

Amendment No. 522

Assembly Amendment to Assembly Bill No. 403	(BDR 17-573)
Proposed by: Assembly Committee on Legislative Operations and Elections	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

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

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

JFD/EGO



Date: 4/23/2017

A.B. No. 403—Revises various provisions relating to governmental administration.
(BDR 17-573)



ASSEMBLY BILL NO. 403—ASSEMBLYMEN DALY, FRIERSON, DIAZ, BENITEZ-THOMPSON, ARAUJO; BROOKS, CARRILLO, MCCURDY II AND MONROE-MORENO

MARCH 20, 2017

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises various provisions relating to governmental administration. (BDR ~~(17-573)~~ 18-573)

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

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

AN ACT relating to governmental administration; ~~creating the Governmental Oversight and Accountability Subcommittee of the Legislative Commission; prescribing the powers and duties of the Subcommittee;~~ authorizing the Legislative Commission to suspend or nullify certain regulations; abolishing the Subcommittee to Review Regulations of the Legislative Commission; revising provisions relating to administrative regulations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Section 5 of this bill creates the Governmental Oversight and Accountability Subcommittee of the Legislative Commission and provides for the appointment of its membership. Section 6 of this bill prescribes the manner in which meetings are required to be conducted by the Oversight Subcommittee and provides for the compensation of its members. Section 7 of this bill prescribes the powers and duties of the Oversight Subcommittee, including the evaluation and review of issues related to governmental agencies. Section 8 of this bill prescribes the manner in which investigations and hearings are required to be conducted by the Oversight Subcommittee.~~

The separation-of-powers provision of the Nevada Constitution provides that if the Legislature authorizes the adoption of regulations by an agency of the Executive Department of the State Government which bind persons outside the agency, the Legislature is authorized to enact laws providing for: (1) the review of such regulations by a legislative agency before their effective date to determine whether each such regulation is within the statutory authority for its adoption; (2) the suspension by a legislative body of any such regulation which appears to exceed the statutory authority for its adoption until the regulation is reviewed by a legislative body composed of members of the Senate and Assembly; and (3) the nullification of any such regulation by a majority vote of a legislative body composed of members of the Senate and Assembly. (Nev. Const. Art. 3, § 1) The Nevada Administrative Procedure Act sets forth the procedures for the adoption of emergency, temporary and permanent regulations by nonexempt state agencies. (NRS 233B.0395-233B.120) With limited exceptions, the Legislative Commission or the Subcommittee to Review Regulations of the Legislative Commission is required under existing law to approve permanent regulations before those regulations become effective. (NRS 233B.067-233B.070)

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24 **Section 10** of this bill authorizes the Legislative Commission to suspend or nullify a
 25 regulation adopted pursuant to the Nevada Administrative Procedure Act if the regulation: (1)
 26 exceeds the statutory authority for its adoption; (2) is inconsistent with the intent of the
 27 Legislature in granting the statutory authority for its adoption; or (3) is no longer being
 28 administered or interpreted in a manner that is consistent with the agency's stated intention
 29 when adopting the regulation or the agency's stated intention during the review and approval
 30 of the regulation by the Legislative Commission. **Section 10** also precludes judicial review of
 31 a decision of the Legislative Commission to suspend or nullify a regulation and authorizes the
 32 Legislative Commission to determine what constitutes a regulation for the purposes of
 33 exercising the Legislative Commission's power to suspend or nullify a regulation. **Sections**
 34 **12, 26 and 28** of this bill make conforming changes.

35 **Section 22** of this bill abolishes the Subcommittee to Review Regulations of the
 36 Legislative Commission and, with limited exceptions, requires only the Legislative
 37 Commission to review and approve permanent regulations before those regulations become
 38 effective. **Sections 16, 19, 21-24, 27 and 29** of this bill make conforming changes.

39 **Section 11** of this bill authorizes the Legislative Commission to adopt regulations
 40 necessary to carry out the provisions of the Nevada Administrative Procedure Act governing
 41 administrative regulations.

42 Existing law excludes the application of certain agency policies as applied to a person
 43 with sufficient prior actual notice of the policy from the definition of "regulation" for the
 44 purposes of the Nevada Administrative Procedure Act. (NRS 233B.038) **Section 13** of this
 45 bill removes this exception.

46 Existing law ratifies the Nevada Administrative Code as revised or supplemented before
 47 May 15, 1987. (NRS 233B.0395) **Section 14** of this bill ratifies the Code as revised or
 48 supplemented before February 6, 2017.

49 Existing law requires an agency to adopt a proposed regulation not later than 2 years after
 50 the proposed regulation is submitted to the Legislative Counsel. (NRS 233B.040) **Section 15**
 51 of this bill requires an agency to also submit the proposed regulation to the Legislative
 52 Commission for review within the same 2-year period.

53 Existing law requires an agency to hold an oral public hearing on a proposed regulation if
 54 an oral hearing is requested by certain persons and the proposed regulation is substantive.
 55 (NRS 233B.061) **Section 17** of this bill eliminates the requirement regarding the
 56 substantiveness of the regulation.

57 Under existing law, the Legislative Counsel is required to prepare and publish a Register
 58 of Administrative Regulations, which includes information relating to adopted permanent
 59 regulations. (NRS 233B.0653) **Section 20** of this bill eliminates the requirement that the
 60 Legislative Counsel publish paper copies of the Register and instead requires the Legislative
 61 Counsel to publish the Register electronically on the public website of the Legislature on the
 62 Internet.

63 An emergency regulation becomes effective when certain documents are filed with the
 64 Secretary of State. (NRS 233B.070) **Section 25** of this bill requires that a copy of the written
 65 statement of the emergency endorsed by the Governor is included with the information that
 66 must be filed with the Secretary of State before an emergency regulation becomes effective.

