

Amendment No. 526

Senate Amendment to Senate Bill No. 84 (BDR 23-250)

Proposed by: Senate Committee on Legislative Operations and Elections

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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

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

KCP



Date: 4/24/2017

S.B. No. 84—Makes various changes relating to ethics in government.

(BDR 23-250)



SENATE BILL NO. 84—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to ethics in government.
(BDR 23-250)

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

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

AN ACT relating to ethics in government; revising certain procedures of the Commission on Ethics and the remedial authority of the Commission; designating certain persons as public officers ***and employees*** for the purposes of the Nevada Ethics in Government Law; revising the code of ethical standards applicable to public officers and employees; ***revising provisions governing the disclosure of certain information and the filing of certain disclosure statements by public officers and employees;*** providing for the execution and filing by a public officer of a single acknowledgment of statutory ethical standards for all public offices held concurrently by the officer; revising provisions relating to the employment of former public officers and employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law permits a public officer or employee, a member of the public, a specialized or local ethics committee, or~~ ***Under the Nevada Ethics in Government Law (Ethics Law),*** the Commission on Ethics ~~itself to request or initiate an opinion from the Commission~~ ***is authorized to issue opinions*** interpreting the ***statutory*** ethical standards ~~for the Nevada Ethics in Government~~ ***established by the Ethics Law*** and applying those standards to a given set of facts. ~~Except for a request made by the affected public officer or employee, the Executive Director of the Commission is required to conduct an investigation and make a recommendation to an investigatory panel, consisting of two members of the Commission, about whether there is just and sufficient cause for the Commission to render an opinion in the matter. In the same section of statute, existing law sets forth rules of confidentiality for the proceedings and records of the Commission, discovery and the conduct of a hearing by the Commission. (NRS 281A.440) Sections 2-14, 21 and~~ ***and circumstances. (Chapter 281A of NRS) The Commission generally issues the following types of opinions: (1) advisory opinions requested by a public officer or employee who is seeking guidance on matters which directly relate to the propriety of his or her own past, present or future conduct under the statutory ethical standards; (2) advisory opinions requested by a public officer***

or employee who is requesting relief from certain provisions of the Ethics Law that allow the Commission to grant such relief; and (3) opinions issued in response to an ethics complaint which has been filed with the Commission or initiated by the Commission on its own motion regarding the propriety of the conduct of a public officer or employee under the statutory ethical standards. (NRS 281A.410, 281A.430, 281A.440, 281A.550)

The Ethics Law also establishes various procedures that the Commission and its staff must follow when processing, handling, investigating, reviewing, evaluating and adjudicating requests for advisory opinions and ethics complaints. (NRS 281A.440-281A.480) Most of those procedures are contained in a single section of the Nevada Revised Statutes, NRS 281A.440, which embraces numerous and extensive procedural provisions governing: (1) the filing of requests for advisory opinions and ethics complaints; (2) the initial review and evaluation of such requests and complaints; (3) the requirements for responding to such requests and complaints; and (4) the procedures and standards for conducting investigations, making discovery requests, disclosing information, holding hearings and other proceedings and determining issues of confidentiality with regard to such information, hearings and proceedings. Because NRS 281A.440 includes so many extensive procedural provisions, it has become a particularly lengthy and complex statute.

Section 30 of this bill repeals NRS 281A.440, and sections 1.3-11 and 14 of this bill generally reorganize and reenact the existing ~~1~~ lengthy section and reenact those provisions in more condensed form, and they also remove or repeal the provisions relating to the investigative panels. Sections 1.7, 10, 28 and 29 of this bill make conforming changes. Pursuant to section 4, the Executive Director is required to report the results of his or her investigation and make a recommendation relating to just and sufficient cause directly to the Commission. Other changes to the existing procedure include: (1) authorizing the Executive Director to recommend the disposition of a matter without a hearing, in section 4; and (2) revising provisions relating to the disclosure of the identity of the requester of an opinion whose identity is otherwise confidential but who testifies at a hearing, in section 8.

~~Existing law establishes~~ provisions of NRS 281A.440, with certain modifications, to effectuate the orderly and logical arrangement of the statutes, improve readability and clarity and reduce repetitious or lengthy words or phrases. For example, sections 1.3-2.7 define several terms, including "advisory opinion" and "ethics complaint," that replace repetitious or lengthy words or phrases throughout the Ethics Law and thereby improve readability and clarity.

Because proceedings concerning advisory opinions are functionally different from proceedings concerning ethics complaints, sections 3.1-3.5 contain procedures that apply only to advisory opinions. However, these procedures do not differ materially from the existing procedures that apply to advisory opinions in NRS 281A.440.

Sections 3.6-11 contain procedures that apply only to ethics complaints. Section 3.7 sets forth the requirements for properly filing an ethics complaint, and section 3.8 provides that after the ethics complaint is properly filed, the Commission must determine, based on the evidence submitted with the ethics complaint, whether it has jurisdiction in the matter and whether an investigation is warranted in the matter. If the Commission determines that it has jurisdiction and an investigation is warranted, sections 3.9-5 provide for an investigation and review of the ethics complaint to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter.

In conducting the investigation and review, sections 3.9-5 require the Executive Director of the Commission to: (1) provide the public officer or employee an opportunity to submit a response; (2) investigate the facts and circumstances; and (3) prepare and submit a recommendation to a review panel, consisting of three members of the eight-member Commission, that must determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. If the review panel determines that there is not just and sufficient cause, section 5 requires the review panel to dismiss the matter, but the review panel may issue a confidential letter of caution or instruction to the public officer or employee as part of the dismissal.

If the review panel determines that there is just and sufficient cause but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action, sections 5 and 6 authorize the review panel to

76 approve a deferral agreement between the Executive Director and the public officer or
77 employee to defer further proceedings in the matter under the terms and conditions of
78 the deferral agreement. If the public officer or employee complies with the terms and
79 conditions of the deferral agreement, the matter must be dismissed. However, if the
80 public officer or employee fails to comply with the terms and conditions of the deferral
81 agreement, the deferral agreement may be vacated and further proceedings conducted
82 in the matter before the Commission.

83 If the review panel does not believe that a deferral agreement is appropriate or if the
84 public officer or employee declines to enter into such a deferral agreement, section 5
85 requires the review panel to refer the ethics complaint to the Commission for further
86 proceedings in the matter. If further proceedings are conducted in the matter, section
87 16.6 of this bill provides that the three members of the review panel cannot participate in
88 the proceedings before the remaining five members of the Commission.

89 Sections 6.5-11 reorganize and reenact the existing provisions of NRS 281A.440
90 governing the procedures and standards for making discovery requests, disclosing
91 information, holding hearings and other proceedings and determining issues of
92 confidentiality with regard to such information, hearings and proceedings. In addition,
93 section 8 revises the procedures for protecting the identity of requesters of ethics
94 complaints who ask for confidential status because their complaints are akin to
95 whistleblower complaints that allege unethical conduct within their own public agencies
96 or because they offer sufficient facts and circumstances showing that they will face a
97 bona fide threat of physical force or violence from filing their complaints. Under section
98 8, if the Executive Director intends to present the testimony of such a confidential
99 requester during the ethics proceedings, the name of the confidential requester must be
100 disclosed but only as a proposed witness and not as the requester of the ethics complaint.

101 Sections 12, 12.5 and 13 of this bill provide the Commission with additional remedial
102 options in proceedings concerning ethics complaints which allow the Commission to
103 utilize different types of remedies that progress in scope and severity depending upon
104 the scope and severity of the unethical conduct. Currently, the Ethics Law grants the
105 Commission certain remedial options ~~(of the Commission)~~, including civil monetary
106 penalties, if it finds a violation of the ~~(Nevada Ethics in Government Law and)~~ statutory
107 ethical standards. The Ethics Law also authorizes the Commission to resolve matters before
108 it by stipulation, agreed settlement, consent order or default. (NRS 233B.121, 281A.135,
109 281A.480) Sections ~~(5-)~~ 12, 12.5 and 13 expand the remedies available to the Commission to
110 include: (1) a requirement that a public officer or employee complete a period of compliance,
111 receive additional training or issue a public apology; and (2) the issuance of a confidential
112 letter of caution ~~or instruction~~ or a public admonition, reprimand or censure. ~~If the~~
113 Commission believes that a public officer or employee has engaged in conduct that is
114 appropriately addressed through additional training or other corrective action, section 6 also
115 authorizes the Commission to defer further proceedings in the matter and enter a deferral
116 order, pursuant to which the Commission may dismiss the matter or take other action if the
117 public officer or employee complies with the terms of the order. Sections 22-24 and 26 of this
118 bill make conforming changes.

119 ~~Existing law~~

120 The Ethics Law generally defines a person as a public officer ~~(for the purposes of the~~
121 Nevada Ethics in Government Law if he or she) if the person holds a position that: (1)
122 involves the exercise of a public power, trust or duty; and (2) is established by the Nevada
123 Constitution or any provision of statute, charter or ordinance. (NRS 281A.160) Certain
124 additional persons are designated as public officers notwithstanding the fact that their
125 positions are not so established. (NRS 281A.182) ~~(Section)~~ In addition, the Ethics Law
126 defines a person as a public employee if the person performs public duties under the
127 direction and control of a public officer and is paid compensation with public money.
128 (NRS 281A.150) Sections 15.7 and 16 of this bill ~~adds to the list of persons so designated~~
129 any person whose position is not otherwise excluded from the scope of the statutory definition
130 of "public officer," whose) provide that certain additional persons are designated as
131 public officers and employees solely and exclusively for the purposes of the Ethics Law if
132 such persons enter into contracts with public agencies, are paid compensation ~~(is paid)~~
133 with public money and ~~(whose duties involve the exercise of a public power, trust or duty)~~
134 serve in certain positions which ordinarily would be held or filled by public officers and

employees. Section 16 also provides that its provisions must be interpreted and applied to ensure that a person does not evade the Ethics Law because a public agency elects to use a contractual relationship instead of an employment relationship for these types of positions which ordinarily would be held or filled by public officers and employees.

Section 18 of this bill provides that the Commission does not have jurisdiction regarding alleged discrimination or harassment for which a complaint or employment-related grievance may be filed with an appropriate agency with jurisdiction to redress such alleged discrimination or harassment. (NRS 281A.280) However, section 18 also provides that the Commission has jurisdiction regarding the alleged conduct if such conduct is sanctionable separately or concurrently under the Ethics Law, irrespective of the alleged discrimination or harassment.

In performing their functions under the Ethics Law, the Commission and its presiding officers may issue subpoenas to compel the attendance of witnesses and the production of books and papers. (NRS 281A.300) Section 19 of this bill clarifies that such subpoenas may be issued during the course of any investigation under the Ethics Law to compel the participation of potential witnesses and the production of books and papers.

