomes a public record as provided in chapter 239 of NRS.

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 the person's 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.

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 the Executive Director 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.

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 the person will testify truthfully,

➔ the Commission may decline to render an opinion.



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

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

7 15. A meeting or hearing that the Commission or the
8 investigatory panel holds to receive information or evidence
9 concerning the propriety of the conduct of a public officer or
10 employee pursuant to this section and the deliberations of the
11 Commission and the investigatory panel on such information or
12 evidence are not subject to the provisions of chapter 241 of NRS.

13 *16. For the purposes of this section, the investigative file of*
14 *the Commission which relates to a request for an opinion*
15 *regarding a public officer or employee includes, without*
16 *limitation, any information obtained by the Commission through*
17 *any form of communication during the course of an investigation*
18 *and any records, documents or other material created or*
19 *maintained during the course of an investigation which relate to*
20 *the public officer or employee who is the subject of the request for*
21 *an opinion, regardless of whether such information, records,*
22 *documents or other material are obtained by a subpoena.*

23 **Sec. 44.** NRS 281A.470 is hereby amended to read as follows:

24 281A.470 1. Any ~~{department, board, commission or other}~~
25 *state* agency ~~{of the State}~~ or the governing body of a county or an
26 incorporated city may establish a specialized or local ethics
27 committee to complement the functions of the Commission. A
28 specialized or local ethics committee may:

29 (a) Establish a code of ethical standards suitable for the
30 particular ethical problems encountered in its sphere of activity. The
31 standards may not be less restrictive than the statutory ethical
32 standards.

33 (b) Render an opinion upon the request of any public officer or
34 employee of its own organization or level seeking an interpretation
35 of its ethical standards on questions directly related to the propriety
36 of the public officer's or employee's own future official conduct or
37 refer the request to the Commission. Any public officer or employee
38 subject to the jurisdiction of the committee shall direct the public
39 officer's or employee's inquiry to that committee instead of the
40 Commission.

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

44 (1) Submitted, at least 60 days before its anticipated
45 distribution, to the Secretary of State for review; and



(2) Upon review, approved by the Secretary of State. *The Secretary of State shall not approve the form unless the form contains all the information required to be included in a statement of financial disclosure pursuant to NRS 281.571.*

2. *The Secretary of State is not responsible for the costs of producing or distributing a form for filing a statement of financial disclosure pursuant to the provisions of subsection 1.*

3. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

~~3.1~~ 4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

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

(b) The requester discloses the content of the opinion.

Sec. 45. NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other 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 who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

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

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:



* S B 2 2 8 R 1 *

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

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

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

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker Pro Tempore of the Assembly or the President Pro Tempore of the Senate, as appropriate.

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

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

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

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

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



(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by the public body *on* which the public officer ~~represents~~ *serves* or by the employer of the public employee ~~for upon the manual published by the Commission pursuant to NRS 281A.290;~~

~~—(b) The public officer or employee was unable, through no fault of the public officer or employee, to obtain an opinion from the Commission before the action was taken;~~ and

~~(c)~~ (b) The public officer or employee took action that was not contrary to a prior published opinion issued by the Commission.

6. In addition to any other penalties provided by law, a public employee who commits a willful violation of this chapter is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

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

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

Sec. 46. NRS 281A.500 is hereby amended to read as follows:

281A.500 1. *On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:*

(a) *For an appointed public officer, the appointing authority of the public officer; and*

(b) *For an elected public officer of:*

(1) *The county and other political subdivisions within the county except cities, the county clerk;*

(2) *The city, the city clerk;*

(3) *The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and*



(4) The Executive Department of the State Government, the Chief of the Budget Division of the Department of Administration.

2. Within 30 days after a public employee begins employment:

(a) The Administrator of the Division of Human Resource Management of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

3. Within 6 months after the date on which a public officer swears or affirms the oath of office or a public employee of a state agency begins employment, the public officer or employee shall complete a course on the statutory ethical standards conducted by the Executive Director pursuant to NRS 281A.240 or by a designee of the Executive Director.

4. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

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

~~12-1~~ *5. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:*

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer ~~takes~~ swears or affirms the oath of office.

~~13-1~~ *6. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer ~~takes~~ swears or affirms the oath of office in accordance with subsection ~~12-1~~ 5, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.*



* S B 2 2 8 R 1 *

~~14-1~~ 7. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is : ~~filed in one of the following ways:~~

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

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

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

~~15-1~~ (d) *Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.*

8. The form for making the acknowledgment must contain:

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

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

~~16-1~~ 9. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a ~~hard~~ *printed* copy of the form for making the acknowledgment, a ~~hard~~ *printed* copy of the statutory ethical standards must be included with the form.