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

1 **Section 1.** ~~[Chapter 218E of NRS is hereby amended by adding thereto the~~
 2 ~~provisions set forth as sections 2 to 8, inclusive, of this act.] (Deleted by~~
 3 ~~amendment.)~~

4 **Sec. 2.** ~~[As used in sections 2 to 8, inclusive, of this act, unless the context~~
 5 ~~otherwise requires, the words and terms defined in sections 3 and 4 of this act~~
 6 ~~have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

7 **Sec. 3.** ~~["Governmental agency" means any agency, office, board,~~
 8 ~~commission, department, division, bureau, authority, institution, district or other~~
 9 ~~unit of the State or a political subdivision of the State, excluding constitutional~~

1 ~~officers, justices and judges of the Judicial Department of the State Government~~
2 ~~and any council, board or commission whose members are elected.] (Deleted by~~
3 ~~amendment.)~~

4 Sec. 4. ~~["Oversight Subcommittee" means the Governmental Oversight and~~
5 ~~Accountability Subcommittee of the Legislative Commission created by section 5~~
6 ~~of this act.] (Deleted by amendment.)~~

7 Sec. 5. ~~1. There is hereby created a Governmental Oversight and~~
8 ~~Accountability Subcommittee of the Legislative Commission, consisting of six~~
9 ~~legislative members.~~

10 ~~2. The Chair of the Legislative Commission shall appoint to the Oversight~~
11 ~~Subcommittees~~

12 ~~(a) Three members designated by the Majority Leader of the Senate, at least~~
13 ~~one of whom must be a member of the minority political party.~~

14 ~~(b) Three members designated by the Speaker of the Assembly, at least one of~~
15 ~~whom must be a member of the minority political party.~~

16 ~~3. The Legislative Commission shall review and approve the budget and~~
17 ~~work program for the Oversight Subcommittee and any changes to the budget or~~
18 ~~work program.~~

19 ~~4. The Legislative Commission shall select the Chair and Vice Chair of the~~
20 ~~Oversight Subcommittee from among the members of the Oversight~~
21 ~~Subcommittee. Each Chair and Vice Chair holds office for a term of 2 years~~
22 ~~commencing on July 1 of each odd numbered year. The office of Chair of the~~
23 ~~Oversight Subcommittee must alternate each biennium between the Houses. If a~~
24 ~~vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in~~
25 ~~the same manner as the original selection for the remainder of the unexpired~~
26 ~~term.~~

27 ~~5. A member of the Oversight Subcommittee who is not a candidate for~~
28 ~~reelection or who is defeated for reelection continues to serve after the general~~
29 ~~election until the next regular or special session convenes.~~

30 ~~6. A vacancy on the Oversight Subcommittee must be filled in the same~~
31 ~~manner as the original appointment for the remainder of the unexpired term.]~~
32 ~~(Deleted by amendment.)~~

33 Sec. 6. ~~1. Except as otherwise ordered by the Legislative Commission,~~
34 ~~the members of the Oversight Subcommittee shall meet not earlier than~~
35 ~~September 1 of each odd numbered year and not later than August 31 of the~~
36 ~~following even numbered year at the times and places specified by a call of the~~
37 ~~Chair or a majority of the Oversight Subcommittee.~~

38 ~~2. The Director or the Director's designee shall act as the nonvoting~~
39 ~~recording Secretary of the Oversight Subcommittee.~~

40 ~~3. Four members of the Oversight Subcommittee constitute a quorum, and~~
41 ~~a quorum may exercise all the power and authority conferred on the Oversight~~
42 ~~Subcommittee.~~

43 ~~4. Except during a regular or special session, for each day or portion of a~~
44 ~~day during which a member of the Oversight Subcommittee attends a meeting of~~
45 ~~the Oversight Subcommittee or is otherwise engaged in the business of the~~
46 ~~Oversight Subcommittee, the member is entitled to receive the:~~

47 ~~(a) Compensation provided for a majority of the Legislators during the first~~
48 ~~60 days of the preceding regular session;~~

49 ~~(b) Per diem allowance provided for state officers and employees generally;~~
50 ~~and~~

51 ~~(c) Travel expenses provided pursuant to NRS 218A.655.~~

52 ~~5. All such compensation, per diem allowances and travel expenses must be~~
53 ~~paid from the Legislative Fund.] (Deleted by amendment.)~~

1 Sec. 7. ~~The Oversight Subcommittee may:~~
2 ~~1. To fulfill the powers and duties imposed upon and entrusted to the~~
3 ~~Legislative Commission pursuant to NRS 232B.010 to 232B.100, inclusive, and~~
4 ~~pursuant to paragraph (b) of subsection 1 and paragraph (c) of subsection 2 of~~
5 ~~NRS 219E.175, evaluate, review and comment upon issues related to~~
6 ~~governmental agencies, including, without limitation:~~
7 ~~(a) Programs to enhance accountability in government;~~
8 ~~(b) Legislative measures regarding governmental oversight;~~
9 ~~(c) Methods of financing governmental agencies; and~~
10 ~~(d) Any other matters that, in the determination of the Oversight~~
11 ~~Subcommittee, affect governmental agencies.~~
12 ~~2. Conduct investigations and hold hearings in connection with its duties~~
13 ~~pursuant to this section.~~
14 ~~3. Request that the Legislative Counsel Bureau assist in the research,~~
15 ~~investigations, hearings and reviews of the Oversight Subcommittee.~~
16 ~~4. Make recommendations to the Legislature concerning the manner in~~
17 ~~which government may be improved.] (Deleted by amendment.)~~

