

Assembly Bill No. 52–Committee
on Government Affairs

CHAPTER.....

AN ACT relating to governmental administration; revising provisions relating to the determination of a quorum of a public body and the number of votes necessary for a public body to take action; clarifying the applicability of the Open Meeting Law to certain gatherings of the members of a public body; revising the notice requirements for certain meetings of a public body; revising provisions related to abstaining from voting by a member of a public body for certain conflicts of interest; creating exceptions to the Open Meeting Law for certain committees that prepare arguments relating to ballot measures; revising provisions relating to the applicability of the Open Meeting Law to certain foundations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Open Meeting Law requires that meetings of public bodies be open to the public, with limited exceptions set forth specifically in statute. (NRS 241.020) With certain exceptions, to constitute a “meeting” for purposes of the Open Meeting Law, the following two conditions must be met: (1) there must be a gathering of members of a public body at which a quorum is present; and (2) the members must be gathering to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power. In addition, a “meeting” occurs for purposes of the Open Meeting Law when a collective quorum of the members of a public body attend a series of gatherings of less than a quorum of a public body held with the specific intent to avoid the provisions of the Open Meeting Law. A “meeting” does not occur for purposes of the Open Meeting Law where a quorum of members of a public body receives information from its attorney regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and deliberate toward a decision, but not take action, on the matter. The Open Meeting Law further provides that a “meeting” does not occur if there is a gathering or series of gatherings of a quorum of members of a public body: (1) which occurs at a social function if the members do not deliberate toward a decision or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power; or (2) to receive training regarding the legal obligations of the public body if the members do not deliberate toward a decision or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power. **Section 4** of this bill makes technical, nonsubstantive changes to reorganize the definition of “meeting” to make clear that a meeting does not occur for purposes of the Open Meeting Law if the members of a public body, regardless of the presence of an actual or collective quorum of those members, do not deliberate or take action on a matter over which the public body has supervision, control, jurisdiction or advisory power.

For purposes of the Open Meeting Law, a quorum is defined as a simple majority of the membership of a public body unless a different proportion is provided in law for that public body. (NRS 241.015) Under existing law, some



public bodies include nonvoting members as well as voting members and, for some such public bodies, existing law specifies whether nonvoting members are counted for purposes of determining a quorum. (See, e.g., NRS 360.010, 360.080) **Section 4** specifies that, unless otherwise provided in law for a public body, nonvoting members are not counted for purposes of determining a quorum of that public body. **Section 2** of this bill specifies that, unless otherwise provided by specific statute or unless all members of the public body must be elected officials, if a vacancy occurs in the voting membership of a public body, the necessary quorum and number of votes necessary to take action on a matter is reduced as though the voting membership does not include the vacancy.

The Open Meeting Law authorizes a public body to conduct a meeting by means of a remote technology system under certain circumstances. (NRS 241.023) **Sections 4, 5 and 8** of this bill make conforming changes to include remote technology systems as one of the means by which public bodies conduct meetings.

The Open Meeting Law prohibits, with certain exceptions, a public body from holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person, or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has given written notice to that person of the time and place of the meeting and received proof of service of the notice. With certain exceptions, the notice is required to be delivered personally to the person or sent by certified mail by certain deadlines. (NRS 241.033) **Section 6** of this bill adds to the methods by which such notice may be given and revises the deadlines for providing such notice.

The Open Meeting Law prohibits, with certain exceptions, a public body from holding a meeting to consider whether to: (1) take administrative action against a person; or (2) acquire real property owned by a person by the exercise of the power of eminent domain unless the public body has given written notice to that person of the time and place of the meeting and received proof of service of such notice. With certain exceptions, the notice must be delivered personally to the person or sent by certified mail by certain deadlines. (NRS 241.034) **Sections 3 and 7** of this bill: (1) reorganize these provisions; and (2) revise the deadlines for providing such notice. **Section 3** adds to the manners by which notice of a meeting to consider whether to take administrative action against a person may be given. **Section 4** defines the term "administrative action against a person." **Sections 16-19** of this bill make conforming changes relating to the reorganization of these provisions.

