

Senate Bill No. 228—Senator Parks (by request)

CHAPTER.....

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

Legislative Counsel's Digest:

This bill makes various changes to provisions relating to public officers and employees and the administration of the Nevada Ethics in Government Law by the Commission on Ethics. (Chapter 281A of NRS)

Sections 18-24 and 30-32.5 of this bill enact and revise various definitions in the Ethics Law. **Section 19** revises and makes applicable throughout the Ethics Law the existing definition of “commitment in a private capacity to the interests of others” in NRS 281A.420.

Section 23 defines “pecuniary interest” for the Ethics Law, and **sections 40.3, 41 and 42.5** of this bill require proof of a significant personal or pecuniary interest in defining various types of ethical conflicts, so that a de minimis or insignificant personal or pecuniary interest does not create a conflict of interest, require disqualification or abstention, or provide just or sufficient cause for an ethics investigation or violation. (NRS 281A.400, 281A.420, 281A.430)

Sections 24.5 and 32.3 of this bill establish that a president of a state university, college or community college, a superintendent of a county school district, and a county manager or city manager are designated as public officers for the purposes of the Ethics Law. (NRS 281A.160)

Section 25 of this bill enacts provisions for computing periods of time prescribed or allowed under the Ethics Law. **Section 27** of this bill authorizes the Commission to apply for and accept grants, contributions, services and money for the purposes of carrying out the Ethics Law.

Section 27.3 of this bill requires the Commission, when disposing of a request for an opinion by stipulation, agreed settlement or consent order, to treat comparable situations in a comparable manner and ensure that the disposition of a request for an opinion bears a reasonable relationship to the severity of the violation or alleged violation of the Ethics Law. **Section 27.5** of this bill requires the Commission to consider various aggravating and mitigating factors when determining whether a violation of the Ethics Law is a willful violation and, if so, the amount of any civil penalty to be imposed for such a willful violation of the Ethics Law. **Section 27.5** also requires the Commission, when applying these factors, to treat comparable situations in a comparable manner and to ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.

Sections 33-37 of this bill make various changes concerning the operation of the Commission and the duties of the Executive Director of the Commission and the Commission Counsel. Those changes include: (1) adjusting the eligibility requirements for certain members of the Commission; (2) requiring the Chair of the Commission to designate a qualified person to perform the duties of the Executive Director if the Executive Director is disqualified or unable to act on a particular matter; (3) revising the administration of the assessments paid by cities and counties in semiannual installments to the Commission; and (4) authorizing the Commission to adopt procedural regulations that are necessary and proper to carry out the Ethics Law. (NRS 281A.200, 281A.240, 281A.260, 281A.270, 281A.290)



Section 38 of this bill directs public officers and employees who request the issuance of a subpoena on their behalf in ethics proceedings to serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure and to pay the costs of such service. (NRS 281A.300)

Sections 40.3-44 of this bill make various changes to provisions in the Ethics Law, including provisions relating to conflicts of interests for public officers and employees, disclosures and abstentions, the rendering of opinions and conduct of investigations by the Commission and the duties of specialized and local ethics committees. (NRS 281A.400, 281A.410, 281A.420, 281A.430, 281A.440, 281A.470)

Section 40.5 prohibits a member of a local legislative body from representing or counseling a private person for compensation before another local agency whose territorial jurisdiction includes any part of the same county in which the member serves. However, **section 40.5** allows the Commission to provide the member with relief from strict application of the prohibition if certain conditions are met. (NRS 281A.410)

With certain exceptions, the Ethics Law prohibits a public officer or employee from bidding on or entering into a contract between a governmental agency and any business entity in which the public officer or employee has a significant pecuniary interest. **Section 42.5** allows the Commission to provide a public officer or employee with relief from strict application of the prohibition if certain conditions are met. (NRS 281A.430)

Sections 42.5 and 62 of this bill move, revise and remove certain provisions of the Ethics Law that regulate when a member of a local legislative body may sell goods or services to his or her local agency as the sole source of supply within the area served by the local agency. (NRS 281A.430, 281A.530) **Section 42.5** prohibits such a member from selling goods or services to his or her local agency unless certain conditions are met, but **section 42.5** also allows the Commission to provide the member with relief from strict application of the prohibition. **Section 62** repeals an existing provision of the Ethics Law regulating such "sole source" transactions because under this bill, "sole source" transactions are regulated by **section 42.5**.