18 Sec. 8. ~~1. If the Oversight Subcommittee conducts investigations or holds~~
19 ~~hearings pursuant to section 7 of this act:~~
20 ~~(a) The Secretary of the Oversight Subcommittee or, in the Secretary's~~
21 ~~absence, a member designated by the Oversight Subcommittee may administer~~
22 ~~oaths.~~
23 ~~(b) The Secretary or Chair of the Oversight Subcommittee may cause the~~
24 ~~deposition of witnesses, residing either within or without the State, to be taken in~~
25 ~~the manner prescribed by rule of court for taking depositions in civil actions in~~
26 ~~the district courts.~~
27 ~~(c) The Chair of the Oversight Subcommittee may issue subpoenas to compel~~
28 ~~the attendance and testimony of witnesses and the production of books, papers,~~
29 ~~accounts, department records and other documents.~~
30 ~~2. If any witness fails or refuses to attend or testify or to produce the books,~~
31 ~~papers, accounts, department records or other documents required by the~~
32 ~~subpoena, the Chair of the Oversight Subcommittee may report the failure or~~
33 ~~refusal to the district court by a petition which:~~
34 ~~(a) Sets forth that:~~
35 ~~(1) Due notice has been given of the time and place of the attendance of~~
36 ~~the witness or the production of the required books, papers, accounts, department~~
37 ~~records or other documents;~~
38 ~~(2) The witness has been subpoenaed by the Oversight Subcommittee~~
39 ~~pursuant to this section; and~~
40 ~~(3) The witness has failed or refused to attend or testify or to produce the~~
41 ~~books, papers, accounts, department records or other documents required by the~~
42 ~~subpoena before the Oversight Subcommittee named in the subpoena; and~~
43 ~~(b) Asks for an order of the court compelling the witness to attend and testify~~
44 ~~or to produce the required books, papers, accounts, department records or other~~
45 ~~documents before the Oversight Subcommittee.~~
46 ~~3. Upon such a petition, the court shall:~~
47 ~~(a) Enter an order directing the witness:~~
48 ~~(1) To appear before the court at a time and place to be fixed by the court~~
49 ~~in its order, the time to be not more than 10 days after the date of the order; and~~
50 ~~(2) To show cause why the witness has not attended or testified or~~
51 ~~produced the required books, papers, accounts, department records or other~~
52 ~~documents before the Oversight Subcommittee; and~~
53 ~~(b) Serve a certified copy of the order upon the witness.~~

~~4. If it appears to the court that the subpoena was regularly issued by the Oversight Subcommittee, the court shall enter an order that the witness:~~

~~(a) Must appear before the Oversight Subcommittee at the time and place fixed in the order;~~

~~(b) Must testify or produce the required books, papers, accounts, department records or other documents; and~~

~~(c) Upon failure to obey the order, must be dealt with as for contempt of court. (Deleted by amendment.)~~

Sec. 9. Chapter 233B of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. 1. Upon its own initiative, the Legislative Commission may suspend or nullify a regulation adopted pursuant to this chapter if, in the opinion of the Legislative Commission, the regulation:

(a) Exceeds the statutory authority for the adoption of the regulation;

(b) Is inconsistent with the intent of the Legislature in granting the statutory authority for the adoption of the regulation; or

(c) Is no longer being administered or interpreted by the agency in a manner consistent with the stated intent of the agency when adopting the regulation or during the review and approval of the regulation by the Legislative Commission.

2. If the Legislative Commission exercises its authority to suspend or nullify a regulation pursuant to this section, the Legislative Commission shall:

(a) Notify the agency that the regulation has been suspended or nullified; and

(b) Within 120 days after the suspension or nullification becomes effective, provide the reason for the suspension or nullification to the agency.

3. Any decision of the Legislative Commission to suspend or nullify a regulation is final and not subject to judicial review.

4. In exercising the powers granted in this section, the Legislative Commission shall have the authority to determine if an agency rule, standard, directive or statement is a regulation pursuant to NRS 233B.038. Any agency rule, standard, directive or statement which is nullified by the Legislative Commission pursuant to this section must be removed from the Nevada Administrative Code and from any agency publications and notices.

Sec. 11. The Legislative Commission may adopt such regulations as are necessary to carry out the provisions of this section and NRS 233B.0395 to 233B.120, inclusive, and section 10 of this act.

Sec. 12. NRS 233B.020 is hereby amended to read as follows:

233B.020 1. By this chapter, the Legislature intends to establish ~~minimum~~ procedural requirements for the ~~regulation-making and~~ adoption, review, suspension or nullification of regulations, for the adjudication procedure of all agencies of the Executive Department of the State Government and for judicial review of ~~both functions,~~ contested cases, except as to those agencies expressly exempted pursuant to the provisions of this chapter. This chapter confers no additional regulation-making authority upon any agency except to the extent provided in subsection 1 of NRS 233B.050.

2. The provisions of this chapter are intended to supplement statutes applicable to specific agencies. This chapter does not abrogate or limit additional requirements imposed on such agencies by statute or otherwise recognized by law.

Sec. 13. NRS 233B.038 is hereby amended to read as follows:

233B.038 1. "Regulation" means:

(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;

1 (b) A proposed regulation;
2 (c) The amendment or repeal of a prior regulation; and
3 (d) The general application by an agency of a written policy, interpretation,
4 process or procedure to determine whether a person is in compliance with a federal
5 or state statute or regulation in order to assess a fine, monetary penalty or monetary
6 interest.