Section 20 of this bill revises the existing ~~code of~~ statutory ethical standards ~~(applicable to the conduct of)~~ which generally prohibit public officers and employees ~~+~~ (NRS 281A.400) Except for conduct for which a complaint may be filed with the United States Equal Employment Opportunity Commission or the Nevada Equal Rights Commission, section 20 makes it a violation of the standards for a public officer or employee to use his or her position to coerce, harass, retaliate against or punish any other person or business entity for a purpose inconsistent with the proper performance of the public officer's or employee's public duties. Finally, section 20 prohibits a public officer or employee from engaging in any other conduct that is contrary to the public policies underlying the Nevada Ethics in Government Law, as those policies are expressed in statute. (NRS 281A.020)

~~Existing law~~ from engaging in certain unethical conduct that benefits their own private interests. (NRS 281A.400) Section 20 expands these existing prohibitions so that a public officer or employee cannot engage in certain unethical conduct when it benefits any other person to whom the public officer or employee has a commitment in a private capacity. The Ethics Law defines such other persons to include: (1) the spouse or domestic partner of the public officer or employee, a member of his or her household or a relative within the third degree of consanguinity or affinity; (2) a person who employs the public officer or employee, his or her spouse or domestic partner or a member of his or her household; (3) a person with whom the public officer or employee has a substantial and continuing business relationship; or (4) a person with whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to the foregoing commitments, interests or relationships. (NRS 281A.065)

The Ethics Law permits certain public officers and employees to represent or counsel private persons before certain public agencies in which the public officers or employees do not serve and also requires certain public officers to file annual disclosure statements regarding such representation or counseling with the Commission. (NRS 281A.410) The Ethics Law also requires certain public officers and employees to disclose publicly certain personal or private interests which may create potential conflicts of interests at the time the public officers and employees consider or act upon a matter affecting those interests. (NRS 281A.420) Section 20.3 of this bill eliminates the requirement for certain public officers to file annual disclosure statements regarding representation or counseling of private persons before public agencies. Instead, section 20.5 of this bill requires certain public officers and employees to disclose publicly certain information regarding representation or counseling of private persons before public agencies at the time the public officers and employees consider or act upon a matter which is reasonably related to the nature of such representation or counseling.

The Ethics Law requires each elected and appointed public officer to execute and file with the Commission a written acknowledgment of the officer's understanding of the statutory ethical standards applicable to him or her, and the officer's obligation to become familiar with any amendments to those standards. A public officer is required to execute and file the acknowledgment for each office, including each appointive office, held by the officer. (NRS

281A.500) **Section 25** of this bill provides that a public officer who executes and files the acknowledgment for one office as required by law thereby satisfies the execution and filing requirements for any other office held concurrently by him or her.

Under existing law, various public officers and employees are subject to a “cooling-off” period after the termination of their public service or employment, during which they are precluded from soliciting or accepting certain kinds of employment. A similar “cooling-off period” exists for a former public officer’s or employee’s representation or counseling of a private person on any issue which was under consideration by the agency in which the officer or employee served. The Commission is authorized to grant relief from the application of these provisions in specified circumstances. (NRS 281A.410, 281A.550) **Section 27** of this bill: (1) clarifies that a grant of relief from the application of the cooling-off provisions as they relate to employment does not affect the ban on representation or counseling; and (2) provides that the ban on employment extends to circumstances in which any oral or written agreement for personal services is sought, negotiated or exists ~~for is contemplated,~~ during the cooling-off period, even if such an agreement does not or will not become effective until after the cooling-off period.

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

Section 1. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.1~~ 1.3 to 14, inclusive, of this act.

Sec. 1.3. “Adjudicatory hearing” means a hearing held by the Commission pursuant to section 6.5 of this act to receive evidence concerning an ethics complaint and render an opinion in the matter.

Sec. 1.5. “Advisory opinion” means an advisory opinion rendered by the Commission pursuant to sections 3.1 to 3.5, inclusive, of this act.

Sec. 2. “Deferral ~~order~~ agreement” means an ~~order~~ agreement entered ~~by the Commission~~ into between the Executive Director and the subject of an ethics complaint pursuant to section 6 of this act.

Sec. 2.2. “Ethics complaint” means a request for an opinion which is filed with the Commission or initiated by the Commission on its own motion pursuant to section 3.7 of this act regarding the propriety of the conduct of a public officer or employee under the statutory ethical standards set forth in this chapter.

Sec. 2.5. “Request for an advisory opinion” means a request for an advisory opinion which is filed with the Commission pursuant to section 3.2 of this act by a public officer or employee who is:

1. Seeking guidance on matters which directly relate to the propriety of his or her own past, present or future conduct as a public officer or employee under the statutory ethical standards set forth in this chapter; or

2. Requesting relief pursuant to NRS 281A.410, 281A.430 or 281A.550.

Sec. 2.7. “Review panel” means a review panel appointed pursuant to NRS 281A.220.

Sec. 3. ~~If a person who requests an opinion pursuant to subsection 1 or 2 of NRS 281A.440 does not:~~

~~1. Submit all necessary information to the Commission; and~~

~~2. Declare by oath or affirmation that the person will testify truthfully, the Commission may decline to render an opinion. (Deleted by amendment.)~~

Sec. 3.1. The provisions of sections 3.1 to 3.5, inclusive, of this act apply to proceedings concerning a request for an advisory opinion.

Sec. 3.2. 1. A public officer or employee may file with the Commission a request for an advisory opinion to:

1 (a) Seek guidance on matters which directly relate to the propriety of his or
2 her own past, present or future conduct as a public officer or employee under the
3 statutory ethical standards set forth in this chapter; or

4 (b) Request relief pursuant to NRS 281A.410, 281A.430 or 281A.550.

5 2. The request for an advisory opinion must be:

6 (a) Filed on a form prescribed by the Commission; and

7 (b) Submitted with all necessary information for the Commission to render
8 an advisory opinion in the matter.

9 3. The Commission may decline to render an advisory opinion if the public
10 officer or employee does not:

11 (a) Submit all necessary information for the Commission to render an
12 advisory opinion in the matter; or

13 (b) Declare by oath or affirmation that he or she will testify truthfully
14 regarding the matter.

15 Sec. 3.3. 1. If a public officer or employee properly files a request for an
16 advisory opinion, the Commission shall render an advisory opinion that
17 interprets the statutory ethical standards and applies those standards to the given
18 set of facts and circumstances. The Commission shall render the advisory opinion
19 within 45 days after receiving the request, unless the requester waives this time
20 limit.

21 2. If the advisory opinion rendered by the Commission relates to the
22 propriety of the present or future conduct of the requester, the advisory opinion
23 is:

24 (a) Binding upon the requester with regard to the future conduct of the
25 requester; and

26 (b) A final decision that is subject to judicial review pursuant to NRS
27 233B.130.

28 3. If the requester seeks judicial review pursuant to NRS 233B.130, any
29 proceedings concerning such judicial review must be confidential and held in
30 closed court without admittance of persons other than those necessary to the
31 proceedings, unless the requester waives this right to confidential proceedings.

32 Sec. 3.4. 1. Except as otherwise provided in this section, the following
33 materials are confidential and are not public records pursuant to chapter 239 of
34 NRS:

35 (a) A request for an advisory opinion;

36 (b) The advisory opinion rendered by the Commission in response to the
37 request; and

38 (c) Any information, communications, records, documents or other materials
39 in the possession of the Commission or its staff that are related to the request.

40 2. The provisions of subsection 1 do not apply if the current or former
41 public officer or employee who files the request for an advisory opinion:

42 (a) Acts in contravention of the advisory opinion, in which case the
43 Commission may disclose the request, the advisory opinion and any information,
44 communications, records, documents or other materials in the possession of the
45 Commission or its staff that are related to the request;

46 (b) Authorizes the Commission, in writing, to make the request, the advisory
47 opinion or any information, communications, records, documents or other
48 materials in the possession of the Commission or its staff that are related to the
49 request publicly available; or

50 (c) Voluntarily discloses, in any manner, the request, the advisory opinion or
51 any information, communications, records, documents or other materials in the
52 possession of the Commission or its staff that are related to the request, except to:

1 (1) The public body, agency or employer of the public officer or employee
2 or the legal counsel of the public officer or employee;

3 (2) Any person to whom the Commission authorizes the public officer or
4 employee to make such a disclosure; or

5 (3) Any person to whom the public officer or employee makes such a
6 disclosure for the purposes of judicial review pursuant to section 3.3 of this act.

7 Sec. 3.5. 1. Except as otherwise provided in this section, the provisions of
8 chapter 241 of NRS do not apply to:

9 (a) Any meeting or hearing held by the Commission to receive information
10 or evidence concerning a request for an advisory opinion; and

11 (b) Any deliberations or actions of the Commission on such information or
12 evidence.

13 2. The public officer or employee who files the request for an advisory
14 opinion may also file a request with the Commission to hold a public meeting or
15 hearing regarding the request for an advisory opinion.

16 Sec. 3.6. The provisions of sections 3.6 to 13, inclusive, of this act and NRS
17 281A.450, 281A.465, 281A.475 and 281A.480 apply to proceedings concerning an
18 ethics complaint.

19 Sec. 3.7. 1. Except as otherwise provided in this section and NRS
20 281A.280, the Commission may render an opinion that interprets the statutory
21 ethical standards and applies those standards to a given set of facts and
22 circumstances regarding the propriety of the conduct of a public officer or
23 employee if an ethics complaint is:

24 (a) Filed by a specialized or local ethics committee established pursuant to
25 NRS 281A.350.

26 (b) Filed by any person, except a person who is incarcerated in a
27 correctional facility in this State or any other jurisdiction.

28 (c) Initiated by the Commission on its own motion, except the Commission
29 shall not initiate such an ethics complaint based solely upon an anonymous
30 complaint.

31 2. An ethics complaint filed by a person must be:

32 (a) Verified under oath and filed on a form prescribed by the Commission;
33 and

34 (b) Submitted with sufficient evidence to support the allegations in order for
35 the Commission to make a determination of whether it has jurisdiction in the
36 matter and whether an investigation is warranted in the matter pursuant to
37 sections 3.8 and 3.9 of this act.

38 3. The Commission may decline to render an opinion if the person who files
39 the ethics complaint does not submit all necessary evidence in the matter.

40 Sec. 3.8. 1. Based on the evidence submitted with an ethics complaint
41 filed with the Commission pursuant to section 3.7 of this act, the Commission
42 shall determine whether it has jurisdiction in the matter and whether an
43 investigation is warranted in the matter. The Commission shall make its
44 determination within 45 days after receiving the ethics complaint, unless the
45 public officer or employee who is the subject of the ethics complaint waives this
46 time limit.

47 2. If the Commission determines that it does not have jurisdiction in the
48 matter, the Commission shall dismiss the matter.