Under existing law, with certain exceptions, if a public officer on a body or committee abstains from voting on a matter because of certain conflicts of interest, as required by the Nevada Ethics in Government Law, the necessary quorum and the number of votes necessary to act upon the matter is reduced as though the member abstaining were not a member of the body or committee. (NRS 281A.420) The Open Meeting Law provides that in a county whose population is 45,000 or more (currently Carson City and Clark, Douglas, Elko, Lyon, Nye and Washoe Counties), the reduction in the necessary quorum and the number of votes necessary to act upon the matter does not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the abstention is required. (NRS 241.0355) **Sections 9 and 10** of this bill eliminate the requirement that the member of such a public body receives and discloses the opinion of the legal counsel in order to reduce the necessary quorum and the number of votes necessary to act upon the matter.



Existing law requires the appointment of committees to prepare arguments advocating or opposing approval of statewide ballot measures proposed by initiative or referendum, county ballot measures and city ballot measures. (NRS 293.252, 295.121, 295.217) Under existing law, the provisions of the Open Meeting Law do not apply to any consultations, deliberations, hearings or meetings that are conducted by committees that prepare arguments advocating or opposing approval of county ballot measures. (NRS 295.121) **Sections 11 and 12** of this bill also exempt from the Open Meeting Law consultations, deliberations, hearings or meetings that are conducted by: (1) committees that prepare arguments advocating or opposing approval of statewide ballot measures proposed by initiative or referendum; and (2) committees that prepare arguments advocating or opposing approval of city ballot measures. **Section 5** of this bill makes a conforming change to indicate these additional exemptions from the Open Meeting Law.

The Open Meeting Law defines a “public body” to include a library foundation, an educational foundation and a university foundation if the foundation is created in a specified manner. (NRS 241.015) **Sections 13 and 14** of this bill clarify that the Open Meeting Law only applies to a library foundation or an educational foundation if the foundation meets the definition of a “public body.” (NRS 379.1495, 388.750) **Section 4** provides that the Open Meeting Law applies to a university foundation.

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

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

Section 1. Chapter 241 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in subsection 2 or by specific statute, if a vacancy occurs in the voting membership of a public body, the necessary quorum and number of votes necessary to take action on a matter is reduced as though the voting membership does not include the vacancy.*

2. The provisions of subsection 1 do not apply to a public body if all members of the public body must be elected officials.

Sec. 3. 1. *Except as otherwise provided in subsection 5, a public body shall not consider at a meeting whether to take administrative action against a person unless the public body has given written notice to that person of the time and place of the meeting.*

2. The written notice required pursuant to subsection 1 must be given to the person in one of the following manners:

(a) Delivered personally to that person at least 7 calendar days before the meeting;

(b) Sent by certified mail to the last known address of that person at least 14 calendar days before the meeting;



(c) If the person is represented by an attorney in connection with the matter, delivered personally to the attorney of the person at least 7 calendar days before the meeting; or

(d) If the public body makes decisions directly concerning the employment of the person, delivered personally to the person at his or her place of employment during a time at which the person is required to be present at work that is at least 7 calendar days before the meeting.

3. Except as otherwise provided in this subsection, a public body must receive proof of service of the written notice provided to a person pursuant to this section before the public body may consider the matter relating to that person at a meeting.

4. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to NRS 241.020.

5. The written notice otherwise required pursuant to this section is not required:

(a) If the public body provided written notice to the person pursuant to NRS 241.033 before holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of the person, and the written notice provided pursuant to NRS 241.033 included the informational statement described in paragraph (b) of subsection 2 of that section; or

(b) In an emergency.

6. As used in this section, "emergency" means an unforeseen circumstance which requires the public body to take immediate action and includes, without limitation:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 4. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. "Action" means:

(a) A decision made by a majority of the **voting** members present, whether in person, **by use of a remote technology system** or by means of electronic communication, during a meeting of a public body;

(b) A commitment or promise made by a majority of the **voting** members present, whether in person, **by use of a remote technology system** or by means of electronic communication, during a meeting of a public body;



(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the **voting members present, whether in person, by use of a remote technology system** or by means of electronic communication, during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. **“Administrative action against a person” means an action that is uniquely personal to the person and includes, without limitation, the potential for a negative change in circumstances to the person. The term does not include the denial of any application where the denial does not change the present circumstance or situation of the person.**

3. “Deliberate” means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision.