7 2. The term does not include:

8 (a) A statement concerning only the internal management of an agency and not
9 affecting private rights or procedures available to the public;

10 (b) A declaratory ruling;

11 (c) An intraagency memorandum;

12 (d) A manual of internal policies and procedures or audit procedures of an
13 agency which is used solely to train or provide guidance to employees of the
14 agency and which is not used as authority in a contested case to determine whether
15 a person is in compliance with a federal or state statute or regulation;

16 (e) An agency decision or finding in a contested case;

17 (f) An advisory opinion issued by an agency that is not of general applicability;

18 (g) A published opinion of the Attorney General;

19 (h) An interpretation of an agency that has statutory authority to issue
20 interpretations;

21 (i) Letters of approval, concurrence or disapproval issued in relation to a
22 permit for a specific project or activity;

23 (j) A contract or agreement into which an agency has entered;

24 (k) The provisions of a federal law, regulation or guideline;

25 (l) An emergency action taken by an agency that is necessary to protect public
26 health and safety;

27 ~~(m) The application by an agency of a policy, interpretation, process or
28 procedure to a person who has sufficient prior actual notice of the policy,
29 interpretation, process or procedure to determine whether the person is in
30 compliance with a federal or state statute or regulation in order to assess a fine,
31 monetary penalty or monetary interest;~~

32 ~~(n)~~ (n) A regulation concerning the use of public roads or facilities which is
33 indicated to the public by means of signs, signals and other traffic-control devices
34 that conform with the manual and specifications for a uniform system of official
35 traffic-control devices adopted pursuant to NRS 484A.430;

36 ~~(o)~~ (n) The classification of wildlife or the designation of seasons for
37 hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners
38 pursuant to the provisions of title 45 of NRS; or

39 ~~(p)~~ (o) A technical bulletin prepared pursuant to NRS 360.133.

40 **Sec. 14.** NRS 233B.0395 is hereby amended to read as follows:

41 233B.0395 The Nevada Administrative Code as most recently revised or
42 supplemented before ~~May 15, 1987,~~ **February 6, 2017**, and the text of those
43 regulations which have been prepared by the Legislative Counsel for inclusion in
44 the Nevada Administrative Code on or before ~~May 15, 1987,~~ **February 6, 2017**,
45 but have not been included, are hereby ratified.

46 **Sec. 15.** NRS 233B.040 is hereby amended to read as follows:

47 233B.040 1. To the extent authorized by the statutes applicable to it, each
48 agency may adopt reasonable regulations to aid it in carrying out the functions
49 assigned to it by law and shall adopt such regulations as are necessary to the proper
50 execution of those functions. If adopted and filed in accordance with the provisions
51 of this chapter, the following regulations have the force of law and must be
52 enforced by all peace officers:

53 (a) The Nevada Administrative Code; and

1 (b) Temporary and emergency regulations.
2 ↪ In every instance, the power to adopt regulations to carry out a particular
3 function is limited by the terms of the grant of authority pursuant to which the
4 function was assigned.

5 2. Every regulation adopted by an agency must include:

6 (a) A citation of the authority pursuant to which it, or any part of it, was
7 adopted; and

8 (b) The address of the agency and, to the extent not elsewhere provided in the
9 regulation, a brief explanation of the procedures for obtaining clarification of the
10 regulation or relief from the strict application of any of its terms, if the agency is
11 authorized by a specific statute to grant such relief, or otherwise dealing with the
12 agency in connection with the regulation.

13 3. An agency may adopt by reference in a regulation material published by
14 another authority in book or pamphlet form if:

15 (a) It files one copy of the publication with the Secretary of State and one copy
16 with the State Library, Archives and Public Records Administrator, and makes at
17 least one copy available for public inspection with its regulations; and

18 (b) The reference discloses the source and price for purchase of the
19 publication.

20 ↪ An agency shall not attempt to incorporate any other material in a regulation by
21 reference.

22 4. An agency shall adopt *and submit* a proposed regulation *to the Legislative*
23 *Commission for review* not later than 2 years after the date on which the proposed
24 regulation is submitted to the Legislative Counsel pursuant to subsection 1 of NRS
25 233B.063. If an agency does not adopt *and submit* a proposed regulation *to the*
26 *Legislative Commission for review* within the time prescribed by this subsection,
27 the executive head of the agency shall appear personally before the Legislative
28 Commission and explain why the proposed regulation has not been adopted **H** *and*
29 *submitted to the Legislative Commission for review.*

30 **Sec. 16.** NRS 233B.060 is hereby amended to read as follows:

31 233B.060 1. Except as otherwise provided in subsection 2 and NRS
32 233B.061, before adopting, amending or repealing:

33 (a) A permanent regulation, the agency must, after receiving the approved or
34 revised text of the proposed regulation prepared by the Legislative Counsel
35 pursuant to NRS 233B.063, give at least 30 days' notice of its intended action,
36 unless a shorter period of notice is specifically permitted by statute.

37 (b) A temporary regulation, the agency must give at least 30 days' notice of its
38 intended action, unless a shorter period of notice is specifically permitted by statute.

39 2. Except as otherwise provided in subsection 3, if an agency has adopted a
40 temporary regulation after notice and the opportunity for a hearing as provided in
41 this chapter, it may adopt, after providing a second notice and the opportunity for a
42 hearing, a permanent regulation, but the language of the permanent regulation must
43 first be approved or revised by the Legislative Counsel and the adopted regulation
44 must be approved by the Legislative Commission. ~~for the Subcommittee to Review~~
45 ~~Regulations appointed pursuant to subsection 6 of NRS 233B.067.]~~

46 3. If the Public Utilities Commission of Nevada has adopted a temporary
47 regulation after notice and the opportunity for a hearing as provided in this chapter,
48 it may adopt a substantively equivalent permanent regulation without further notice
49 or hearing, but the language of the permanent regulation must first be approved or
50 revised by the Legislative Counsel and the adopted regulation must be approved by
51 the Legislative Commission. ~~for the Subcommittee to Review Regulations.]~~

1 **Sec. 17.** NRS 233B.061 is hereby amended to read as follows:

2 233B.061 1. All interested persons must be afforded a reasonable
3 opportunity to submit data, views or arguments upon a proposed regulation, orally
4 or in writing.