49 3. If the Commission determines that it has jurisdiction in the matter but
50 the evidence submitted with the ethics complaint is not sufficient to warrant an
51 investigation in the matter, the Commission shall dismiss the matter, with or
52 without issuing a letter of caution or instruction to the public officer or employee
53 pursuant to section 12.5 of this act.

1 4. If the Commission determines that it has jurisdiction in the matter and
2 the evidence submitted with the ethics complaint is sufficient to warrant an
3 investigation in the matter, the Commission may direct the Executive Director to
4 investigate the ethics complaint pursuant to section 3.9 of this act.

5 Sec. 3.9. 1. If the Commission directs the Executive Director to
6 investigate an ethics complaint pursuant to section 3.8 of this act or if the
7 Commission initiates an ethics complaint on its own motion pursuant to section
8 3.7 of this act, the Executive Director shall investigate the facts and
9 circumstances relating to the ethics complaint to determine whether there is just
10 and sufficient cause for the Commission to render an opinion in the matter.

11 2. The Executive Director shall notify the public officer or employee who is
12 the subject of the ethics complaint and provide the public officer or employee an
13 opportunity to submit to the Executive Director a response to the allegations
14 against the public officer or employee in the ethics complaint. The response must
15 be submitted within 30 days after the date on which the public officer or employee
16 received the notice of the ethics complaint, unless the Executive Director grants
17 an extension.

18 3. The purpose of the response submitted pursuant to this section is to
19 provide the Executive Director and the review panel with any information
20 relevant to the ethics complaint which the public officer or employee believes may
21 assist:

22 (a) The Executive Director in performing his or her investigation and other
23 functions pursuant to this section and section 4 of this act; and

24 (b) The review panel in performing its review and other functions pursuant
25 to section 5 of this act.

26 4. The public officer or employee is not required in the response submitted
27 pursuant to this section or in any proceedings before the review panel to assert,
28 claim or raise any objection or defense, in law or fact, to the allegations against
29 the public officer or employee, and no objection or defense, in law or fact, is
30 waived, abandoned or barred by the failure to assert, claim or raise it in the
31 response or in any proceedings before the review panel.

32 Sec. 4. 1. Except as otherwise provided in this subsection, ~~if a request for~~
33 ~~an opinion is submitted to or initiated by the Commission pursuant to subsection~~
34 ~~2 of NRS 281A.440,~~ the Executive Director shall complete the investigation
35 required by ~~[NRS 281A.440]~~ section 3.9 of this act and present a written
36 recommendation to the ~~[Commission]~~ review panel within 70 days after ~~the~~
37 ~~determination by~~ the Commission ~~[that it has jurisdiction concerning the~~
38 ~~request]~~ directs the Executive Director to investigate the ethics complaint or after
39 ~~[the motion off the Commission [initiating the request,] initiates the ethics~~
40 ~~complaint on its own motion,~~ as applicable. The public officer or employee who is
41 the subject of the ~~request]~~ ethics complaint may waive this time limit.

42 2. The recommendation must:

43 (a) Set forth the factual and legal basis for the recommendation;

44 (b) State whether the Executive Director believes that there is just and
45 sufficient cause for the Commission to render an opinion in the matter; and

46 ~~[(b)] (c) If the Executive Director believes that a disposition of the matter~~
47 ~~without ~~for~~ an adjudicatory hearing is appropriate under the facts and~~
48 ~~circumstances, ~~include]~~ state any suggested disposition that is consistent with the~~
49 ~~provisions of this chapter ~~for~~ and~~

50 ~~[(c) Set forth the factual and legal basis for the recommendation,], including,~~
51 ~~without limitation, whether the Executive Director believes that the conduct at~~
52 ~~issue may be appropriately addressed through additional training or other~~
53 ~~corrective action under the terms and conditions of a deferral agreement.~~

1 Sec. 5. 1. Except as otherwise provided in this subsection, if a request for
2 an opinion is submitted to or initiated by the Commission pursuant to subsection
3 2 of NRS 281A.440, section, the ~~Commission~~ review panel shall determine
4 whether there is just and sufficient cause for the Commission to render an
5 opinion in the matter within 15 days after the Executive Director ~~has provided~~
6 provides the review panel with the recommendation required by section 4 of this
7 act, and shall cause a record of its proceedings to be kept. The public officer
8 or employee who is the subject of the ~~request~~ ethics complaint may waive this
9 time limit.

10 2. The review panel shall cause a record of its proceedings to be kept.

11 3. The ~~Commission~~ review panel shall not determine that there is just and
12 sufficient cause for the Commission to render an opinion in the matter unless the
13 Executive Director has provided the public officer or employee an opportunity to
14 respond to the allegations as required by ~~NRS 281A.440.~~

15 ~~2.1 section 3.9 of this act.~~

16 4. If the ~~Commission~~ review panel determines that there is not just and
17 sufficient cause for the Commission to render an opinion in the matter, it shall
18 dismiss the matter with or without prejudice and with or without issuing a
19 letter of caution or instruction to the public officer or employee. ~~A letter of~~
20 caution is confidential, but the Commission may consider a letter of caution in
21 deciding the appropriate action to be taken on any subsequent request for an
22 opinion involving the public officer or employee, unless the letter is not relevant
23 to the issues presented by the subsequent request.

24 ~~3.1 pursuant to section 12.5 of this act.~~

25 5. If the ~~Commission~~ review panel determines that there is just and
26 sufficient cause for the Commission to render an opinion in the matter but
27 reasonably believes that the conduct at issue ~~is more~~ may be appropriately
28 addressed through additional training or other corrective action, ~~it may enter~~
29 under the terms and conditions of a deferral order.

30 ~~4.1 agreement, the review panel may:~~

31 (a) Approve a deferral agreement proposed by the Executive Director and the
32 public officer or employee instead of referring the ethics complaint to the
33 Commission for further proceedings in the matter; or

34 (b) Authorize the Executive Director and the public officer or employee to
35 develop such a deferral agreement and may thereafter approve such a deferral
36 agreement instead of referring the ethics complaint to the Commission for
37 further proceedings in the matter.

38 6. If the review panel does not approve a deferral agreement pursuant to
39 subsection 5 or if the public officer or employee declines to enter into such a
40 deferral agreement, the review panel shall refer the ethics complaint to the
41 Commission for further proceedings in the matter.

42 7. If the ~~Commission~~ review panel determines that there is just and
43 sufficient cause for the Commission to render an opinion in the matter ~~and~~
44 reasonably believes that the conduct at issue may not be appropriately addressed
45 through additional training or other corrective action under the terms and
46 conditions of a deferral agreement, the review panel shall refer the ethics
47 complaint to the Commission ~~shall hold a hearing and render its opinion within~~
48 60 days after the date of the determination unless the public officer or employee
49 waives this time limit or a deferral order is entered by the Commission. for
50 further proceedings in the matter.

51 Sec. 5.5. The provisions of chapter 241 of NRS do not apply to:

52 1. Any meeting or hearing held by the review panel to receive information
53 or evidence concerning an ethics complaint; and

2. Any deliberations or actions of the review panel on such information or evidence.

Sec. 6. 1. ~~If a request for an opinion is submitted to or initiated by the Commission pursuant to subsection 2 of NRS 281A.440, the Commission determines that there is just and sufficient cause to render an opinion and the Commission reasonably believes that a public officer or employee has engaged in conduct that is appropriately addressed through additional training or other corrective action, the Commission~~ In proceedings concerning an ethics complaint, the Executive Director and the public officer or employee who is the subject of the ethics complaint may develop a deferral agreement to defer further proceedings in the matter ~~and enter a~~ under the terms and conditions of the deferral ~~order~~ agreement.

2. A deferral agreement does not become effective unless approved by the review panel pursuant to section 5 of this act. If the review panel approves a deferral agreement, the Commission shall enforce the terms and conditions of the deferral agreement.

3. A deferral ~~order is confidential and~~ agreement must:

(a) Specify the training or other corrective action to be completed by or imposed upon the public officer or employee;

(b) Specify any ~~penalty~~ other terms and conditions, consistent with the provisions of this chapter, to be imposed upon the public officer or employee; and

(c) Provide that the Commission may vacate the ~~order~~ deferral agreement and ~~proceed with a hearing~~ conduct further proceedings in the matter if the Commission finds that the public officer or employee has failed to comply with any ~~condition~~ terms and conditions of the ~~order~~.

~~3.~~ deferral agreement.

4. The imposition of training or other corrective action and the imposition of any ~~penalty described~~ other terms and conditions in a deferral ~~order~~ agreement is without prejudice to any other disposition of the matter, consistent with this chapter, that may be ordered by the Commission if it vacates the ~~order~~, ~~proceeds with a hearing~~ deferral agreement and conducts further proceedings in the matter and finds that the public officer or employee has violated any provision of this chapter.

~~4.~~ 5. The Executive Director shall monitor the compliance of the public officer or employee who is the subject of a deferral ~~order~~ agreement and may require the public officer or employee to document his or her compliance with the ~~order~~ deferral agreement.

6. The Executive Director shall:

(a) Inform the Commission ~~shall give~~ of any alleged failure of the public officer or employee to comply with the deferral agreement;

(b) Give the public officer or employee written notice of any alleged failure to comply with the ~~order and shall allow~~ deferral agreement; and

(c) Allow the public officer or employee not less than 15 days to respond to such a notice.

~~5.~~ 7. Within 60 days after the date on which the public officer or employee responds or was entitled to respond to the written notice of any alleged failure to comply with the deferral agreement, the Commission shall determine whether the public officer or employee failed to comply with the deferral agreement, unless the public officer or employee waives this time limit.

8. If the Commission determines that the public officer or employee failed to comply with the deferral agreement, the Commission may take any action it deems appropriate, consistent with the terms and conditions of the deferral agreement and the provisions of this chapter, including, without limitation,

vacating the deferral agreement and conducting further proceedings in the matter.

9. If the public officer or employee who is the subject of ~~the~~ the deferral ~~order~~ agreement complies in a satisfactory manner with the ~~order~~ deferral agreement, the Commission ~~may~~ shall dismiss the ~~request for an opinion or take any other action it deems appropriate, consistent with the provisions of this chapter.~~ matter.

Sec. 6.5. 1. If the review panel refers an ethics complaint to the Commission for further proceedings in the matter pursuant to section 5 of this act or if the Commission vacates a deferral agreement and conducts further proceedings in the matter pursuant to section 6 of this act, the Commission shall hold an adjudicatory hearing and render an opinion in the matter within 60 days after the date on which the review panel refers the ethics complaint to the Commission or the Commission vacates the deferral agreement, as appropriate, unless the public officer or employee who is the subject of the ethics complaint waives this time limit.

2. If the Commission holds an adjudicatory hearing to receive evidence concerning an ethics complaint, the Commission shall:

(a) Notify the public officer or employee who is the subject of the ethics complaint of the date, time and place of the hearing;

(b) Allow the public officer or employee to be represented by legal counsel; and

(c) Allow the public officer or employee to hear the evidence presented to the Commission and to respond and present evidence on his or her own behalf.