~~17-1~~ 10. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~18-1~~ 11. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

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

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.



1 ~~19-1~~ 12. As used in this section, "general election" has the
2 meaning ascribed to it in NRS 293.060.

3 **Sec. 47.** NRS 281A.540 is hereby amended to read as follows:

4 281A.540 ~~11-1~~ In addition to any other penalties provided by
5 law, ~~1a1~~ **any** governmental grant, contract or lease ~~entered into in~~
6 ~~violation of this chapter is voidable by the State, county, city or~~
7 ~~political subdivision. In a determination under this section of~~
8 ~~whether to void a grant, contract or lease, the interests of innocent~~
9 ~~third parties who could be damaged must be taken into account. The~~
10 ~~Attorney General, district attorney or city attorney must give notice~~
11 ~~of the intent to void a grant, contract or lease under this section no~~
12 ~~later than 30 days after the Commission has determined that there~~
13 ~~has been a related violation of this chapter.~~

14 ~~—2.— In addition to any other penalties provided by law, a contract~~
15 ~~prohibited by NRS 281.230 which is knowingly entered into by a~~
16 ~~person designated in subsection 1 of NRS 281.230 is void.~~

17 ~~—3.— Any action taken by the State in violation of this chapter is~~
18 ~~voidable, except that the interests of innocent third parties in the~~
19 ~~nature of the violation must be taken into account. The Attorney~~
20 ~~General may also pursue any other available legal or equitable~~
21 ~~remedies.~~

22 ~~—4.— In addition to any other penalties provided by law, the~~
23 ~~Attorney General may recover any fee, compensation, gift or benefit~~
24 ~~received by a person as a result of a violation of this chapter by a~~
25 ~~public officer. An action to recover pursuant to this section must be~~
26 ~~brought within 2 years after the violation or reasonable discovery of~~
27 ~~the violation.~~ **made or other governmental action taken in**
28 **violation of this chapter may be declared void pursuant to section**
29 **11 of this act.**

30 **Sec. 48.** NRS 218D.175 is hereby amended to read as follows:

31 218D.175 1. For a regular session, the Governor or the
32 Governor's designated representative may request the drafting of
33 not more than 100 legislative measures which have been approved
34 by the Governor or the Governor's designated representative on
35 behalf of the officers, agencies, boards, commissions, departments
36 and other units of the Executive Department. The requests must be
37 submitted to the Legislative Counsel on or before September 1
38 preceding the regular session.

39 2. The Department of Administration may request on or before
40 the 19th day of a regular session, without limitation, the drafting of
41 as many legislative measures as are necessary to implement the
42 budget proposed by the Governor and to provide for the fiscal
43 management of the State. In addition to the requests otherwise
44 authorized pursuant to this section, the Governor may request the
45 drafting of not more than 5 legislative measures on or before the



19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

Lieutenant Governor.....	1
Secretary of State.....	5
State Treasurer.....	2
State Controller.....	2
Attorney General	15

4. *For a regular session, the Commission on Ethics created by NRS 281A.200 may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than two legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.*

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1, ~~and~~ 3 and 4 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Sec. 49. NRS 245.075 is hereby amended to read as follows:

245.075 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~1, 281A.5301~~ and 332.800, it is unlawful for any county officer, *directly or indirectly*, to be interested in any contract made by the county officer or ~~to~~ be a purchaser or ~~be~~ interested in any purchase of a sale made by the county officer in the discharge of his or her official duties.

2. Any contract made in violation of ~~subsection 1~~ *this section* may be declared void at the instance of the county interested or of any other person interested in the contract except the officer prohibited from making or being interested in the contract.

3. Any person ~~violating~~ *who violates* this section ~~1, directly or indirectly,~~ is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 50. NRS 268.384 is hereby amended to read as follows:

268.384 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~1, 281A.5301~~ and 332.800, it is unlawful for any city officer, *directly or indirectly*, to be interested in any contract made



* S B 2 2 8 R 1 *

1 by the city officer ~~||~~ or to be a purchaser or interested ~~|| directly or~~
2 ~~indirectly. ||~~ in any purchase of a sale made by the city officer in the
3 discharge of *his or her* official duties.

4 2. Any person ~~||violating||~~ *who violates* this section is guilty of
5 a gross misdemeanor and shall forfeit his or her office.

6 **Sec. 51.** NRS 268.386 is hereby amended to read as follows:

7 268.386 Any contract made in violation of NRS 268.384 may
8 be declared void at the instance of the city interested or of any other
9 person interested in the contract except ~~||and||~~ *the* officer prohibited
10 from making or being interested in the contract.