5 2. Before holding the public hearing required pursuant to subsection 3, an
6 agency shall conduct at least one workshop to solicit comments from interested
7 persons on one or more general topics to be addressed in a proposed regulation. Not
8 less than 15 days before the workshop, the agency shall provide notice of the time
9 and place set for the workshop:

10 (a) In writing to each person who has requested to be placed on a mailing list;
11 and

12 (b) In any other manner reasonably calculated to provide such notice to the
13 general public and any business that may be affected by a proposed regulation
14 which addresses the general topics to be considered at the workshop.

15 3. ~~With respect to substantive regulations, the~~ *The* agency shall set a time
16 and place for an oral public hearing, but if no one appears who will be directly
17 affected by the proposed regulation and requests an oral hearing, the agency may
18 proceed immediately to act upon any written submissions. The agency shall
19 consider fully all written and oral submissions respecting the proposed regulation.

20 4. An agency shall not hold the public hearing required pursuant to subsection
21 3 on the same day that the agency holds the workshop required pursuant to
22 subsection 2.

23 5. Each workshop and public hearing required pursuant to subsections 2 and 3
24 must be conducted in accordance with the provisions of chapter 241 of NRS.

25 **Sec. 18.** NRS 233B.0617 is hereby amended to read as follows:

26 233B.0617 No regulation adopted after July 1, 1965, is valid unless adopted
27 in substantial compliance with this chapter but no objection to any regulation on the
28 ground of noncompliance with the procedural requirements of NRS 233B.060 to
29 233B.0617, inclusive, may be made more than 2 years after its effective date.
30 *Nothing in this section shall be construed to preclude the making of an objection*
31 *to a regulation on a ground other than noncompliance with the procedural*
32 *requirements of NRS 233B.060 to 233B.0617, inclusive.* Regulations in effect on
33 July 1, 1965, continue in effect until amended, *suspended, nullified* or repealed in
34 accordance with the provisions of this chapter, if an original and two copies were
35 deposited with the Secretary of State on or before July 1, 1965.

36 **Sec. 19.** NRS 233B.0633 is hereby amended to read as follows:

37 233B.0633 1. Upon the request of a Legislator, the Legislative Commission
38 may examine a temporary regulation adopted by an agency that is not yet effective
39 pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary
40 regulation conforms to the statutory authority pursuant to which it was adopted and
41 whether the temporary regulation carries out the intent of the Legislature in
42 granting that authority.

43 2. If a temporary regulation that the Legislative Commission is requested to
44 examine pursuant to subsection 1 was required to be adopted by the agency
45 pursuant to a federal statute or regulation and the temporary regulation exceeds the
46 specific statutory authority of the agency or sets forth requirements that are more
47 stringent than a statute of this State, the agency shall submit a statement to the
48 Legislative Commission that adoption of the temporary regulation was required by
49 a federal statute or regulation. The statement must include the specific citation of
50 the federal statute or regulation requiring such adoption.

51 3. ~~Except as otherwise provided in subsection 4, the~~ *The* Legislative
52 Commission shall †

1 ~~—(a) Review~~ **review** the temporary regulation at its next regularly scheduled
2 meeting if the request for examination of the temporary regulation is received more
3 than 10 working days before the meeting. ~~}; or~~

4 ~~—(b) Refer the temporary regulation for review to the Subcommittee to Review~~
5 ~~Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~

6 ~~4. If an agency determines that an emergency exists which requires a~~
7 ~~temporary regulation of the agency for which a Legislator requested an examination~~
8 ~~pursuant to subsection 1 to become effective before the next meeting of the~~
9 ~~Legislative Commission is scheduled to be held, the agency may notify the~~
10 ~~Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the~~
11 ~~Legislative Counsel shall refer the temporary regulation for review by the~~
12 ~~Subcommittee to Review Regulations as soon as practicable.~~

13 ~~—5} 4. If the Legislative Commission {; or the Subcommittee to Review~~
14 ~~Regulations if the temporary regulation was referred,} approves the temporary~~
15 regulation, the Legislative Counsel shall notify the agency that the agency may file
16 the temporary regulation with the Secretary of State. If the Commission ~~for the~~
17 ~~Subcommittee} objects to the temporary regulation after determining that:~~

18 (a) If subsection 2 is applicable, the temporary regulation is not required
19 pursuant to a federal statute or regulation;

20 (b) The temporary regulation does not conform to statutory authority; or

21 (c) The temporary regulation does not carry out legislative intent,

22 **→** the Legislative Counsel shall attach to the temporary regulation a written notice
23 of the objection, including, if practicable, a statement of the reasons for the
24 objection, and shall promptly return the temporary regulation to the agency.

25 ~~{6} 5. If the Legislative Commission {for the Subcommittee to Review~~
26 ~~Regulations} has objected to a temporary regulation, the agency that adopted the~~
27 temporary regulation shall revise the temporary regulation to conform to the
28 statutory authority pursuant to which it was adopted and to carry out the intent of
29 the Legislature in granting that authority and return it to the Legislative Counsel
30 within 60 days after the agency received the written notice of the objection to the
31 temporary regulation pursuant to subsection ~~{5} 4. Upon receipt of the revised~~
32 temporary regulation, the Legislative Counsel shall resubmit the temporary
33 regulation to the Legislative Commission. ~~{for the Subcommittee for review.} If the~~
34 Legislative Commission ~~for the Subcommittee} approves the revised temporary~~
35 regulation, the Legislative Counsel shall notify the agency that the agency may file
36 the revised temporary regulation with the Secretary of State.