3. Unless the public officer or employee agrees to a shorter time, an adjudicatory hearing may not be held less than 10 days after the date on which the notice of the hearing is given to the public officer or employee.

4. For good cause shown, the Commission may take testimony from a person by telephone or video conference at an adjudicatory hearing or at any other proceedings concerning the ethics complaint.

Sec. 7. ~~Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1 of NRS 281A.440, each opinion rendered by the Commission in response to the request and any motion, determination, evidence or record of a hearing relating to the request are confidential unless the public officer or employee who requested the opinion:~~

~~1. 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, determination, evidence or record of a hearing related to the request;~~

~~2. Discloses the request for the opinion, the contents of the opinion, or any motion, determination, evidence or record of a hearing related to the request in any manner except to:~~

~~(a) The public body, agency or employer of the public officer or employee; or~~

~~(b) A person to whom the Commission authorizes the current or former public officer or employee to make such a disclosure; or~~

~~3. Requests the Commission to disclose the request, the contents of the opinion, or any motion, determination, evidence or record of a hearing related to the request.~~ (Deleted by amendment.)

Sec. 8. 1. Except as otherwise provided in this section and section 9 of this act, all information, communications, records, documents or other ~~material~~ materials in the possession of the Commission ~~for its~~, the review panel or their staff that ~~is~~ are related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2 of

1 ~~NRS 281A.440~~ an ethics complaint are confidential and are not public records
2 pursuant to chapter 239 of NRS until:

3 (a) The ~~Commission~~ review panel determines ~~that~~ whether there is just
4 and sufficient cause to render an opinion in the matter and serves written notice
5 of its determination on the public officer or employee who is the subject of the
6 ~~request~~ ethics complaint; or

7 (b) The public officer or employee who is the subject of the ~~request~~ ethics
8 complaint authorizes the Commission in writing to make the information,
9 communications, records, documents or other ~~material which~~ materials that are
10 related to the ~~request~~ ethics complaint publicly available,
11 whichever occurs first.

12 2. Except as otherwise provided in subsection 3, if a person who ~~submits a~~
13 ~~request for an opinion pursuant to paragraph (b) of subsection 2 of NRS~~
14 ~~281A.440~~ files an ethics complaint asks that his or her identity as the requester
15 be kept confidential, the Commission:

16 (a) Shall keep the identity of the requester confidential if he or she is a public
17 officer or employee who works for the same public body, agency or employer as
18 the public officer or employee who is the subject of the ~~request~~ ethics
19 complaint.

20 (b) May keep the identity of the requester confidential if he or she offers
21 sufficient facts and circumstances showing a reasonable likelihood that
22 disclosure of his or her identity will subject the requester or a member of his or
23 her household to a bona fide threat of physical force or violence.

24 3. If the Commission keeps the identity of the requester confidential, the
25 Commission shall not render an opinion in the matter unless there is sufficient
26 evidence without the testimony of the requester to consider the propriety of the
27 conduct of the public officer or employee who is the subject of the ~~request~~ ethics
28 complaint. If the ~~Commission~~ Executive Director intends to present the
29 testimony of the requester as evidence for consideration by the Commission at the
30 adjudicatory hearing or in rendering an opinion in the matter and the public
31 officer or employee who is the subject of the ~~request~~ ethics complaint submits a
32 written discovery request to the Commission pursuant to section 9 of this act, the
33 Commission shall disclose the name of the requester only as a proposed witness
34 within a reasonable time before the adjudicatory hearing on the matter.

35 Sec. 9. 1. Except as otherwise provided in this section, the investigative
36 file related to ~~a request for an opinion regarding a public officer or employee~~ an
37 ethics complaint is confidential ~~and~~ is not a public record pursuant to chapter
38 239 of NRS.

39 2. At any time after being served with written notice of the determination of
40 the ~~Commission~~ review panel regarding the existence of just and sufficient
41 cause for the Commission to render an opinion in the matter, the public officer or
42 employee who is the subject of the ~~request for an opinion~~ ethics complaint may
43 submit a written discovery request to the Commission for a list of proposed
44 witnesses and a copy of any portion of the investigative file that the ~~Commission~~
45 Executive Director intends to present as evidence for consideration ~~as evidence~~
46 by the Commission at the adjudicatory hearing or in rendering an opinion in the
47 matter.

48 3. Any portion of the investigative file which the ~~Commission~~ Executive
49 Director presents as evidence for consideration by the Commission at the
50 adjudicatory hearing or in rendering an opinion in the matter becomes a public
51 record and must be open for inspection pursuant to ~~NRS 239.010~~ chapter 239
52 of NRS.

53 4. For the purposes of this section ~~the~~ :

(a) The investigative file includes, without limitation ~~any~~:
(1) Any response concerning the ethics complaint prepared by the public officer or employee pursuant to section 3.9 of this act and submitted to the Executive Director and the review panel during the course of the investigation and any proceedings before the review panel;

(2) Any recommendation concerning the ethics complaint prepared by the Executive Director pursuant to section 4 of this act and submitted to the review panel during the course of the investigation and any proceedings before the review panel; and

(3) Any other information provided to or obtained by ~~the Commission or its staff~~ or on behalf of the Executive Director through any form of communication during the course of ~~any~~ the investigation and any proceedings before the review panel and any records, documents or other ~~material~~ materials created or maintained during the course of ~~any~~ the investigation and any proceedings before the review panel which relate to the public officer or employee who is the subject of the ~~request for an opinion~~ ethics complaint, including, without limitation, a transcript, regardless of whether such information, records, documents or other ~~material~~ materials are obtained pursuant to a subpoena.

(b) The investigative file does not include any deferral agreement.

~~Sec. 10. 1. Whenever the Commission holds a hearing to receive evidence concerning the propriety of the conduct of a public officer or employee, the Commission shall:~~

~~(a) Notify the public officer or employee of the date, time and place of the hearings;~~

~~(b) Allow the public officer or employee to be represented by counsel; and~~

~~(c) Allow the public officer or employee to hear the evidence presented to the Commission and to respond and present evidence on his or her own behalf.~~

~~Unless the public officer or employee agrees to a shorter time, the hearing must be held not less than 10 days after the notice is given.~~

~~2. 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 of NRS 281A.440, 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 or the Executive Director to ask any question submitted by a person who is not a party to the proceeding.~~

~~3. For good cause shown, the Commission may take testimony from a person by telephone or video conference. (Deleted by amendment.)~~

Sec. 11. The provisions of chapter 241 of NRS do not apply to:

1. Any meeting or hearing held by the Commission to receive information or evidence concerning ~~the propriety of the conduct of a public officer or employee and the~~ an ethics complaint; and

2. Any deliberations of the Commission on such information or evidence, ~~including, without limitation, any proceedings of the Commission conducted pursuant to subsection 1 of section 5 of this act, are not subject to the provisions of chapter 241 of NRS.~~

Sec. 12. 1. ~~Each opinion off~~ If the Commission ~~issued after a hearing~~ renders an opinion in proceedings concerning an ethics complaint, the opinion must include findings of fact and conclusions of law.

2. If ~~and to the extent that~~, in proceedings concerning an ethics complaint, the Commission determines that a violation of this chapter:

(a) Has not been proven, the Commission shall dismiss the matter, with or without prejudice, and with or without issuing a letter of caution ~~as described in section 5 of this act,~~ or instruction to the public officer or employee pursuant to section 12.5 of this act.

(b) Has been proven, the Commission may take any action authorized by this chapter.

Sec. 12.5. 1. In proceedings concerning an ethics complaint, the Commission or the review panel, as appropriate, may issue a letter of caution or instruction to the public officer or employee who is the subject of the ethics complaint to caution or instruct the public officer or employee regarding the propriety of his or her conduct under the statutory ethical standards set forth in this chapter.

2. If the Commission or the review panel issues a letter of caution or instruction to the public officer or employee, the letter:

(a) Is confidential and is not a public record pursuant to chapter 239 of NRS.

(b) May be considered in deciding the appropriate action to be taken on any subsequent ethics complaint involving the public officer or employee, unless the letter is not relevant to the issues presented by the subsequent ethics complaint.

Sec. 13. 1. Except as otherwise provided in this section, ~~as a condition of a deferral order or~~ in proceedings concerning an ethics complaint, the Commission, based on a finding ~~that~~ that a violation of this chapter ~~following a hearing, the Commission~~ has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may, in addition to any other penalty provided by law ~~and~~ and in accordance with the provisions of NRS 281A.475:

(a) Require ~~that~~ the public officer or employee who is the subject of the ethics complaint to:

(1) Comply in all respects with the provisions of this chapter for a specified period without being the subject of another ~~request for an opinion~~

~~(I) That arises~~ ethics complaint arising from an alleged violation of this chapter by the public officer or employee which ~~is alleged to have occurred~~ occurs during ~~that~~ the specified period ~~and~~

~~(II) As to~~ and for which the ~~Commission~~ review panel determines that there is just and sufficient cause ~~for the Commission to hold a hearing~~ render an opinion in the matter.

(2) Attend and complete training.

(3) Follow a remedial course of action.

(4) Issue a public apology.

(5) Comply with conditions or limitations on future conduct.

(b) Publicly admonish, reprimand or censure ~~that~~ the public officer or employee.

(c) Take any combination of such actions or any other reasonable action that the Commission or the review panel, as appropriate, determines will remedy the violation or alleged violation or deter similar violations ~~and~~ or conduct.

2. ~~The~~ In carrying out the provisions of subsection 1, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may publicly:

(a) Admonish a public officer or employee if ~~the Commission determines~~ it is determined that the public officer or employee has violated any provision of this chapter, but the violation is not willful ~~and~~, or if such an admonishment is imposed as part of the terms and conditions of a deferral agreement. An ~~admonition~~ admonishment is a written expression of disapproval of the conduct of the public officer or employee.

(b) Reprimand a public officer or employee if ~~the Commission determines~~ it is determined that the public officer or employee has willfully violated any provision of this chapter ~~++~~, but there is no evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law, or if such a reprimand is imposed as part of the terms and conditions of a deferral agreement. A reprimand is a severe written reproof for the conduct of the public officer or employee.

(c) Censure a public officer or employee if ~~the Commission determines~~ it is determined that the public officer or employee has willfully violated any provision of this chapter and there is evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law or there are no substantial mitigating factors ~~are present~~ pursuant to NRS 281A.475 for the willful violation, or if such a censure is imposed as part of the terms and conditions of a deferral agreement. A censure is a formal written condemnation of the conduct of the public officer or employee.

3. Any action taken by the Commission pursuant to this section is a final decision for the purposes of judicial review pursuant to NRS 233B.130. Any action taken by the review panel pursuant to this chapter, including, without limitation, any action relating to a deferral agreement, is not a final decision for the purposes of judicial review pursuant to NRS 233B.130.

