

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)

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



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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)

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

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

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

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

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

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

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

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

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

Section 1. Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Governmental agency” means any agency, office, board, commission, department, division, bureau, authority, institution, district or other unit of the State or a political subdivision of the State, excluding constitutional officers, justices and judges of the Judicial Department of the State Government and any council, board or commission whose members are elected.*

Sec. 4. *“Oversight Subcommittee” means the Governmental Oversight and Accountability Subcommittee of the Legislative Commission created by section 5 of this act.*

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

2. *The Chair of the Legislative Commission shall appoint to the Oversight Subcommittee:*

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

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

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

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

5. *A member of the Oversight Subcommittee who is not a candidate for reelection or who is defeated for reelection*



1 continues to serve after the general election until the next regular
2 or special session convenes.

3 6. A vacancy on the Oversight Subcommittee must be filled in
4 the same manner as the original appointment for the remainder of
5 the unexpired term.

6 **Sec. 6.** 1. Except as otherwise ordered by the Legislative
7 Commission, the members of the Oversight Subcommittee shall
8 meet not earlier than September 1 of each odd-numbered year and
9 not later than August 31 of the following even-numbered year at
10 the times and places specified by a call of the Chair or a majority
11 of the Oversight Subcommittee.

12 2. The Director or the Director's designee shall act as the
13 nonvoting recording Secretary of the Oversight Subcommittee.

14 3. Four members of the Oversight Subcommittee constitute a
15 quorum, and a quorum may exercise all the power and authority
16 conferred on the Oversight Subcommittee.

17 4. Except during a regular or special session, for each day or
18 portion of a day during which a member of the Oversight
19 Subcommittee attends a meeting of the Oversight Subcommittee or
20 is otherwise engaged in the business of the Oversight
21 Subcommittee, the member is entitled to receive the:

22 (a) Compensation provided for a majority of the Legislators
23 during the first 60 days of the preceding regular session;

24 (b) Per diem allowance provided for state officers and
25 employees generally; and

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

27 5. All such compensation, per diem allowances and travel
28 expenses must be paid from the Legislative Fund.

29 **Sec. 7.** The Oversight Subcommittee may:

30 1. To fulfill the powers and duties imposed upon and
31 entrusted to the Legislative Commission pursuant to NRS
32 232B.010 to 232B.100, inclusive, and pursuant to paragraph (b) of
33 subsection 1 and paragraph (c) of subsection 2 of NRS 218E.175,
34 evaluate, review and comment upon issues related to
35 governmental agencies, including, without limitation:

36 (a) Programs to enhance accountability in government;

37 (b) Legislative measures regarding governmental oversight;

38 (c) Methods of financing governmental agencies; and

39 (d) Any other matters that, in the determination of the
40 Oversight Subcommittee, affect governmental agencies.

41 2. Conduct investigations and hold hearings in connection
42 with its duties pursuant to this section.

43 3. Request that the Legislative Counsel Bureau assist in the
44 research, investigations, hearings and reviews of the Oversight
45 Subcommittee.



1 4. *Make recommendations to the Legislature concerning the*
2 *manner in which government may be improved.*

3 **Sec. 8. 1. If the Oversight Subcommittee conducts**
4 *investigations or holds hearings pursuant to section 7 of this act:*

5 (a) *The Secretary of the Oversight Subcommittee or, in the*
6 *Secretary's absence, a member designated by the Oversight*
7 *Subcommittee may administer oaths.*

8 (b) *The Secretary or Chair of the Oversight Subcommittee may*
9 *cause the deposition of witnesses, residing either within or without*
10 *the State, to be taken in the manner prescribed by rule of court for*
11 *taking depositions in civil actions in the district courts.*

12 (c) *The Chair of the Oversight Subcommittee may issue*
13 *subpoenas to compel the attendance and testimony of witnesses*
14 *and the production of books, papers, accounts, department records*
15 *and other documents.*

16 2. *If any witness fails or refuses to attend or testify or to*
17 *produce the books, papers, accounts, department records or other*
18 *documents required by the subpoena, the Chair of the Oversight*
19 *Subcommittee may report the failure or refusal to the district court*
20 *by a petition which:*

21 (a) *Sets forth that:*

22 (1) *Due notice has been given of the time and place of the*
23 *attendance of the witness or the production of the required books,*
24 *papers, accounts, department records or other documents;*

25 (2) *The witness has been subpoenaed by the Oversight*
26 *Subcommittee pursuant to this section; and*

27 (3) *The witness has failed or refused to attend or testify or*
28 *to produce the books, papers, accounts, department records or*
29 *other documents required by the subpoena before the Oversight*
30 *Subcommittee named in the subpoena; and*

31 (b) *Asks for an order of the court compelling the witness to*
32 *attend and testify or to produce the required books, papers,*
33 *accounts, department records or other documents before the*
34 *Oversight Subcommittee.*