37 ~~{7} 6. If the Legislative Commission {for the Subcommittee to Review~~
38 ~~Regulations} objects to the revised temporary regulation, the Legislative Counsel~~
39 shall attach to the revised temporary regulation a written notice of the objection,
40 including, if practicable, a statement of the reasons for the objection, and shall
41 promptly return the revised temporary regulation to the agency. The agency shall
42 continue to revise it and resubmit it to the Legislative Commission ~~for the~~
43 ~~Subcommittee} within 30 days after the agency received the written notice of the~~
44 objection to the revised temporary regulation.

45 **Sec. 20.** NRS 233B.0653 is hereby amended to read as follows:

46 233B.0653 1. The Legislative Counsel shall **periodically** prepare and
47 publish ~~{for cause to be prepared and published} electronically~~ a Register of
48 Administrative Regulations ~~{; on the public website of the Legislature on the~~
49 **Internet**. The Register must include the following information regarding each
50 permanent regulation adopted by an agency:

51 (a) The proposed and adopted text of the regulation and any revised version of
52 the regulation;

53 (b) The notice of intent to act upon the regulation set forth in NRS 233B.0603;

1 (c) The written notice of adoption of the regulation required pursuant to NRS
2 233B.064;

3 (d) The informational statement required pursuant to NRS 233B.066; and

4 (e) The effective date of the regulation, as determined pursuant to NRS
5 233B.070.

6 ~~1. In carrying out the duties set forth in this subsection, the Legislative Counsel
7 may use the services of the State Printing Office.~~

8 ~~2. The Legislative Counsel shall publish the Register not less than 10 times
9 per year but not more than once every 2 weeks.~~

10 ~~3. The Register must be provided to and maintained by:~~

11 ~~(a) The Secretary of State;~~

12 ~~(b) The Attorney General;~~

13 ~~(c) The Supreme Court Law Library;~~

14 ~~(d) The State Library, Archives and Public Records;~~

15 ~~(e) Each county clerk;~~

16 ~~(f) Each county library; and~~

17 ~~(g) The Legislative Counsel Bureau.~~

18 ~~4. The Legislative Counsel may sell an additional copy of the Register to any
19 person or governmental entity that requests a copy, at a price which does not
20 exceed the cost of publishing the additional copy.~~

21 ~~5. 2. The Legislative Counsel is immune from civil liability which may
22 result from failure to include any information in the Register.~~

23 **Sec. 21.** NRS 233B.0665 is hereby amended to read as follows:

24 233B.0665 If a regulation submitted to the Legislative Counsel Bureau
25 pursuant to NRS 233B.067 is not accompanied by an informational statement
26 which complies with the requirements of NRS 233B.066 or a small business impact
27 statement which complies with the requirements of NRS 233B.0608 and
28 233B.0609, the Legislative Counsel shall return the regulation to the agency with a
29 note indicating the statement which is missing. Unless the missing statement is
30 supplied, the Legislative Counsel shall not submit the regulation to the Legislative
31 Commission ~~for the Subcommittee to Review Regulations, as applicable,~~ and the
32 regulation never becomes effective.

33 **Sec. 22.** NRS 233B.067 is hereby amended to read as follows:

34 233B.067 1. After adopting a permanent regulation, the agency shall submit
35 the informational statement prepared pursuant to NRS 233B.066 and one copy of
36 each regulation adopted to the Legislative Counsel for review by the Legislative
37 Commission to determine whether to approve the regulation. The Legislative
38 Counsel shall endorse on the original and the copy of each adopted regulation the
39 date of their receipt. The Legislative Counsel shall maintain the copy of the
40 regulation in a file and make the copy available for public inspection for 2 years.

41 2. If an agency submits an adopted regulation to the Legislative Counsel
42 pursuant to subsection 1 that:

43 (a) The agency is required to adopt pursuant to a federal statute or regulation;
44 and

45 (b) Exceeds the specific statutory authority of the agency or sets forth
46 requirements that are more stringent than a statute of this State,

47 it shall include a statement that adoption of the regulation is required by a federal
48 statute or regulation. The statement must include the specific citation of the federal
49 statute or regulation requiring such adoption.

50 3. ~~Except as otherwise provided in subsection 4, the~~ **The** Legislative
51 Commission shall ~~1:~~

52 ~~(a) Review~~ **review** the regulation at its next regularly scheduled meeting if the
53 regulation is received more than 10 working days before the meeting. ~~1: or~~

1 ~~—(b) Refer the regulation for review to the Subcommittee to Review Regulations~~
2 ~~appointed pursuant to subsection 6.~~

3 ~~—4. If an agency determines that an emergency exists which requires a~~
4 ~~regulation of the agency submitted pursuant to subsection 1 to become effective~~
5 ~~before the next meeting of the Legislative Commission is scheduled to be held, the~~
6 ~~agency may notify the Legislative Counsel in writing of the emergency. Upon~~
7 ~~receipt of such a notice, the Legislative Counsel shall refer the regulation for review~~
8 ~~by the Subcommittee to Review Regulations. The Subcommittee shall meet to~~
9 ~~review the regulation as soon as practicable.~~

10 ~~—5.] 4. If the Legislative Commission [or the Subcommittee to Review~~
11 ~~Regulations if the regulation was referred.] approves the regulation, the Legislative~~
12 ~~Counsel shall promptly file the regulation with the Secretary of State and notify the~~
13 ~~agency of the filing. If the Commission [or Subcommittee] objects to the regulation~~
14 ~~after determining that:~~

15 (a) If subsection 2 is applicable, the regulation is not required pursuant to a
16 federal statute or regulation;

17 (b) The regulation does not conform to statutory authority;

18 (c) The regulation does not carry out legislative intent;

19 (d) The small business impact statement is inaccurate, incomplete or did not
20 adequately consider or significantly underestimated the economic effect of the
21 regulation on small businesses; or

22 (e) The agency has not provided a satisfactory explanation of the need for the
23 regulation in its informational statement as required pursuant to NRS 233B.066, or
24 the informational statement is insufficient or incomplete,

25 the Legislative Counsel shall attach to the regulation a written notice of the
26 objection, including, if practicable, a statement of the reasons for the objection, and
27 shall promptly return the regulation to the agency.