Sec. 14. For the purposes of NRS 41.032, the members of the Commission and employees of the Commission shall be deemed to be exercising or performing a discretionary function or duty in taking any action ~~related to the rendering of an opinion~~ pursuant to the provisions of this chapter.

Sec. 15. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.035 to 281A.170, inclusive, and ~~section 2~~ sections 1.3 to 2.7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 15.5. NRS 281A.135 is hereby amended to read as follows:

281A.135 1. "Opinion" means an opinion rendered by the Commission in accordance with the provisions of this chapter.

2. The term includes, without limitation, the disposition of ~~a request for an opinion~~ an ethics complaint by stipulation, agreed settlement, consent order or default as authorized by NRS 233B.121.

Sec. 15.7. NRS 281A.150 is hereby amended to read as follows:

281A.150 "Public employee" means any person who ~~performs~~ 1. Performs public duties under the direction and control of a public officer for compensation paid by the State or any county, city or other political subdivision ~~++; or~~

2. Is designated as a public employee for the purposes of this chapter pursuant to NRS 281A.182.

Sec. 16. NRS 281A.182 is hereby amended to read as follows:

281A.182 1. Any person who serves in one of the following positions is designated as a public officer solely and exclusively for the purposes of this chapter:

(a) A president of a university, state college or community college within the Nevada System of Higher Education.

(b) A superintendent of a county school district.

(c) A county manager or a city manager.

~~+(d) The holder of any other position not excluded by subsection 4 of NRS 281A.160 whose compensation is paid with public money and whose duties~~

~~involve the exercise of a public power, trust or duty as defined in subsection 2 of NRS 281A.160.~~

2. ~~[This section applies]~~ The provisions of subsection 1 apply to such a person regardless of whether the person serves in the position:

- (a) By appointment, contract or employment;
- (b) With or without compensation; or
- (c) On a temporary, interim or acting basis.

3. A person who is not otherwise a public officer is designated as a public officer solely and exclusively for the purposes of this chapter if the person:

- (a) Enters into a contract with any state or local agency;
- (b) Is paid compensation with public money; and
- (c) Serves in a position which involves the exercise of a public power, trust or duty and which ordinarily would be held or filled by a public officer.

4. A person who is not otherwise a public employee is designated as a public employee solely and exclusively for the purposes of this chapter if:

- (a) The person enters into a contract with any state or local agency;
- (b) The person is paid compensation with public money;
- (c) The person serves in a position which involves the performance of public duties under the substantial and continuing direction and control of a public officer or supervisory public employee;
- (d) The position ordinarily would be held or filled by a public employee and would require the public employee to hold a valid professional or occupational license or similar type of authorization issued by a state or local agency to perform the public duties of the position, other than a general business license or similar type of authorization;
- (e) The position is entrusted with public duties of a substantial and continuing nature which ordinarily would require a public employee to avoid conflicts between the private interests of the public employee and those of the general public whom the public employee serves; and
- (f) The person occupies the position on a full-time basis or its equivalent for a substantial and continuing period of time.

5. The provisions of subsections 3 and 4 must be interpreted and applied to ensure that a person does not evade the provisions of this chapter because a state or local agency elects to use a contractual relationship instead of an employment relationship for a position which ordinarily would be held or filled by a public officer or employee.

6. If, pursuant to this section, any person is designated as a public officer or employee for the purposes of this chapter, that designation:

- (a) Does not make the person a public officer or employee for the purposes of any other law or for any other purposes; and
- (b) Must not be used, interpreted or applied in any manner to establish, suggest or prove that the person is a public officer or employee for the purposes of any other law or for any other purposes.

Sec. 16.5. NRS 281A.210 is hereby amended to read as follows:

281A.210 1. The Commission shall:

(a) At its first meeting and annually thereafter elect a Chair and Vice Chair from among its members.

(b) Meet regularly at least once in each calendar quarter, unless there are no ethics complaints or requests ~~[made for an opinion]~~ for advisory opinions pursuant to ~~[NRS 281A.440]~~ this chapter, and at other times upon the call of the Chair.

2. Members of the Commission are entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission.

3. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.

Sec. 16.6. NRS 281A.220 is hereby amended to read as follows:

281A.220 1. The Chair shall appoint one or more ~~investigatory~~ review panels of ~~two~~ three members of the Commission on a rotating basis to perform the functions assigned to such ~~review the determinations of just and sufficient cause made by the Executive Director~~ panels pursuant to ~~NRS 281A.440 and make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in a matter~~ this chapter.

2. The Chair and Vice Chair of the Commission may not serve together on ~~an investigatory~~ a review panel.

3. ~~The~~ Not more than two members of ~~an investigatory~~ a review panel may ~~not~~ be members of the same political party.

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

Sec. 17. 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 ethics complaints and requests for advisory opinions pursuant to ~~NRS 281A.440~~ this chapter.

(c) Gather information and conduct investigations regarding ethics complaints and requests for advisory opinions ~~received by the Commission and submit pursuant to this chapter~~.

~~(d) Submit~~ recommendations to the ~~investigatory panel appointed pursuant to NRS 281A.220 Commission~~ review panel regarding whether there is just and sufficient cause for the Commission to render an opinion in ~~response to a particular request~~.

~~(d)~~ a matter.

~~(e)~~ (e) 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.

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

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

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

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

(b) The investigation of matters under the jurisdiction of the Commission.
 3. If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.

Sec. 18. NRS 281A.280 is hereby amended to read as follows:

281A.280 1. ~~1. The~~ *Except as otherwise provided in this subsection, section, the* Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of this chapter by a public officer or employee or former public officer or employee in any proceeding commenced by ~~the~~

~~(a) The filing of a request for an opinion;~~ *an ethics complaint, which is filed with the Commission ~~the~~ or*

~~(b) The~~ *or initiated by the* Commission on its own motion, ~~the~~ within 2 years after the alleged violation or reasonable discovery of the alleged violation.

2. The Commission does not have jurisdiction regarding alleged conduct by a public officer or employee or former public officer or employee for which ~~the~~ :

(a) A complaint may be filed or, if the applicable limitations period has expired, could have been filed with the United States Equal Employment Opportunity Commission or the Nevada Equal Rights Commission ~~the~~

~~2. ; or~~

(b) A complaint or employment-related grievance may be filed or, if the applicable limitations period has expired, could have been filed with another appropriate agency with jurisdiction to redress alleged discrimination or harassment, including, without limitation, a state or local employee-management relations board or similar state or local agency.

but any bar on the Commission's jurisdiction imposed by this subsection applies only to the extent that it pertains to the alleged discrimination or harassment, and this subsection does not deprive the Commission of jurisdiction regarding the alleged conduct if such conduct is sanctionable separately or concurrently under the provisions of this chapter, irrespective of the alleged discrimination or harassment.

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

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

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

Sec. 18.5. *NRS 281A.290 is hereby amended to read as follows:*

281A.290 The Commission shall:

1. Adopt procedural regulations that are necessary and proper to carry out the provisions of this chapter, including, without limitation:

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

(b) For the filing of *an ethics complaint or* a request for an *advisory* opinion with the Commission;

(c) For the withdrawal of *an ethics complaint or* a request for an *advisory* opinion by the person who filed the *ethics complaint or* request; and

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

2. Prescribe, by regulation, forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500,

maintain files of such statements and make the statements available for public inspection.

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

4. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

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

6. Publish a manual for the use of public officers and employees that explains the requirements of this chapter.

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

Sec. 19. NRS 281A.300 is hereby amended to read as follows:

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

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of any books and papers ~~for~~ for any hearing before the Commission.

3. Upon the request of the Executive Director, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the participation of a potential witness and the production of any books and papers during the course of any investigation.

4. Upon the request of the Executive Director or the public officer or employee who is the subject of ~~a request for an opinion~~ an ethics complaint, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of any books and papers ~~for~~ for any hearing before the Commission. A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.

~~3-1~~ 5. Before issuing a subpoena to a public officer or employee who is the subject of ~~a request for an opinion~~ an ethics complaint to compel his or her participation in any investigation, his or her attendance as a witness or his or her production of any books ~~for~~ and papers, the Executive Director shall submit a written request to the public officer or employee requesting:

(a) The ~~appearance~~ voluntary participation of the public officer or employee in the investigation;

(b) The voluntary attendance of the public officer or employee as a witness; or

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

~~4-1~~ ethics complaint.

6. Each written request submitted by the Executive Director pursuant to subsection ~~3-1~~ 5 must specify the time and place for the voluntary participation of the public officer or employee in the investigation, attendance of the public officer or employee as a witness or ~~the~~ production of any books and papers, and designate with certainty the books and papers requested, if any.

7. If the public officer or employee fails or refuses to respond to the Executive Director's written request pursuant to subsection 5 to voluntarily participate or attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the written request, the Chair or, in the Chair's absence, the Vice Chair, may issue the subpoena. Failure of the public officer or employee to comply with the written

request of the Executive Director shall be deemed a waiver by the public officer or employee of the time limits set forth in ~~subsections 4, 5 and 6 of NRS 281A.440, NRS 281A.450, 281A.465, 281A.475 and 281A.480 and sections 4 and 5~~ 3.6 to 13, inclusive, of this act ~~that apply to proceedings concerning the ethics complaint.~~

8. If any witness fails or refuses to participate, attend, testify or produce any books and papers as required by the subpoena, the Chair ~~of the Commission~~ or, in the Chair's absence, the Vice Chair, may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of the participation or 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 participate, attend, testify or produce the books and papers as required by the subpoena, ~~before the Commission,~~ or has failed or refused to answer questions propounded to the witness,

and asking for an order of the court compelling the witness to participate, attend ~~and~~ testify or produce the books and papers ~~before the Commission.~~

~~6.~~ as required by the subpoena.

9. 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 participated, attended, testified or produced the books or papers ~~before the Commission,~~ as required by the subpoena. A certified copy of the order must be served upon the witness.

~~7.~~ 10. If it appears to the court that the subpoena was regularly issued ~~by the Commission,~~ pursuant to this section, the court shall enter an order that the witness ~~appear before the Commission,~~ comply with the subpoena, at the time and place fixed in the order, and participate, attend, 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. 20. 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 for the public officer or employee or any other person to whom the public officer or employee has a commitment in a private capacity, 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 ~~the~~

~~(a) Coerce, harass, retaliate against or punish any other person or business entity for a purpose which is inconsistent with the proper performance of the officer's or employee's public duties; or~~

~~(b) Secure~~ or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee any for any other person or 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.~~ As used in this subsection, ~~paragraph,~~ "unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and *the public officer or employee*, any business entity in which the public officer or employee has a significant pecuniary interest ~~H~~ *or any person to whom the public officer or employee has a commitment in a private capacity.*

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source, *for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity*, for the performance of the public officer's or employee's 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 a significant pecuniary interest of the public officer or employee or 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 a significant pecuniary interest of the public officer or employee ~~H~~ *or any person to whom the public officer or employee has a commitment in a private capacity.*

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 a significant personal or pecuniary interest of the public officer or employee ~~H~~ *or any person to whom the public officer or employee has a commitment in a private capacity.* This subsection does not prohibit:

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

(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 attempt to benefit a significant personal or pecuniary interest of the public officer or employee *or any person to whom the public officer or employee has a commitment in a private capacity* through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts *for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity* through the use of the public officer's or employee's official position.