Sections 16.3, 16.5 and 57-61 of this bill make conforming changes to other provisions of existing law that restrict various public officers and employees from being personally interested in or benefiting from a contract with a governmental agency. (NRS 245.075, 268.384, 269.071, 269.072, 281.221, 281.230, 332.800)

Section 45 of this bill revises the "safe harbor" provision of the Ethics Law to provide that a public officer or employee does not commit a willful violation if: (1) 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 (2) his or her act or failure to act was not contrary to a prior published opinion issued by the Commission. (NRS 281A.480)

Section 46 of this bill provides new requirements relating to informing, educating and instructing public officers and employees concerning the statutory ethical standards and the duties of public officers and employees under the Ethics Law. (NRS 281A.500)



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

Sections 1-16. (Deleted by amendment.)

Sec. 16.3. NRS 281.221 is hereby amended to read as follows:

281.221 1. Except as otherwise provided in this section ~~†~~
and NRS 281A.430, it is unlawful for ~~any~~ *a* state officer , who is
not a member of the Legislature *subject to the restrictions set forth
in NRS 218A.970*, to:

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

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

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

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

4. A state officer, other than an officer described in subsection
2 or 3, may bid on or enter into a contract with a governmental
agency if the contracting process is controlled by rules of open
competitive bidding, the sources of supply are limited, the officer
has not taken part in developing the contract plans or specifications
and the officer will not be personally involved in opening,
considering or accepting offers.

5. Any contract made in violation of this section may be
declared void at the instance of the State or of any other person



interested in the contract except an officer prohibited from making or being interested in the contract.

6. ~~{Any}~~ A person ~~{violating}~~ *who violates* this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 16.5. NRS 281.230 is hereby amended to read as follows:

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

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

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

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

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

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

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the public officer or employee has not taken part in developing the contract plans or specifications and the public officer or employee will not be personally involved in opening, considering or accepting offers. If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of



NRS 281A.420, shall disclose his or her interest in the contract and shall not vote on or advocate the approval of the contract.

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

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

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

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

Sec. 17. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27.5, inclusive, of this act.

Sec. 18. *“Agency” means any state agency or local agency.*

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

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

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

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

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

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

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

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

Sec. 21. *“Domestic partnership” means:*

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

2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a



domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

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

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

- 1. Anything of economic value; and*
- 2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.*

Sec. 24. *“State agency” means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.*

Sec. 24.5. *1. Any person who serves in one of the following positions is designated as a public officer 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.*

2. This section applies 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.*

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

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

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

Sec. 26. (Deleted by amendment.)

Sec. 27. *The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out*



the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission and the Commission complies with the provisions of the State Budget Act.

Sec. 27.3. *In any matter in which the Commission disposes of a request for an opinion by stipulation, agreed settlement or consent order, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.*

Sec. 27.5. 1. *In determining whether a violation of this chapter is a willful violation and, if so, the amount of any civil penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.480, the Commission shall consider:*

(a) The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;

(b) The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;

(c) The cost to the Commission to conduct the investigation and any hearing relating to the violation;

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

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

(f) The extent of any financial gain resulting from the violation; and

(g) Any other matter justice may require.

2. *In applying the factors set forth in this section, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.*

Sec. 28. (Deleted by amendment.)

Sec. 29. 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.040 to 281A.170, inclusive, *and sections 18 to 24, inclusive, of this act* have the meanings ascribed to them in those sections.



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

281A.100 “Household” means an association of persons who live in the same home or dwelling ~~+, sharing its expenses,+~~ and who are related by blood, adoption , ~~+,~~ marriage *or domestic partnership.*

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

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

Sec. 32. (Deleted by amendment.)

Sec. 32.3. NRS 281A.160 is hereby amended to read as follows:

281A.160 1. “Public officer” means a person ~~+,elected+~~ *who is:*

(a) Elected or appointed to a position which:

~~+(a)+~~ *(1)* Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and

~~+(b)+~~ *(2)* Involves the exercise of a public power, trust or duty ~~+,~~ *or*

(b) Designated as a public officer for the purposes of this chapter pursuant to section 24.5 of this act.

2. As used in this section, “the exercise of a public power, trust or duty” means:

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

~~+(2)+~~ *(b)* The expenditure of public money; and

~~+(3)+~~ *(c)* The administration of laws and rules of the State or any county, city or other political subdivision.

~~+(2)+~~ 3. “Public officer” does not include:

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

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

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

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

~~+(3)+~~ 4. “Public office” does not include an office held by:



- (a) Any justice, judge or other officer of the court system;
- (b) Any member of a board, commission or other body whose function is advisory;
- (c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or
- (d) A county health officer appointed pursuant to NRS 439.290.