28 ~~[6. As soon as practicable after each regular legislative session, the~~
29 ~~Legislative Commission shall appoint a Subcommittee to Review Regulations~~
30 ~~consisting of at least three members or alternate members of the Legislative~~
31 ~~Commission.]~~

32 **Sec. 23.** NRS 233B.0675 is hereby amended to read as follows:

33 233B.0675 1. If the Legislative Commission ~~[or the Subcommittee to~~
34 ~~Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.]~~ has
35 objected to a regulation, the agency shall revise the regulation to conform to the
36 statutory authority pursuant to which it was adopted and to carry out the intent of
37 the Legislature in granting that authority and return it to the Legislative Counsel
38 within 60 days after the agency received the written notice of the objection to the
39 regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the
40 Legislative Counsel shall resubmit the regulation to the Commission ~~for~~
41 ~~Subcommittee]~~ for review. If the Commission ~~for Subcommittee]~~ approves the
42 revised regulation, the Legislative Counsel shall promptly file the revised
43 regulation with the Secretary of State and notify the agency of the filing.

44 2. If the Legislative Commission ~~for Subcommittee]~~ objects to the revised
45 regulation, the Legislative Counsel shall attach to the revised regulation a written
46 notice of the objection, including, if practicable, a statement of the reasons for the
47 objection, and shall promptly return the revised regulation to the agency. The
48 agency shall continue to revise it and resubmit it to the Commission ~~for~~
49 ~~Subcommittee]~~ within 30 days after the agency received the written notice of the
50 objection to the revised regulation.

51 **Sec. 24.** NRS 233B.0677 is hereby amended to read as follows:

52 233B.0677 1. Before holding a meeting to review temporary regulations
53 pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or

1 233B.0675, the Legislative Commission ~~for the Subcommittee to Review~~
2 ~~Regulations appointed pursuant to subsection 6 of NRS 233B.067, as applicable,~~
3 shall provide written notice of the meeting at least 3 working days before the
4 meeting. The notice must include, without limitation:

5 (a) A list of the regulations that the Legislative Commission ~~for the~~
6 ~~Subcommittee to Review Regulations~~ will review at the meeting; and

7 (b) An explanation of the manner in which a person may obtain a copy of a
8 regulation that the Legislative Commission ~~for Subcommittee to Review~~
9 ~~Regulations~~ will review at the meeting.

10 2. If the Legislative Counsel Bureau maintains a website on the Internet or its
11 successor, the Legislative Counsel Bureau shall, at least 3 working days before the
12 Legislative Commission ~~for the Subcommittee to Review Regulations~~ holds a
13 meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted
14 regulations pursuant to NRS 233B.067 or 233B.0675, post on its website a list of
15 the regulations that the Legislative Commission ~~for the Subcommittee to Review~~
16 ~~Regulations~~ will review at the meeting, unless the Legislative Counsel Bureau is
17 unable to do so because of technical problems relating to the operation or
18 maintenance of its website.

19 **Sec. 25.** NRS 233B.070 is hereby amended to read as follows:

20 233B.070 1. A permanent regulation becomes effective when the
21 Legislative Counsel files with the Secretary of State the original of the final draft or
22 revision of a regulation, except as otherwise provided in NRS 293.247 or where a
23 later date is specified in the regulation.

24 2. Except as otherwise provided in NRS 233B.0633, an agency that has
25 adopted a temporary regulation may not file the temporary regulation with the
26 Secretary of State until 35 days after the date on which the temporary regulation
27 was adopted by the agency. A temporary regulation becomes effective when the
28 agency files with the Secretary of State the original of the final draft or revision of
29 the regulation, together with the informational statement prepared pursuant to NRS
30 233B.066. The agency shall also file a copy of the temporary regulation with the
31 Legislative Counsel, together with the informational statement prepared pursuant to
32 NRS 233B.066.

33 3. An emergency regulation becomes effective when the agency files with the
34 Secretary of State the original of the final draft or revision of an emergency
35 regulation, together with the informational statement prepared pursuant to NRS
36 233B.066 ***H and a copy of the written statement of the emergency endorsed by***
37 ***the Governor pursuant to NRS 233B.0613.*** The agency shall also file a copy of the
38 emergency regulation with the Legislative Counsel, together with the informational
39 statement prepared pursuant to NRS 233B.066 ***H and a copy of the written***
40 ***statement of the emergency endorsed by the Governor pursuant to NRS***
41 ***233B.0613.***

42 4. The Secretary of State shall maintain the original of the final draft or
43 revision of each regulation in a permanent file to be used only for the preparation of
44 official copies.

45 5. The Secretary of State shall file, with the original of each agency's rules of
46 practice, the current statement of the agency concerning the date and results of its
47 most recent review of those rules.

48 6. Immediately after each permanent or temporary regulation is filed, the
49 agency shall deliver one copy of the final draft or revision, bearing the stamp of the
50 Secretary of State indicating that it has been filed, including material adopted by
51 reference which is not already filed with the State Library, Archives and Public
52 Records Administrator, to the State Library, Archives and Public Records
53 Administrator for use by the public. If the agency is a licensing board as defined in

1 NRS 439B.225 and it has adopted a permanent regulation relating to standards for
2 the issuance or renewal of licenses, permits or certificates of registration issued to a
3 person or facility regulated by the agency, the agency shall also deliver one copy of
4 the regulation, bearing the stamp of the Secretary of State, to the Legislative
5 Committee on Health Care within 10 days after the regulation is filed with the
6 Secretary of State.