35 3. *Upon such a petition, the court shall:*

36 (a) *Enter an order directing the witness:*

37 (1) *To appear before the court at a time and place to be*
38 *fixed by the court in its order, the time to be not more than 10 days*
39 *after the date of the order; and*

40 (2) *To show cause why the witness has not attended or*
41 *testified or produced the required books, papers, accounts,*
42 *department records or other documents before the Oversight*
43 *Subcommittee; and*

44 (b) *Serve a certified copy of the order upon the witness.*



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

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

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

8 (c) *Upon failure to obey the order, must be dealt with as for*
9 *contempt of court.*

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

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

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

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

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

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

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

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

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

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

43 Sec. 11. *The Legislative Commission may adopt such*
44 *regulations as are necessary to carry out the provisions of this*



1 *section and NRS 233B.0395 to 233B.120, inclusive, and section 10*
2 *of this act.*

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

4 233B.020 1. By this chapter, the Legislature intends to
5 establish ~~[minimum]~~ procedural requirements for the ~~[regulation-~~
6 ~~making-and]~~ *adoption, review, suspension or nullification of*
7 *regulations, for the* adjudication procedure of all agencies of the
8 Executive Department of the State Government and for judicial
9 review of ~~[both-functions,]~~ *contested cases*, except *as to* those
10 agencies expressly exempted pursuant to the provisions of this
11 chapter. This chapter confers no additional regulation-making
12 authority upon any agency except to the extent provided in
13 subsection 1 of NRS 233B.050.

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

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

19 233B.038 1. "Regulation" means:

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

24 (b) A proposed regulation;

25 (c) The amendment or repeal of a prior regulation; and

26 (d) The general application by an agency of a written policy,
27 interpretation, process or procedure to determine whether a person is
28 in compliance with a federal or state statute or regulation in order to
29 assess a fine, monetary penalty or monetary interest.

30 2. The term does not include:

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

34 (b) A declaratory ruling;

35 (c) An intraagency memorandum;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The Nevada Administrative Code; and

(b) Temporary and emergency regulations.



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1 ➔ In every instance, the power to adopt regulations to carry out a
2 particular function is limited by the terms of the grant of authority
3 pursuant to which the function was assigned.

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

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

7 (b) The address of the agency and, to the extent not elsewhere
8 provided in the regulation, a brief explanation of the procedures for
9 obtaining clarification of the regulation or relief from the strict
10 application of any of its terms, if the agency is authorized by a
11 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
14 published by another authority in book or pamphlet form if:

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

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

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

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

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

34 233B.060 1. Except as otherwise provided in subsection 2
35 and NRS 233B.061, before adopting, amending or repealing:

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

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

44 2. Except as otherwise provided in subsection 3, if an agency
45 has adopted a temporary regulation after notice and the opportunity



1 for a hearing as provided in this chapter, it may adopt, after
2 providing a second notice and the opportunity for a hearing, a
3 permanent regulation, but the language of the permanent regulation
4 must first be approved or revised by the Legislative Counsel and the
5 adopted regulation must be approved by the Legislative
6 Commission .

7 ~~for the Subcommittee to Review Regulations appointed pursuant to~~
8 ~~subsection 6 of NRS 233B.067.~~

9 3. If the Public Utilities Commission of Nevada has adopted a
10 temporary regulation after notice and the opportunity for a hearing
11 as provided in this chapter, it may adopt a substantively equivalent
12 permanent regulation without further notice or hearing, but the
13 language of the permanent regulation must first be approved or
14 revised by the Legislative Counsel and the adopted regulation must
15 be approved by the Legislative Commission . ~~for the Subcommittee~~
16 ~~to Review Regulations.~~

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

18 233B.061 1. All interested persons must be afforded a
19 reasonable opportunity to submit data, views or arguments upon a
20 proposed regulation, orally or in writing.

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

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

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

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

39 4. An agency shall not hold the public hearing required
40 pursuant to subsection 3 on the same day that the agency holds the
41 workshop required pursuant to subsection 2.

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



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

3 233B.0617 No regulation adopted after July 1, 1965, is valid
4 unless adopted in substantial compliance with this chapter but no
5 objection to any regulation on the ground of noncompliance with the
6 procedural requirements of NRS 233B.060 to 233B.0617, inclusive,
7 may be made more than 2 years after its effective date. *Nothing in*
8 *this section shall be construed to preclude the making of an*
9 *objection to a regulation on a ground other than noncompliance*
10 *with the procedural requirements of NRS 233B.060 to 233B.0617,*
11 *inclusive.* Regulations in effect on July 1, 1965, continue in effect
12 until amended, *suspended, nullified* or repealed in accordance with
13 the provisions of this chapter, if an original and two copies were
14 deposited with the Secretary of State on or before July 1, 1965.

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

17 233B.0633 1. Upon the request of a Legislator, the
18 Legislative Commission may examine a temporary regulation
19 adopted by an agency that is not yet effective pursuant to subsection
20 2 of NRS 233B.070 to determine whether the temporary regulation
21 conforms to the statutory authority pursuant to which it was adopted
22 and whether the temporary regulation carries out the intent of the
23 Legislature in granting that authority.