Sec. 32.5. NRS 281A.170 is hereby amended to read as follows:

281A.170 "Willful violation" means a violation where ~~the~~ :

1. The public officer or employee:

~~1~~ **(a)** Acted intentionally and knowingly; or

~~2~~ **(b)** Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter ~~1~~ ; and

2. The Commission determines, after applying the factors set forth in section 27.5 of this act, that the public officer's or employee's act or failure to act resulted in a sanctionable violation of this chapter.

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

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

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom ~~are~~ **must be** former public officers ~~1~~ **or employees**, and at least one of whom must be an attorney licensed to practice law in this State.

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

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

5. None of the members of the Commission may, while the member is serving on the Commission:

(a) Hold another public office;

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

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

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



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

(I) The appropriation of public money;

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

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

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

Sec. 34. NRS 281A.240 is hereby amended to read as follows:

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

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

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

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

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

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

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

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of 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. 35. NRS 281A.260 is hereby amended to read as follows:

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

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

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

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

(b) Employ outside legal counsel.

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

281A.270 1. Each county whose population is 10,000 or more and each city whose population is 15,000 or more and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next



ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

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

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

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

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

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

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

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

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and



published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 37. NRS 281A.290 is hereby amended to read as follows:
281A.290 The Commission shall:

1. Adopt procedural regulations ~~that~~ *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 a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the 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 ~~contains:~~

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

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

~~—(c) An abstract of~~ *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 ~~abstracts and~~ published opinions of the Commission.

Sec. 38. 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 books



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

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

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

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

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

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

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

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to the witness, and



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

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

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Secs. 39 and 40. (Deleted by amendment.)

Sec. 40.3. NRS 281A.400 is hereby amended to read as follows:

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

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

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection ~~f~~:

~~—(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281A.420.~~

~~—(b) “Unwarranted”~~, **“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 any business entity in which the public officer or employee has a significant pecuniary interest.

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

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

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit ~~the public officer's or employee's~~ *a significant* personal or ~~financial~~ *pecuniary* interest ~~of~~ *of the public officer or employee.* 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 ~~the public officer's or employee's~~ *a significant* personal or ~~financial~~ *pecuniary* interest *of the public officer or employee* through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of the public officer's or employee's official position.

Sec. 40.5. NRS 281A.410 is hereby amended to read as follows:

281A.410 In addition to the requirements of the code of ethical standards ~~and~~ *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. ~~1A~~ *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. ~~Any other~~*

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 an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

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

(1) The best interests of the public;

(2) The continued ethical integrity of each local agency affected by the matter; and

(3) The provisions of this chapter.

4. *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.*

~~13~~ 5. Not later than January 15 of each year, *if* any State Legislator, *member of a local legislative body* or other public officer ~~who~~ *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.



~~4~~ 6. The disclosure required by subsection ~~3~~ 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.

~~5~~ 7. The Commission shall retain a disclosure filed pursuant to ~~subsections 3 and 4~~ *this section* for 6 years after the date on which the disclosure was filed.

Sec. 41. 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; or

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

↳ without disclosing ~~sufficient~~ information concerning the gift ~~or~~ *or* loan, *significant pecuniary* interest or commitment *in a private capacity to the interests of the 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, or upon the ~~persons~~ *person* to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, 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 ~~others.~~ *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 ~~the public officer's~~ commitment in a private capacity to the interests of ~~others.~~ *another person* where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of ~~others.~~ *another person*, accruing to the other ~~persons.~~ *person*, is not greater than that accruing to any other member of ~~the~~ *any* general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the *acceptance of a gift or loan, significant* pecuniary interest or commitment in a private capacity to the interests of ~~others.~~ *another person.*

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter,



provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, ~~the public officer's~~ **significant** pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others~~ **another person** in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, ~~the public officer's~~ **significant** pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others~~ **another person**.

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

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

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

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

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

8. As used in this section ~~the~~

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



~~(1) Who is a member of the public officer's or employee's household;~~

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

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

~~(4) With whom the public officer or employee has a substantial and continuing business relationship; or~~

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

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

Sec. 42. (Deleted by amendment.)

Sec. 42.5. NRS 281A.430 is hereby amended to read as follows:

281A.430 1. Except as otherwise provided in this section and NRS ~~281A.530~~ **218A.970** and 332.800, a public officer or employee shall not bid on or enter into a contract between ~~fa governmental~~ **an** agency and any business entity in which the public officer or employee has a significant pecuniary interest.

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

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

4. ~~FA~~ **Except as otherwise provided in subsection 2, 3 or 5, a** public officer or employee ~~[- other than a public officer or employee described in subsection 2 or 3,]~~ may bid on or enter into a contract with ~~fa governmental~~ **an** agency if:

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not



employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

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

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

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

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

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

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

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

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

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

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

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

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter; and



(3) The provisions of this chapter.