~~3.1~~ 4. “Meeting”:

(a) Except as otherwise provided in ~~paragraph~~ **paragraphs (b) and (c)**, means:

(1) The gathering of members of a public body at which a quorum is present, whether in person, by use of a remote technology system or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present, whether in person, **by use of a remote technology system** or by means of electronic communication, at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) **Does not include any gathering or series of gatherings of members of a public body if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.**

(c) Does not include a gathering or series of gatherings of members of a public body ~~[, as described in paragraph (a).]~~ at which a quorum is actually or collectively present, whether in person, **by**



use of a remote technology system or by means of electronic communication ~~};~~

~~—(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.~~

~~—(2) To~~, *to* receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

~~[(3) To receive training regarding the legal obligations of the public body, including, without limitation, training conducted by an attorney employed or retained by the public body, the Office of the Attorney General or the Commission on Ethics, if at the gathering the members do not deliberate toward a decision or action on any matter over which the public body has supervision, control, jurisdiction or advisory power.~~

~~—4.]~~ **5.** Except as otherwise provided in NRS 241.016, “public body” means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes a library foundation as defined in NRS 379.0056 ~~};~~ **and** an educational foundation as defined in subsection 3 of NRS 388.750, ~~[and a university foundation as defined in subsection 3 of NRS 396.405.]~~ if the administrative, advisory, executive or legislative body is created by:

- (1) The Constitution of this State;
- (2) Any statute of this State;
- (3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;
- (4) The Nevada Administrative Code;
- (5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;
- (6) An executive order issued by the Governor; or
- (7) A resolution or an action by the governing body of a political subdivision of this State;



(b) Any board, commission or committee consisting of at least two persons appointed by:

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government, if the board, commission or committee has at least two members who are not employed by the public officer or entity;

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201; ~~and~~

(d) A subcommittee or working group consisting of at least two persons who are appointed by a public body described in paragraph (a), (b) or (c) if:

(1) A majority of the membership of the subcommittee or working group are members or staff members of the public body that appointed the subcommittee; or

(2) The subcommittee or working group is authorized by the public body to make a recommendation to the public body for the public body to take any action ~~;~~

~~—5.;~~ *and*

(e) A university foundation as defined in subsection 3 of NRS 396.405.

6. “Quorum” means a simple majority of the *voting* membership of a public body or another proportion established by law.

~~6.~~ **7.** “Remote technology system” means any system or other means of communication which uses any electronic, digital or other similar technology to enable a person from a remote location to attend, participate, vote or take any other action in a meeting, even though the person is not physically present at the meeting. The term includes, without limitation, teleconference and videoconference systems.

~~7.~~ **8.** “Supporting material” means material that is provided to at least a quorum of the members of a public body by a member of or staff to the public body and that the members of the public body would reasonably rely on to deliberate or take action on a matter contained in a published agenda. The term includes, without



limitation, written records, audio recordings, video recordings, photographs and digital data.

~~§ 9.~~ **9.** “Working day” means every day of the week except Saturday, Sunday and any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 5. 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, 228.495, 239C.140, 239C.420, 241.028, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 288.590, 289.387, **293.252**, 295.121, **295.217**, 315.98425, 360.247, 388.261, 388.385, 388A.495, 388C.150, 388D.355, 388G.710, 388G.730, 392.147, 392.466, 392.467, 392.4671, 394.1699, 396.1415, 396.3295, 414.270, 422.405, 433.534, 435.610, 442.774, 463.110, 480.545, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, 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 **a remote technology system or** 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. 6. NRS 241.033 is hereby amended to read as follows:

241.033 1. Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental



health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be ~~[-]~~ *given to the person in one of the following manners:*

(1) Delivered personally to that person at least ~~[5-working]~~ *7 calendar* days before the meeting; ~~[or]~~

(2) Sent by certified mail to the last known address of that person at least ~~[21-working]~~ *14 calendar* days before the meeting ~~[-]~~ ;

(3) If the person is represented by an attorney in connection with the matter, delivered personally to the attorney of the person at least 7 calendar days before the meeting; or

(4) If the public body makes decisions directly concerning the employment of the person, delivered personally to the person at his or her place of employment during a time at which the person is required to be present at work that is at least 7 calendar days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of ~~[subparagraphs (1) and (2) of]~~ paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct,



professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section:

(a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.