~~11. A public officer or employee shall not engage in any other conduct that is contrary to the public policy of this State as expressed in NRS 281A.020.~~

~~12. The conduct described in this section does not include any conduct for which a complaint may be filed with the United States Equal Employment Opportunity Commission or the Nevada Equal Rights Commission.~~

Sec. 20.3. NRS 281A.410 is hereby amended to read as follows:

281A.410 In addition to the requirements of the code of ethical standards and the other provisions of this chapter:

1. If 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 compensation from any private person to represent or counsel the private person on any issue pending before 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 agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. Except as otherwise provided in subsection 3, a State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he or she does not serve.

3. A member of a local legislative body shall not represent or counsel a private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves. The Commission may relieve the member from the strict application of the provisions of this subsection if:

(a) The member ~~requests~~ *files a request for an advisory* opinion from the Commission pursuant to ~~subsection 1 of NRS 281A.440;~~ *section 3.2 of this act;* 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 each local agency affected by the matter; and
 - (3) The provisions of this chapter.

4. For the purposes of subsection 3, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of sections 3.1 to 3.5, inclusive, of this act.

5. Unless permitted by this section, a public officer or employee shall not represent or counsel a private person for compensation before any state agency of the Executive or Legislative Department.

~~5. Not later than January 15 of each year, if any State Legislator, member of a local legislative body or other public officer permitted by this section has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Department, he or she shall disclose for each such representation or counseling during the previous calendar year:~~

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

~~6. The disclosure required by subsection 5 must be made in writing and filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure 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 disclosure 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 disclosure with the third party commercial carrier;~~
~~(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;~~
~~7. The Commission shall retain a disclosure filed pursuant to this section for 6 years after the date on which the disclosure was filed.~~

Sec. 20.5. NRS 281A.420 is hereby amended to read as follows:

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

- (a) Regarding which the public officer or employee has accepted a gift or loan;
- (b) In which the public officer or employee has a significant pecuniary interest;

~~for~~ (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person ~~for~~; or

(d) Which would reasonably be related to the nature of any representation or counseling that the public officer or employee provided to a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410,

~~without disclosing information concerning the gift or loan,~~ the significant pecuniary interest ~~for~~, the commitment in a private capacity to the interests of the

1 other person or the nature of the representation or counseling of the private
2 person that is sufficient to inform the public of the potential effect of the action or
3 abstention upon the person who provided the gift or loan, upon the public officer's
4 or employee's significant pecuniary interest, ~~for~~ upon the person to whom the
5 public officer or employee has a commitment in a private capacity. ~~+~~ or upon the
6 private person who was represented or counseled by the public officer or
7 employee. Such a disclosure must be made at the time the matter is considered. If
8 the public officer or employee is a member of a body which makes decisions, the
9 public officer or employee shall make the disclosure in public to the chair and other
10 members of the body. If the public officer or employee is not a member of such a
11 body and holds an appointive office, the public officer or employee shall make the
12 disclosure to the supervisory head of the public officer's or employee's
13 organization or, if the public officer holds an elective office, to the general public in
14 the area from which the public officer is elected.

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

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

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

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

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

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

27 (c) The public officer's commitment in a private capacity to the interests of
28 another person.

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

30 (a) It must be presumed that the independence of judgment of a reasonable
31 person in the public officer's situation would not be materially affected by the
32 public officer's acceptance of a gift or loan, significant pecuniary interest or
33 commitment in a private capacity to the interests of another person where the
34 resulting benefit or detriment accruing to the public officer, or if the public officer
35 has a commitment in a private capacity to the interests of another person, accruing
36 to the other person, is not greater than that accruing to any other member of any
37 general business, profession, occupation or group that is affected by the matter. The
38 presumption set forth in this paragraph does not affect the applicability of the
39 requirements set forth in subsection 1 relating to the duty of the public officer to
40 make a proper disclosure ~~of the acceptance of a gift or loan, significant pecuniary~~
41 ~~interest or commitment in a private capacity to the interests of another person.~~ at
42 the time the matter is considered and in the manner required by subsection 1.

43 (b) The Commission must give appropriate weight and proper deference to the
44 public policy of this State which favors the right of a public officer to perform the
45 duties for which the public officer was elected or appointed and to vote or
46 otherwise act upon a matter, provided the public officer ~~has properly disclosed the~~
47 ~~public officer's acceptance of a gift or loan, significant pecuniary interest or~~
48 ~~commitment in a private capacity to the interests of another person.~~ makes a proper
49 disclosure at the time the matter is considered and in the manner required by
50 subsection 1. Because abstention by a public officer disrupts the normal course of
51 representative government and deprives the public and the public officer's
52 constituents of a voice in governmental affairs, the provisions of this section are
53 intended to require abstention only in clear cases where the independence of

1 judgment of a reasonable person in the public officer's situation would be
2 materially affected by the public officer's acceptance of a gift or loan, significant
3 pecuniary interest or commitment in a private capacity to the interests of another
4 person.

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

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

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

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

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

25 8. As used in this section, "public officer" and "public employee" do not
26 include a State Legislator.

27 **Sec. 20.7. NRS 281A.430 is hereby amended to read as follows:**

28 281A.430 1. Except as otherwise provided in this section and NRS
29 218A.970 and 332.800, a public officer or employee shall not bid on or enter into a
30 contract between an agency and any business entity in which the public officer or
31 employee has a significant pecuniary interest.

32 2. A member of any board, commission or similar body who is engaged in the
33 profession, occupation or business regulated by such board, commission or body
34 may, in the ordinary course of his or her business, bid on or enter into a contract
35 with an agency, except the board, commission or body on which he or she is a
36 member, if the member has not taken part in developing the contract plans or
37 specifications and the member will not be personally involved in opening,
38 considering or accepting offers.

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

44 4. Except as otherwise provided in subsection 2, 3 or 5, a public officer or
45 employee may bid on or enter into a contract with an agency if:

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

49 (b) The sources of supply are limited;

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

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

1 ✎ If a public officer who is authorized to bid on or enter into a contract with an
2 agency pursuant to this subsection is a member of the governing body of the
3 agency, the public officer, pursuant to the requirements of NRS 281A.420, shall
4 disclose the public officer's interest in the contract and shall not vote on or
5 advocate the approval of the contract.

6 5. A member of a local legislative body shall not, either individually or
7 through any business entity in which the member has a significant pecuniary
8 interest, sell goods or services to the local agency governed by his or her local
9 legislative body unless:

10 (a) The member, or the business entity in which the member has a significant
11 pecuniary interest, offers the sole source of supply of the goods or services within
12 the territorial jurisdiction of the local agency governed by his or her local
13 legislative body;

14 (b) The local legislative body includes in the public notice and agenda for the
15 meeting at which it will consider the purchase of such goods or services a clear and
16 conspicuous statement that it is considering purchasing such goods or services from
17 one of its members, or from a business entity in which the member has a significant
18 pecuniary interest;

19 (c) At the meeting, the member discloses his or her significant pecuniary
20 interest in the purchase of such goods or services and does not vote upon or
21 advocate the approval of the matter pursuant to the requirements of NRS 281A.420;
22 and

23 (d) The local legislative body approves the purchase of such goods or services
24 in accordance with all other applicable provisions of law.

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

27 (a) The public officer or employee ~~requests~~ files a request for an advisory
28 opinion from the Commission pursuant to ~~subsection 1 of NRS 281A.440~~ section
29 3.2 of this act; and

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

- 31 (1) The best interests of the public;
32 (2) The continued ethical integrity of each agency affected by the matter;
33 and

34 (3) The provisions of this chapter.

35 7. For the purposes of subsection 6, the request for an advisory opinion, the
36 advisory opinion and all meetings, hearings and proceedings of the Commission
37 in such a matter are governed by the provisions of sections 3.1 to 3.5, inclusive, of
38 this act.

39 Sec. 21. ~~NRS 281A.440 is hereby amended to read as follows:~~

40 ~~281A.440 1. The Commission shall render an opinion interpreting the~~
41 ~~statutory ethical standards and apply the standards to a given set of facts and~~
42 ~~circumstances within 45 days after receiving a request, on a form prescribed by the~~
43 ~~Commission, from a public officer or employee who is seeking guidance on~~
44 ~~questions which directly relate to the propriety of the requester's own past, present~~
45 ~~or future conduct as a public officer or employee, unless the public officer or~~
46 ~~employee waives the time limit. The public officer or employee may also request~~
47 ~~the Commission to hold a public hearing regarding the requested opinion. If a~~
48 ~~requested opinion relates to the propriety of the requester's own present or future~~
49 ~~conduct, the opinion of the Commission is:~~

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

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

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

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

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

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

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

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

12 ~~(c) Upon the Commission's own motion regarding the propriety of conduct by~~
13 ~~a public officer or employee. *Any meeting or hearing held by the Commission*~~
14 ~~*relating to such a motion and the deliberations of the Commission on the motion*~~
15 ~~*are not subject to the provisions of chapter 241 of NRS.* The Commission shall not~~
16 ~~initiate proceedings pursuant to this paragraph based solely upon an anonymous~~
17 ~~complaint.~~

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

22 ~~3. Within 45 days after receiving a request for an opinion pursuant to~~
23 ~~paragraph (a) or (b) of subsection 2, the Commission shall determine whether it has~~
24 ~~jurisdiction concerning the request, unless the public officer or employee who is the~~
25 ~~subject of the request waives this time limit. *Any meeting or hearing held by the*~~
26 ~~*Commission to determine whether it has jurisdiction concerning the request and*~~
27 ~~*the deliberations of the Commission relating to that determination are not subject*~~
28 ~~*to the provisions of chapter 241 of NRS.* Upon a determination by the Commission~~
29 ~~that it has jurisdiction concerning a request for an opinion pursuant to paragraph (a)~~
30 ~~or (b) of subsection 2, or upon the motion of the Commission initiating a request for~~
31 ~~an opinion pursuant to paragraph (c) of subsection 2, as applicable, the Executive~~
32 ~~Director shall investigate the facts and circumstances relating to the request to~~
33 ~~determine whether there is just and sufficient cause for the Commission to render~~
34 ~~an opinion in the matter. The Executive Director shall notify the public officer or~~
35 ~~employee who is the subject of the request and provide the public officer or~~
36 ~~employee an opportunity to submit to the Executive Director a response to the~~
37 ~~allegations against the public officer or employee within 30 days after the date on~~
38 ~~which the public officer or employee received the notice of the request. The~~
39 ~~purpose of the response is to provide the Executive Director with any information~~
40 ~~relevant to the request which the public officer or employee believes may assist the~~
41 ~~Executive Director [and the investigatory panel] in conducting the investigation.~~
42 ~~The public officer or employee is not required in the response or in any proceeding~~
43 ~~before the [investigatory panel] *Commission conducted pursuant to subsection 1*~~
44 ~~*of section 5 of this act to assert, claim or raise any objection or defense, in law or*~~
45 ~~*fact, to the allegations against the public officer or employee and no objection or*~~
46 ~~*defense, in law or fact, is waived, abandoned or barred by the failure to assert,*~~
47 ~~*claim or raise it in the response or in any proceeding conducted before the*~~
48 ~~*investigatory panel.*~~

49 ~~4. The Executive Director shall complete the investigation and present a~~
50 ~~written recommendation relating to just and sufficient cause, including, without~~
51 ~~limitation, the specific evidence or reasons that support the recommendation, to the~~
52 ~~investigatory panel within 70 days after the determination by the Commission that~~
53 ~~it has jurisdiction concerning the request or after the motion of the Commission~~

1 initiating the request, as applicable, unless the public officer or employee waives
2 this time limit.