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

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

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

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those 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. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, 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 receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. ~~If, after the investigation, the Executive Director determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific evidence that supports the Executive Director's recommendation. If, after the investigation, the Executive Director determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific reasons for the Executive Director's recommendation.~~

5. Within 15 days after the Executive Director has provided the ~~[Executive Director's]~~ *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 . ~~and such a record must remain confidential until the investigatory panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.~~

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; 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 ~~the~~ subsection ~~each document~~ **9, 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 Commission's copy of the request and all materials and information gathered in an investigation of the request, is~~ **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 ~~the~~ :



(a) *The* investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter ~~[-The]~~ *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 ~~[may in writing authorize]~~ *authorizes* the Commission *in writing* to make its ~~[files, material and]~~ *information, communications, records, documents or other material* which are related to the request publicly available ~~[]~~,

↳ *whichever occurs first.*

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

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

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

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

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

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

~~— (2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person gave testimony before the Commission.]~~ *, the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the*



matter becomes a public record as provided in chapter 239 of NRS.

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

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

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

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

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

11. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

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

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that the person will testify truthfully,

↳ the Commission may decline to render an opinion.

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

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

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

16. For the purposes of this section, the investigative file of the Commission which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information obtained by the Commission 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, regardless of whether such information, records, documents or other material are obtained by a subpoena.

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

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

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

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

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

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

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

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

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

~~3-~~ 4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion,



each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

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

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

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

281A.480 1. In addition to any other penalties provided by law ~~H~~ *and in accordance with the provisions of section 27.5 of this act*, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

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

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

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

2. In addition to any other penalties provided by law, the Commission may *, upon its own motion or upon the motion of the person about whom an opinion was requested pursuant to NRS 281A.440*, impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

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

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

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

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



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

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

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

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

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

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

5. ~~[An action taken]~~ *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 ~~[a provision of those sections]~~ *this chapter* if the public officer or employee establishes by sufficient evidence that : ~~[the public officer or employee satisfied all of the following requirements:]~~

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by ~~[the]~~ *his or her* public body ~~[which the public officer represents or by the]~~ , *agency or* employer ; ~~[of the public employee or upon the manual published by the Commission pursuant to NRS 281A.290;-~~



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

~~{(e)}~~ (b) The *act or failure to act by the* public officer or employee ~~{took action that}~~ was not contrary to a prior published opinion issued by the Commission.

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

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

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

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

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

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

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

(b) For an elected public officer of:

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

(2) The city, the city clerk;

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



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

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

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

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

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

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

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

~~12-~~ 4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

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

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

~~13-~~ 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 ~~takes~~ *swears or affirms the oath of* office in accordance with subsection ~~12-~~ 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

~~14-~~ 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.

~~{5-}~~ ***(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 form for making the acknowledgment must contain:

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

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

~~{6-}~~ **8.** Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a ~~{hard}~~ ***printed*** copy of the form for making the acknowledgment, a ~~{hard}~~ ***printed*** copy of the statutory ethical standards must be included with the form.

~~{7-}~~ **9.** The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~{8-}~~ **10.** Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

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

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

~~{9-}~~ **11.** As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.



Secs. 47-56.5. (Deleted by amendment.)

Sec. 57. NRS 245.075 is hereby amended to read as follows:

245.075 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~§ 281A.530~~ and 332.800, it is unlawful for any county officer, *directly or indirectly*, to be interested in any contract made by the county officer or *to* be a purchaser or ~~be~~ interested in any purchase of a sale made by the county officer in the discharge of his or her official duties.

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

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

Sec. 58. NRS 268.384 is hereby amended to read as follows:

268.384 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~§ 281A.530~~ and 332.800, it is unlawful for any city officer, *directly or indirectly*, to be interested in any contract made by the city officer ~~§~~ or to be a purchaser or interested ~~directly or indirectly,~~ in any purchase of a sale made by the city officer in the discharge of *his or her* official duties.

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

Sec. 59. NRS 269.071 is hereby amended to read as follows:

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

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

Sec. 60. NRS 269.072 is hereby amended to read as follows:

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



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

Sec. 61. NRS 332.800 is hereby amended to read as follows:

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

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

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

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

Sec. 62. NRS 281A.530 is hereby repealed.

Sec. 63. 1. Except as otherwise provided in subsection 2, this act becomes effective upon passage and approval.

2. Sections 16.3, 16.5, 24.5, 32.3, 40.5, 42.5 and 57 to 62, inclusive, of this act become effective on January 1, 2014.