(b) Casual or tangential references to a person or the name of a person during a meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) A meeting held to recognize or award positive achievements of a person, including, without limitation, honors, awards, tenure and commendations, is not subject to the notice requirements otherwise imposed by this section.

Sec. 7. NRS 241.034 is hereby amended to read as follows:

241.034 1. ~~Except as otherwise provided in subsection 3:~~

~~(a) A public body shall not consider at a meeting whether to:~~

~~(1) Take administrative action against a person; or~~



~~— (2) Acquire~~ **acquire** real property owned by a person by the exercise of the power of eminent domain ~~;~~
→ unless the public body has given written notice to that person of the time and place of the meeting.

~~{(b)}~~ 2. The written notice required pursuant to ~~{paragraph (a)}~~ **subsection 1** must be:

~~{(1)}~~ (a) Delivered personally to that person at least ~~{5 working}~~ **7 calendar** days before the meeting; or

~~{(2)}~~ (b) Sent by certified mail to the last known address of that person at least ~~{21-working}~~ **14 calendar** days before the meeting.

→ A public body must receive proof of service of the written notice provided to a person pursuant to this section before the public body may consider ~~{a}~~ **the** matter ~~{set forth in paragraph (a) relating to that person}~~ at a meeting.

~~{2.}~~ 3. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to NRS 241.020.

~~{3. The written notice otherwise required pursuant to this section is not required if:~~

~~— (a) The public body provided written notice to the person pursuant to NRS 241.033 before holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of the person; and~~

~~— (b) The written notice provided pursuant to NRS 241.033 included the informational statement described in paragraph (b) of subsection 2 of that section.]~~

4. For the purposes of this section, real property shall be deemed to be owned only by the natural person or entity listed in the records of the county in which the real property is located to whom or which tax bills concerning the real property are sent.

Sec. 8. NRS 241.035 is hereby amended to read as follows:

241.035 1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present, whether in person , **by use of a remote technology system** or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if



the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

↳ Unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

2. Minutes of public meetings are public records. Minutes or an audio recording of a meeting made in accordance with subsection 4 must be made available for inspection by the public within 30 working days after adjournment of the meeting. A copy of the minutes or audio recording must be made available to a member of the public upon request at no charge. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with NRS 239.080 to 239.125, inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Except as otherwise provided in subsection 8, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or



cause the meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least 3 years after the adjournment of the meeting at which it was recorded or transcribed;

(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

5. The requirement set forth in subsection 2 that a public body make available a copy of the minutes or audio recording of a meeting to a member of the public upon request at no charge does not prohibit a court reporter who is certified pursuant to chapter 656 of NRS from charging a fee to the public body for any services relating to the transcription of a meeting.

6. A court reporter who transcribes a meeting is not required to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter directly to a member of the public at no charge.

7. Except as otherwise provided in subsection 8, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

8. If a public body makes a good faith effort to comply with the provisions of subsections 4 and 7 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

Sec. 9. NRS 241.0355 is hereby amended to read as follows:

241.0355 ~~[1. — A]~~ *Except as otherwise provided in subsection 5 of NRS 281A.420, a public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the action. For purposes of this ~~[subsection.]~~ section, a public body may not count an abstention as a vote in favor of an action.*



~~[2. In a county whose population is 45,000 or more, the provisions of subsection 5 of NRS 281A.420 do not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the abstention is required pursuant to NRS 281A.420. The opinion of counsel must be in writing and set forth with specificity the factual circumstances and analysis leading to that conclusion.]~~

Sec. 10. 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;

(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; 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, the commitment in a private capacity to the interests of the other person or the nature of the representation or counseling of the private person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, upon the person to whom the public officer or employee has a commitment in a private capacity or upon the private person who was represented or counseled by the public officer or employee. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization



or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

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

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

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

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

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

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

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

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

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

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer makes a proper disclosure at the time the matter is considered and in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in



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

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

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

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

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

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

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

Sec. 11. NRS 293.252 is hereby amended to read as follows:

293.252 1. For each constitutional amendment or statewide measure proposed by initiative or referendum to be placed on the ballot by the Secretary of State, the Secretary of State shall, pursuant to subsection 4, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative or referendum and the other committee must be composed of three persons who oppose approval by the voters of the initiative or referendum.