3 ~~5. Within 15 days after the Executive Director has provided the written~~
4 ~~recommendation in the matter to the investigatory panel pursuant to subsection 4,~~
5 ~~the investigatory panel shall conclude the investigation and make a final~~
6 ~~determination regarding whether there is just and sufficient cause for the~~
7 ~~Commission to render an opinion in the matter, unless the public officer or~~
8 ~~employee waives this time limit. The investigatory panel shall not determine that~~
9 ~~there is just and sufficient cause for the Commission to render an opinion in the~~
10 ~~matter unless the Executive Director has provided the public officer or employee an~~
11 ~~opportunity to respond to the allegations against the public officer or employee as~~
12 ~~required by subsection 3. The investigatory panel shall cause a record of its~~
13 ~~proceedings in each matter to be kept.~~

14 ~~6. If the investigatory panel determines that there is just and sufficient cause~~
15 ~~for the Commission to render an opinion in the matter, the Commission shall hold a~~
16 ~~hearing and render an opinion in the matter within 60 days after the determination~~
17 ~~of just and sufficient cause by the investigatory panel, unless the public officer or~~
18 ~~employee waives this time limit.~~

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

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

27 ~~(b) Discloses the request for the opinion, the contents of the opinion, or any~~
28 ~~motion, evidence or record of a hearing related thereto in any manner except to:~~

29 ~~(1) The public body, agency or employer of the public officer or employee;~~
30 ~~or~~

31 ~~(2) A person to whom the Commission authorizes the current or former~~
32 ~~public officer or employee to make such a disclosure; or~~

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

36 ~~8. Except as otherwise provided in subsections 9 and 10, all information,~~
37 ~~communications, records, documents or other material in the possession of the~~
38 ~~Commission or its staff that is related to a request for an opinion regarding a public~~
39 ~~officer or employee submitted to or initiated by the Commission pursuant to~~
40 ~~subsection 2, including, without limitation, the record of the proceedings of the~~
41 ~~investigatory panel made pursuant to subsection 5, are confidential and not public~~
42 ~~records pursuant to chapter 229 of NRS until:~~

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

47 ~~(b) The public officer or employee who is the subject of a request for an~~
48 ~~opinion submitted or initiated pursuant to subsection 2 authorizes the Commission~~
49 ~~in writing to make its information, communications, records, documents or other~~
50 ~~material which are related to the request publicly available,~~

51 ~~whichever occurs first.~~

~~9. Except as otherwise provided in this subsection, if a person who submits a request for an opinion pursuant to paragraph (b) of subsection 2 asks for the person's name to be kept confidential, the Commission:~~

~~(a) Shall keep the person's name confidential if the person is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the request.~~

~~(b) May keep the person's name confidential if the person offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of the person's name will subject the person or a member of the person's household to a bona fide threat of physical force or violence.~~

~~10. If the Commission keeps the person's name confidential, the Commission shall not render an opinion in the matter unless there is sufficient evidence without the person's testimony to consider the propriety of the conduct of the public officer or employee who is the subject of the request. If the Commission intends to present the person's testimony for consideration as evidence in rendering an opinion in the matter, the Commission shall disclose the person's name within a reasonable time before the Commission's hearing on the matter.~~

~~10. Except as otherwise provided in this subsection, the investigative file related to a request for an opinion regarding a public officer or employee, as described in subsection 17, is confidential. At any time after being served with written notice of the determination of the investigatory panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter, 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 229 of NRS.~~

~~11. 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.~~

~~12. 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.~~

~~13. 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.~~

~~14. For good cause shown, the Commission may take testimony from a person by telephone or video conference.~~

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

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

10 ~~17. For the purposes of this section, the investigative file which relates to a~~
11 ~~request for an opinion regarding a public officer or employee includes, without~~
12 ~~limitation, any information provided to or obtained by the Commission, its staff or~~
13 ~~an investigatory panel through any form of communication during the course of an~~
14 ~~investigation and any records, documents or other material created or maintained~~
15 ~~during the course of an investigation which relate to the public officer or employee~~
16 ~~who is the subject of the request for an opinion, including, without limitation, a~~
17 ~~transcript, regardless of whether such information, records, documents or other~~
18 ~~material are obtained by a subpoena. Commission pursuant to subsection 1 of~~
19 ~~section 5 of this act. (Deleted by amendment.)~~

20 **Sec. 21.5. NRS 281A.450 is hereby amended to read as follows:**

21 281A.450 1. If ~~if a request for an opinion is submitted to~~ an ethics
22 complaint is filed with or initiated by the Commission concerning a present or
23 former state officer or employee, unless the state officer or employee retains his or
24 her legal counsel or the Attorney General tenders the defense of the state officer or
25 employee to an insurer who, pursuant to a contract of insurance, is authorized to
26 defend the state officer or employee, the Attorney General shall defend the state
27 officer or employee or employ special counsel to defend the state officer or
28 employee in any proceeding relating to the ~~request for the opinion~~ ethics
29 complaint if:

30 (a) The state officer or employee submits a written request for defense in the
31 manner provided in NRS 41.0339; and

32 (b) Based on the facts and allegations known to the Attorney General, the
33 Attorney General determines that the act or omission on which the alleged violation
34 is based:

35 (1) Appears to be within the course and scope of public duty or
36 employment of the state officer or employee; and

37 (2) Appears to have been performed or omitted in good faith.

38 2. The Attorney General shall create a written record setting forth the basis
39 for the Attorney General's determination of whether to defend the state officer or
40 employee pursuant to paragraph (b) of subsection 1. The written record is not
41 admissible in evidence at trial or in any other judicial or administrative proceeding
42 in which the state officer or employee is a party, except in connection with an
43 application to withdraw as the attorney of record.

44 **Sec. 22. NRS 281A.465 is hereby amended to read as follows:**

45 281A.465 In any matter in which the Commission disposes of ~~if a request for~~
46 ~~an opinion~~ an ethics complaint by stipulation, agreed settlement ~~if or~~ consent
47 ~~order~~ or in which the review panel approves a deferral order agreement, the
48 Commission or the review panel, as appropriate, shall treat comparable situations
49 in a comparable manner and shall ensure that the disposition of the matter bears a
50 reasonable relationship to the severity of the violation or alleged violation.

51 **Sec. 23. NRS 281A.475 is hereby amended to read as follows:**

52 281A.475 1. ~~The Commission, in~~ The Commission, in determining whether a violation of
53 this chapter is a willful violation and, if so, the ~~amount of any civil~~ penalty to be

1 imposed on a public officer or employee or former public officer or employee
2 pursuant to NRS 281A.480 ~~or section 13 of this act, or the~~ the review
3 panel, in determining whether to approve a deferral agreement regarding an
4 alleged violation, shall consider, without limitation:

5 (a) The seriousness of the violation or alleged violation, including, without
6 limitation, the nature, circumstances, extent and gravity of the violation or alleged
7 violation;

8 (b) The number and history of previous warnings ~~issued to~~ , letters of
9 caution or instruction, deferral agreements or violations or alleged violations of
10 the provisions of this chapter ~~by~~ relating to the public officer or employee;

11 (c) The cost to ~~the Commission to~~ conduct the investigation and any
12 hearing, meetings, hearings or other proceedings relating to the violation or
13 alleged violation;

14 (d) Any mitigating factors, including, without limitation, any self-reporting,
15 prompt correction of the violation or alleged violation, any attempts to rectify the
16 violation or alleged violation before any ethics complaint is filed and any
17 cooperation by the public officer or employee in resolving the ethics complaint;

18 (e) Any restitution or reimbursement paid to parties affected by the violation or
19 alleged violation;

20 (f) The extent of any financial gain resulting from the violation or alleged
21 violation; and

22 (g) Any other matter justice may require.

23 2. The factors set forth in this section are not exclusive or exhaustive, and the
24 Commission or the review panel, as appropriate, may consider other factors in the
25 disposition of the matter if they bear a reasonable relationship to the
26 ~~Commission's~~ determination of the severity of the violation or alleged violation.

27 3. In applying the factors set forth in this section, the Commission or the
28 review panel, as appropriate, shall treat comparable situations in a comparable
29 manner and shall ensure that the disposition of the matter bears a reasonable
30 relationship to the severity of the violation or alleged violation.

31 **Sec. 24.** NRS 281A.480 is hereby amended to read as follows:

32 281A.480 1. In addition to any other penalties provided by law and in
33 accordance with the provisions of NRS 281A.475, the Commission may impose on
34 a public officer or employee or former public officer or employee civil penalties:

35 (a) Not to exceed \$5,000 for a first willful violation of this chapter;

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

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

40 2. In addition to any other penalties provided by law, if any person prevents,
41 interferes with or attempts to prevent or interfere with any investigation or
42 proceedings pursuant to this chapter or the discovery of a violation of this
43 chapter, the Commission may, upon its own motion or upon the motion of the
44 ~~person about whom an opinion was requested pursuant to NRS 281A.440, impose~~
45 of current or former public officer or employee who is the subject of the
46 investigation or proceedings;

47 (a) Impose on the person committing such an act a civil penalty not to exceed
48 \$5,000; and

49 (b) If appropriate under the facts and circumstances, assess against the
50 person committing such an act an amount equal to the amount of attorney's fees
51 and costs actually and reasonably incurred by the ~~person about whom an opinion~~
52 ~~was requested pursuant to NRS 281A.440 against a person who prevents, interferes~~
53 ~~with or attempts to prevent or interfere with the discovery or investigation of a~~

~~violation of this chapter.~~ current or former public officer or employee as a result of the act.