7 7. Each agency shall furnish a copy of all or part of that part of the Nevada
8 Administrative Code which contains its regulations, to any person who requests a
9 copy, and may charge a reasonable fee for the copy based on the cost of
10 reproduction if it does not have money appropriated or authorized for that purpose.

11 8. An agency which publishes any regulations included in the Nevada
12 Administrative Code shall use the exact text of the regulation as it appears in the
13 Nevada Administrative Code, including the leadlines and numbers of the sections.
14 Any other material which an agency includes in a publication with its regulations
15 must be presented in a form which clearly distinguishes that material from the
16 regulations.

17 **Sec. 26.** NRS 233B.100 is hereby amended to read as follows:

18 233B.100 1. Any interested person may petition an agency requesting the
19 adoption, filing, amendment or repeal of any regulation and shall accompany the
20 petition with relevant data, views and arguments. Each agency shall prescribe by
21 regulation the form for such petitions and the procedure for their submission,
22 consideration and disposition. Upon submission of such a petition, the agency shall
23 within 30 days either deny the petition in writing, stating its reasons, or initiate
24 regulation-making proceedings.

25 2. Any regulation of any agency is subject to ~~amendment~~ :

26 (a) *Amendment* or suspension by the Governor pursuant to the provisions of
27 NRS 416.060.

28 (b) *Suspension or nullification by the Legislative Commission pursuant to*
29 *section 10 of this act.*

30 **Sec. 27.** NRS 233B.105 is hereby amended to read as follows:

31 233B.105 1. A small business that is aggrieved by a regulation adopted by
32 an agency on or after January 1, 2000, may object to all or a part of the regulation
33 by filing a petition with the agency that adopted the regulation within 90 days after
34 the date on which the regulation was adopted. An agency which receives such a
35 petition shall transmit a copy of the petition to the Legislative Counsel for
36 submission to the Legislative Commission . ~~for the Subcommittee to Review~~
37 ~~Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~

38 2. A petition filed pursuant to subsection 1 may be based on the following
39 grounds:

40 (a) The agency failed to prepare a small business impact statement as required
41 pursuant to NRS 233B.0608 and 233B.0609; or

42 (b) The small business impact statement prepared by the agency pursuant to
43 NRS 233B.0608 and 233B.0609 is inaccurate, incomplete or did not adequately
44 consider or significantly underestimated the economic effect of the regulation on
45 small businesses.

46 3. After receiving a petition pursuant to subsection 1, an agency shall
47 determine whether the petition has merit. If the agency determines that the petition
48 has merit, the agency may, pursuant to this chapter, take action to amend the
49 regulation to which the small business objected.

50 **Sec. 28.** NRS 233B.110 is hereby amended to read as follows:

51 233B.110 1. The validity or applicability of any regulation may be
52 determined in a proceeding for a declaratory judgment in the district court in and
53 for Carson City, or in and for the county where the plaintiff resides, when it is

1 alleged that the regulation, or its proposed application, interferes with or impairs, or
2 threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A
3 declaratory judgment may be rendered after the plaintiff has first requested the
4 agency to pass upon the validity of the regulation in question. The court shall
5 declare the regulation invalid if it finds that it violates constitutional or statutory
6 provisions or exceeds the statutory authority of the agency. The agency whose
7 regulation is made the subject of the declaratory action shall be made a party to the
8 action.

9 2. An agency may institute an action for declaratory judgment to establish the
10 validity of any one or more of its own regulations.

11 3. Actions for declaratory judgment provided for in subsections 1 and 2 shall
12 be in accordance with the Uniform Declaratory Judgments Act (chapter 30 of
13 NRS), and the Nevada Rules of Civil Procedure. In all actions under subsections 1
14 and 2, the plaintiff shall serve a copy of the complaint upon the Attorney General,
15 who is also entitled to be heard.

16 *4. Nothing in this section shall be construed to limit the authority of the*
17 *Legislative Commission to suspend or nullify a regulation as provided in this*
18 *chapter.*

19 **Sec. 29.** NRS 514A.110 is hereby amended to read as follows:

20 514A.110 A permanent regulation adopted by the:

21 1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any
22 taxation related to the extraction of any mineral in this State, including, without
23 limitation, the taxation of the net proceeds pursuant to chapter 362 of NRS and
24 Section 5 of Article 10 of the Nevada Constitution;

25 2. Administrator of the Division of Industrial Relations of the Department of
26 Business and Industry for mine health and safety pursuant to NRS 512.131;

27 3. Commission on Mineral Resources pursuant to NRS 513.063, 513.094 or
28 519A.290; and

29 4. State Environmental Commission pursuant to NRS 519A.160,
30 ~~is not effective unless it is reviewed by the Mining Oversight and Accountability~~
31 ~~Commission before it is approved pursuant to chapter 233B of NRS by the~~
32 ~~Legislative Commission . ~~for the Subcommittee to Review Regulations appointed~~~~
33 ~~pursuant to subsection 6 of NRS 233B.067.]~~ After conducting its review of the
34 regulation, the Mining Oversight and Accountability Commission shall provide a
35 report of its findings and recommendations regarding the regulation to the
36 Legislative Counsel for submission to the Legislative Commission . ~~for the~~
37 ~~Subcommittee to Review Regulations, as appropriate.]~~

38 **Sec. 30.** This act becomes effective on July 1, 2017.