2. If the Secretary of State is unable to appoint three persons who are willing to serve on a committee, the Secretary of State may appoint fewer than three persons to that committee, but the Secretary of State must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative or referendum and the committee that opposes approval by the voters of that initiative or referendum.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative or referendum.

4. The Secretary of State shall consider appointing to a committee pursuant to this section:

(a) Any person who has expressed an interest in serving on the committee; and

(b) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

5. A committee appointed pursuant to this section:

(a) Shall elect a chair for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative or referendum, prepare an argument either advocating or opposing approval by the voters of the initiative or referendum;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the initiative or referendum;

(2) The environmental impact of the initiative or referendum;

and

(3) The impact of the initiative or referendum on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the Secretary of State not later than the date prescribed by the Secretary of State pursuant to subsection 6.



6. The Secretary of State shall provide, by rule or regulation:

(a) The maximum permissible length of an argument and rebuttal prepared pursuant to this section; and

(b) The date by which an argument and rebuttal prepared pursuant to this section must be submitted by a committee to the Secretary of State.

7. Upon receipt of an argument or rebuttal prepared pursuant to this section, the Secretary of State:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative or referendum pertains; and

(b) Shall reject each statement in the argument or rebuttal that the Secretary of State believes is libelous or factually inaccurate.

↳ The decision of the Secretary of State to reject a statement pursuant to this subsection is a final decision for the purposes of judicial review. Not later than 5 days after the Secretary of State rejects a statement pursuant to this subsection, the committee that prepared the statement may appeal that rejection by filing a complaint in the First Judicial District Court. The Court shall set the matter for hearing not later than 3 working days after the complaint is filed and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings.

8. The Secretary of State may revise the language submitted by a committee pursuant to this section so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect of the language without the consent of the committee.

9. The provisions of chapter 241 of NRS do not apply to any consultations, deliberations, hearings or meetings conducted pursuant to this section.

Sec. 12. NRS 295.217 is hereby amended to read as follows:

295.217 1. For each initiative, referendum, advisory question or other question to be placed on the ballot by the:

(a) Council, including, without limitation, pursuant to NRS 295.215 or 295.230; or

(b) Governing body of a public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the city,

↳ the council shall, in consultation pursuant to subsection 5 with the city clerk or other city officer authorized to perform the duties of the city clerk, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative,



referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the city clerk pursuant to subsection 5, the council is unable to appoint three persons willing to serve on a committee, the council may appoint fewer than three persons to that committee, but the council must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The city clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The city clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 1.

5. Before the council appoints a committee pursuant to this section, the city clerk shall:

(a) Recommend to the council persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the council fails to appoint a committee as required pursuant to this section, the city clerk shall, in consultation with the city attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative,



referendum or other question. Each argument prepared by the city clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the city clerk pursuant to subsection 8. The city clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

(a) Shall elect a chair for the committee;
(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The anticipated financial effect of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the city clerk not later than the date prescribed by the city clerk pursuant to subsection 8.

8. The city clerk shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the city clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the city clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that the city clerk believes is libelous or factually inaccurate.

↳ The decision of the city clerk to reject a statement pursuant to this subsection is a final decision for purposes of judicial review. Not



later than 5 days after the city clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection by filing a complaint in district court. The court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The city clerk shall place in the sample ballot provided to the registered voters of the city each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The city clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. If a question is to be placed on the ballot by an entity described in paragraph (b) of subsection 1, the entity must provide a copy and explanation of the question to the city clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the city clerk is governed by subsection 3 of NRS 293.481.

12. The provisions of chapter 241 of NRS do not apply to any consultations, deliberations, hearings or meetings conducted pursuant to this section.

Sec. 13. NRS 379.1495 is hereby amended to read as follows:
379.1495 1. A library foundation:

(a) Shall comply with the provisions of chapter 241 of NRS ~~if~~ ***if the library foundation is a public body, as defined in NRS 241.015.***

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection 14 of NRS 375.090; and

(d) May allow a trustee or the executive director or other head administrator, or a designee thereof, of the library which it supports to serve as a member of its governing body.