11 **Sec. 52.** NRS 269.071 is hereby amended to read as follows:

12 269.071 1. ~~||~~ *Except as otherwise provided in NRS*
13 *281.230, 281A.430 and 332.800, it* is unlawful for any member of a
14 town board or board of county commissioners acting for any town to
15 become a contractor under any contract or order for supplies or any
16 other kind of contract authorized by or for the board of which he or
17 she is a member, or to be interested, directly or indirectly, as
18 principal ~~||~~ in any kind of contract so authorized.

19 2. Any person ~~||violating subsection ||~~ *who violates this*
20 *section* is guilty of a gross misdemeanor and shall forfeit his or her
21 office.

22 **Sec. 53.** NRS 269.072 is hereby amended to read as follows:

23 269.072 1. ~~||~~ *Except as otherwise provided in NRS*
24 *281.230, 281A.430 and 332.800, it* is unlawful for any town officer,
25 directly or indirectly, to be interested in any contract made by the
26 town officer ~~||~~ or *to* be a purchaser or ~~||be||~~ interested in any
27 purchase under a sale made by the town officer in the discharge of
28 *his or her* official duties.

29 2. Any person ~~||violating subsection ||~~ *who violates this*
30 *section* is guilty of a gross misdemeanor and shall forfeit his or her
31 office.

32 **Sec. 54.** NRS 269.073 is hereby amended to read as follows:

33 269.073 Any contract made in violation of NRS 269.071 or
34 269.072 may be declared void at the instance of the town or any
35 person interested in the contract except ~~||and||~~ *the* officer prohibited
36 from making or being interested in the contract.

37 **Sec. 55.** NRS 332.800 is hereby amended to read as follows:

38 332.800 1. Except as otherwise provided in NRS 281.230 ~~||~~
39 *and* 281A.430 , ~~||and 281A.530. ||~~ a member of the governing body
40 may not be interested, directly or indirectly, in any contract entered
41 into by the governing body, but the governing body may purchase
42 supplies, not to exceed \$1,500 in the aggregate in any 1 calendar
43 month from a member of such governing body ~~||~~ when not to do so
44 would be of great inconvenience due to a lack of any other local
45 source.



2. An evaluator may not be interested, directly or indirectly, in any contract awarded by such governing body or its authorized representative.

3. A member of a governing body who furnishes supplies in the manner permitted by subsection 1 may not vote on the allowance of the claim for such supplies.

4. A ~~violation of~~ *person who violates* this section is *guilty of* a misdemeanor and, in the case of a member of a governing body, *a violation is* cause for removal from office.

Sec. 56. NRS 281A.530 and 281A.550 are hereby repealed.

Sec. 56.5. 1. Except as otherwise provided in subsection 2, the provisions of subsection 5 of NRS 281A.410, as amended by section 40 of this act, do not apply to the service or employment of a public officer or employee who is serving or is employed by a local agency before January 1, 2014.

2. A public officer or employee who otherwise meets the requirements set forth in subsection 1 but who, on or after January 1, 2014, begins serving as a public officer or begins working as an employee of another state or local agency is subject to the provisions of subsection 5 of NRS 281A.410, as amended by section 40 of this act, with respect to such subsequent service or employment.

Sec. 57. 1. This section and sections 1 to 10, inclusive, 14 to 38, inclusive, 41 and 43 to 48, inclusive, of this act become effective upon passage and approval.

2. Sections 11, 12, 13, 39, 40, 42 and 49 to 56.5, inclusive, of this act become effective on January 1, 2014.

TEXT OF REPEALED SECTIONS

281A.530 Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions. The purchase of goods or services by a local government upon a two-thirds vote of its governing body from a member of the governing body who is the sole source of supply within the area served by the governing body is not unlawful or unethical if the public notice of the meeting specifically mentioned that such a purchase would be discussed.



281A.550 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.

1. A former member of the Public Utilities Commission of Nevada shall not:

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

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

↳ for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

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

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

(b) Be employed by such a person,

↳ for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.

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

(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;

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

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or



* S B 2 2 8 R 1 *

employee possesses knowledge of the trade secrets of a direct business competitor.

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

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

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

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

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

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

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

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

6. A current or former public officer or employee may request that the Commission apply the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

(a) The best interests of the public;

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

(c) The provisions of this chapter,

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



* S B 2 2 8 R 1 *

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

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

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

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

8. A meeting or hearing that the Commission or an investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a current or former 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.

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