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:

(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. Notwithstanding any other provision of this chapter, any act or failure to act by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of this chapter if the public officer or employee establishes by sufficient evidence that:

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer; and

(b) The advice of the legal counsel was:

(1) Provided to the public officer or employee before the public officer or employee acted or failed to act; and

(2) Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the

1 public officer or employee would not be contrary to ~~any prior published opinion~~
2 ~~issued by the Commission which was publicly available on the Internet website of~~
3 ~~the Commission.~~ the provisions of this chapter as interpreted by the Commission.

4 6. In addition to any other penalties provided by law, ~~if~~ a public employee
5 ~~who~~ commits a willful violation of this chapter ~~or fails to complete a period of~~
6 ~~compliance imposed by the Commission pursuant to subparagraph (1) of~~
7 ~~paragraph (a) of subsection 1 of section 13 of this act or by the review panel as~~
8 part of the terms and conditions of a deferral agreement, the public employee is
9 subject to disciplinary proceedings by the employer of the public employee and
10 must be referred for action in accordance to the applicable provisions governing the
11 employment of the public employee.

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

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

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

25 **Sec. 25.** NRS 281A.500 is hereby amended to read as follows:

26 281A.500 1. On or before the date on which a public officer swears or
27 affirms the oath of office, the public officer must be informed of the statutory
28 ethical standards and the duty to file an acknowledgment of the statutory ethical
29 standards in accordance with this section by:

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

32 (b) For an elected public officer of:

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

35 (2) The city, the city clerk;

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

38 (4) The Executive Department of the State Government, the Director of the
39 Department of Administration, or his or her designee.

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

41 (a) The Director of the Department of Administration, or his or her designee,
42 shall provide each new public employee of a state agency with the information
43 prepared by the Commission concerning the statutory ethical standards; and

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

47 3. Each public officer shall acknowledge that the public officer:

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

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

52 4. The acknowledgment must be executed on a form prescribed by the
53 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 swears or affirms the oath of office.

5. 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 swears or affirms the oath of office in accordance with subsection 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

6. 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.

(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.

7. *If a public officer is serving in a public office and executes and files the acknowledgment for that office as required by the applicable provisions of this section, the public officer shall be deemed to have satisfied the requirements of this section for any other office held concurrently by him or her.*

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 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 printed copy of the statutory ethical standards from the Commission.

~~9.~~ 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 printed copy of the form for making the acknowledgment, a printed copy of the statutory ethical standards must be included with the form.

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

~~11.~~ 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 section 13 of this act~~; 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.

~~1111~~ **12.** As used in this section, “general election” has the meaning ascribed to it in NRS 293.060.

Sec. 26. NRS 281A.510 is hereby amended to read as follows:

281A.510 1. A public officer or public employee shall not accept or receive an honorarium.

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

3. This section does not prohibit:

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

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

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

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

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

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

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

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

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

5. In addition to any other ~~penalty imposed pursuant to NRS 281A.480, or section 13 of this act,~~ penalties provided by law, a public officer or public employee who violates the provisions of this section shall forfeit the amount of the honorarium.

Sec. 27. NRS 281A.550 is hereby amended to read as follows:

281A.550 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 Nevada Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the Nevada 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 Nevada 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 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 file a request ~~that the Commission apply~~ for an advisory opinion pursuant to section 3.2 of this act concerning the application of 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 advisory opinion to that effect and grant such relief. ~~{The}~~

7. For the purposes of subsection 6, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a case is final and subject to judicial review pursuant to NRS 223D.120, 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. Matter are governed by the provisions of sections 3.1 to 3.5, inclusive, of this act.

8. The advisory opinion ~~for the Commission~~ does not relieve the current or former public officer or employee from the strict application of any provision of NRS 281A.410.

~~17. 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, determination, evidence or record of a hearing related thereto; (b) Discloses the request for the opinion, the contents of the opinion or any motion, determination, evidence or record of a hearing related thereto in any manner except to:~~

~~(1) The public body, agency or employer of the public officer or employee or a prospective employer of the public officer or employee; or~~

~~(2) Any person to whom the Commission authorizes the current or former public officer or employee to make such a disclosure; or~~

~~(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, determination, 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. For the purposes of this section:

(a) A former member of the Public Utilities Commission of Nevada, the Nevada Gaming Control Board or the Nevada Gaming Commission; or

(b) Any other former public officer or employee governed by this section, → is employed by or is soliciting or accepting employment from a business, industry or other person described in this section if any oral or written agreement is sought, negotiated or exists ~~for is contemplated~~ during the restricted period pursuant to which the personal services of the public officer or employee are provided or will be provided to the business, industry or other person ~~if~~, even if such an agreement does not or will not become effective until after the restricted period.

1 **10.** As used in this section, “regulation” has the meaning ascribed to it in NRS
2 233B.038 and also includes regulations adopted by a board, commission,
3 department, division or other agency of the Executive Department of State
4 Government that is exempted from the requirements of chapter 233B of NRS.

5 **Sec. 28.** NRS 239.010 is hereby amended to read as follows:

6 239.010 1. Except as otherwise provided in this section and NRS 1.4683,
7 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025,
8 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
9 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640,
10 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160,
11 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.267, 119.267, 119.280,
12 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
13 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140,
14 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
15 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
16 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772,
17 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521,
18 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
19 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
20 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
21 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
22 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105,
23 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
24 271A.105, 281.195, 281A.350, ~~281A.440, 281A.550,~~ 284.4068, 286.110,
25 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
26 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
27 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
28 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755,
29 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300,
30 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,
31 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850,
32 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525,
33 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070,
34 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205,
35 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
36 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330,
37 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164,
38 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
39 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
40 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575,
41 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285,
42 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
43 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
44 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
45 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133,
46 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283,
47 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
48 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
49 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
50 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050,
51 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
52 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947,
53 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130,

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2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 29. NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 239C.140, 281A.350, ~~281A.440, 281A.550,~~ 284.3629, 286.150, 287.0415, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, ~~and section~~ **sections 3.5, 5.5 and 11 of this act** which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding, **↗** prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 29.5. 1. Except as otherwise provided in this section, the Commission on Ethics:

(a) Shall apply the amendatory provisions of this act which govern the procedures applicable to administrative proceedings arising under chapter 281A of NRS to any such proceedings that are within the jurisdiction of the Commission and are commenced on or after July 1, 2017, whether or not the conduct at issue in such proceedings occurred before July 1, 2017.

(b) May apply the amendatory provisions of this act which govern the procedures applicable to administrative proceedings arising under chapter 281A of NRS to any such proceedings that were commenced before July 1, 2017, and are still within the jurisdiction of the Commission and pending before the Commission on July 1, 2017, unless the Commission determines that such an application would be impracticable, unreasonable or unconstitutional under the circumstances, in which case the Commission shall apply the procedures in effect before July 1, 2017.

2. The amendatory provisions of sections 15.7, 16, 20, 20.3, 20.5 and 27 of this act do not apply to any conduct occurring before July 1, 2017.

Sec. 30. NRS 281A.108 and ~~281A.220~~ **281A.440** are hereby repealed.

Sec. 31. This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTIONS

281A.108 “Investigatory panel” or “panel” defined. “Investigatory panel” or “panel” means an investigatory panel appointed by the Commission pursuant to NRS 281A.220.

~~1. 281A.220 Investigatory panels: Appointment; members; review and final determination of just and sufficient cause; disqualification of members from participation in further proceedings in matter.~~

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

~~2. The Chair and Vice Chair of the Commission may not serve together on an investigatory panel.~~

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

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

281A.440 Rendering of opinions by Commission: Requests; determination of jurisdiction; investigations; determination of just and sufficient cause; notice and hearings; confidentiality.

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

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

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

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

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

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

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

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

3. Within 45 days after receiving a request for an opinion pursuant to paragraph (a) or (b) of subsection 2, the Commission shall determine whether it has jurisdiction concerning the request, unless the public officer or employee who is the subject of the request waives this time limit. Upon a determination by the Commission that it has jurisdiction concerning a request for an opinion pursuant to paragraph (a) or (b) of subsection 2, or upon the motion of the Commission initiating a request for an opinion pursuant to paragraph (c) of subsection 2, as applicable, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist

the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.

4. The Executive Director shall complete the investigation and present a written recommendation relating to just and sufficient cause, including, without limitation, the specific evidence or reasons that support the recommendation, to the investigatory panel within 70 days after the determination by the Commission that it has jurisdiction concerning the request or after the motion of the Commission initiating the request, as applicable, unless the public officer or employee waives this time limit.

5. Within 15 days after the Executive Director has provided the written recommendation in the matter to the investigatory panel pursuant to subsection 4, the investigatory panel shall conclude the investigation and make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The investigatory panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. The investigatory panel shall cause a record of its proceedings in each matter to be kept.

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

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

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

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto in any manner except to:

(1) The public body, agency or employer of the public officer or employee; or

(2) A person to whom the Commission authorizes the current or former public officer or employee to make such a disclosure; 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. Except as otherwise provided in subsections 9 and 10, all information, communications, records, documents or other material in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the record of the

proceedings of the investigatory panel made pursuant to subsection 5, are confidential and not public records pursuant to chapter 239 of NRS until:

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

(b) The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 authorizes the Commission in writing to make its information, communications, records, documents or other material which are related to the request publicly available,

↪ whichever occurs first.

9. Except as otherwise provided in this subsection, if a person who submits a request for an opinion pursuant to paragraph (b) of subsection 2 asks for the person's name to be kept confidential, the Commission:

(a) Shall keep the person's name confidential if the person is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the request,

(b) May keep the person's name confidential if the person offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of the person's name will subject the person or a member of the person's household to a bona fide threat of physical force or violence.

↪ If the Commission keeps the person's name confidential, the Commission shall not render an opinion in the matter unless there is sufficient evidence without the person's testimony to consider the propriety of the conduct of the public officer or employee who is the subject of the request. If the Commission intends to present the person's testimony for consideration as evidence in rendering an opinion in the matter, the Commission shall disclose the person's name within a reasonable time before the Commission's hearing on the matter.

10. Except as otherwise provided in this subsection, the investigative file related to a request for an opinion regarding a public officer or employee, as described in subsection 17, is confidential. At any time after being served with written notice of the determination of the investigatory panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter, 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.

11. 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.

12. 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.

13. 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.

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

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

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

17. For the purposes of this section, the investigative file which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information provided to or obtained by the Commission, its staff or an investigatory panel through any form of communication during the course of an investigation and any records, documents or other material created or maintained during the course of an investigation which relate to the public officer or employee who is the subject of the request for an opinion, including, without limitation, a transcript, regardless of whether such information, records, documents or other material are obtained by a subpoena.