2. A library foundation is not required to disclose the name of any contributor or potential contributor to the library foundation, the amount of his or her contribution or any information which may reveal or lead to the discovery of his or her identity. The library foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the library foundation relating to that contributor.



Sec. 14. NRS 388.750 is hereby amended to read as follows:
388.750 1. An educational foundation:

(a) Shall comply with the provisions of chapter 241 of NRS ~~and~~ *if the educational foundation is a public body, as defined in NRS 241.015;*

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010; and

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection 12 of NRS 375.090.

2. An educational foundation is not required to disclose the names of the contributors to the foundation or the amount of their contributions. The educational foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, “educational foundation” means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated exclusively for the purpose of supporting one or more kindergartens, elementary schools, junior high or middle schools or high schools, or any combination thereof;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 622A.300 is hereby amended to read as follows:

622A.300 1. To initiate the prosecution of a contested case, the prosecutor shall file a charging document with the regulatory body and serve the licensee with the charging document.

2. The regulatory body shall determine whether the case will be heard by the regulatory body or a hearing panel or officer.

3. The regulatory body or hearing panel or officer shall provide the licensee with written notice of the case pursuant to NRS 233B.121 and ~~[241.034.]~~ *section 3 of this act.*

4. If the case is heard by a hearing panel or officer, the hearing panel or officer shall follow the procedures established by this chapter and any other applicable statutory and regulatory provisions governing the case. The hearing panel or officer shall prepare written findings and recommendations and serve the findings and recommendations on the parties and the regulatory body for its review.

5. The findings and recommendations of the hearing panel or officer do not become final unless they are approved by the regulatory body after review. In reviewing the findings and



recommendations of the hearing panel or officer, the regulatory body may:

(a) Approve the findings and recommendations, with or without modification;

(b) Reject the findings and recommendations and remand the case to the hearing panel or officer;

(c) Reject the findings and recommendations and order a hearing de novo before the regulatory body; or

(d) Take any other action that the regulatory body deems appropriate to resolve the case.

6. If the case is heard by the regulatory body, the regulatory body shall follow the procedures established by this chapter and any other applicable statutory and regulatory provisions governing the case.

7. The regulatory body or the hearing panel or officer, with the approval of the regulatory body, may consolidate two or more cases if it appears that the cases involve common issues of law or fact and the interests of the parties will not be prejudiced by the consolidation.

Sec. 17. NRS 642.518 is hereby amended to read as follows:

642.518 Notwithstanding the provisions of chapter 622A of NRS:

1. If the Board finds that probable cause exists for the revocation of a license, permit or certificate issued by the Board pursuant to the provisions of this chapter or chapter 451 or 452 of NRS, and that enforcement of the provisions of this chapter or chapter 451 or 452 of NRS requires immediate suspension of the license, permit or certificate pending an investigation, the Board may, upon 5 days' written notice and a preliminary hearing, enter an order suspending the license, permit or certificate for a period of not more than 60 days, pending a hearing upon the revocation of the license, permit or certificate.

2. For the purposes of this section, notice shall be deemed to be sufficient if the notice is personally served on the holder of the license, permit or certificate or posted at the address of the holder, as indicated in the records of the Board, at least 5 days before the preliminary hearing.

3. The provisions of ~~[NRS 241.034]~~ *section 3 of this act* do not apply to any action that is taken by the Board pursuant to this section.

Sec. 18. NRS 642.557 is hereby amended to read as follows:

642.557 Notwithstanding the provisions of chapter 622A of NRS:



1. If the Board has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter or chapter 440, 451 or 452 of NRS, any regulation adopted by the Board pursuant thereto or any order of the Board, the Board may enter an order requiring the person to desist or refrain from engaging in the violation.

2. The provisions of ~~[NRS 241.034]~~ *section 3 of this act* do not apply to any action that is taken by the Board pursuant to this section.

Sec. 19. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any licensee who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.029 to 449.2428, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for licensees, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the licensee and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and ~~[241.034.]~~ *section 3 of this act*. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.



4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 20. This act becomes effective on July 1, 2023.