24 2. If a temporary regulation that the Legislative Commission is
25 requested to examine pursuant to subsection 1 was required to be
26 adopted by the agency pursuant to a federal statute or regulation and
27 the temporary regulation exceeds the specific statutory authority of
28 the agency or sets forth requirements that are more stringent than a
29 statute of this State, the agency shall submit a statement to the
30 Legislative Commission that adoption of the temporary regulation
31 was required by a federal statute or regulation. The statement must
32 include the specific citation of the federal statute or regulation
33 requiring such adoption.

34 3. ~~{Except as otherwise provided in subsection 4, the}~~ *The*
35 Legislative Commission shall ~~{~~

36 ~~—(a) Review~~ *review* the temporary regulation at its next regularly
37 scheduled meeting if the request for examination of the temporary
38 regulation is received more than 10 working days before the
39 meeting. ~~{ or~~

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

43 ~~—4. If an agency determines that an emergency exists which~~
44 ~~requires a temporary regulation of the agency for which a Legislator~~
45 ~~requested an examination pursuant to subsection 1 to become~~



~~effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the Subcommittee to Review Regulations as soon as practicable.~~

~~—5.} 4. If the Legislative Commission [or the Subcommittee to Review Regulations if the temporary regulation was referred.]~~ approves the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission ~~[or the Subcommittee]~~ objects to the temporary regulation after determining that:

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

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

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

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

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

~~[7.} 6. If the Legislative Commission [for the Subcommittee to Review Regulations]~~ objects to the revised temporary regulation, the Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall continue to revise it and resubmit it to the Legislative Commission



1 ~~for the Subcommittee~~ within 30 days after the agency received the
2 written notice of the objection to the revised temporary regulation.

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

5 233B.0653 1. The Legislative Counsel shall *periodically*
6 prepare and publish ~~for cause to be prepared and published~~
7 *electronically* a Register of Administrative Regulations ~~†† on the~~
8 *public website of the Legislature on the Internet.* The Register
9 must include the following information regarding each permanent
10 regulation adopted by an agency:

11 (a) The proposed and adopted text of the regulation and any
12 revised version of the regulation;

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

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

17 (d) The informational statement required pursuant to NRS
18 233B.066; and

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

21 ~~†→ In carrying out the duties set forth in this subsection, the~~
22 ~~Legislative Counsel may use the services of the State Printing~~
23 ~~Office.~~

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

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

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

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

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

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

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

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

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

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

38 ~~5-† 2.~~ The Legislative Counsel is immune from civil liability
39 which may result from failure to include any information in the
40 Register.

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

43 233B.0665 If a regulation submitted to the Legislative Counsel
44 Bureau pursuant to NRS 233B.067 is not accompanied by an
45 informational statement which complies with the requirements of



* A B 4 0 3 *

1 NRS 233B.066 or a small business impact statement which
2 complies with the requirements of NRS 233B.0608 and 233B.0609,
3 the Legislative Counsel shall return the regulation to the agency
4 with a note indicating the statement which is missing. Unless the
5 missing statement is supplied, the Legislative Counsel shall not
6 submit the regulation to the Legislative Commission ~~for the~~
7 ~~Subcommittee to Review Regulations, as applicable,~~ and the
8 regulation never becomes effective.

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

10 233B.067 1. After adopting a permanent regulation, the
11 agency shall submit the informational statement prepared pursuant
12 to NRS 233B.066 and one copy of each regulation adopted to the
13 Legislative Counsel for review by the Legislative Commission to
14 determine whether to approve the regulation. The Legislative
15 Counsel shall endorse on the original and the copy of each adopted
16 regulation the date of their receipt. The Legislative Counsel shall
17 maintain the copy of the regulation in a file and make the copy
18 available for public inspection for 2 years.

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

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

23 (b) Exceeds the specific statutory authority of the agency or sets
24 forth requirements that are more stringent than a statute of this State,
25 it shall include a statement that adoption of the regulation is
26 required by a federal statute or regulation. The statement must
27 include the specific citation of the federal statute or regulation
28 requiring such adoption.

29 3. ~~{Except as otherwise provided in subsection 4, the}~~ **The**
30 Legislative Commission shall ~~+~~

31 ~~—(a) Review~~ **review** the regulation at its next regularly scheduled
32 meeting if the regulation is received more than 10 working days
33 before the meeting. ~~+~~ ~~or~~

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

36 ~~—4. If an agency determines that an emergency exists which~~
37 ~~requires a regulation of the agency submitted pursuant to subsection~~
38 ~~1 to become effective before the next meeting of the Legislative~~
39 ~~Commission is scheduled to be held, the agency may notify the~~
40 ~~Legislative Counsel in writing of the emergency. Upon receipt of~~
41 ~~such a notice, the Legislative Counsel shall refer the regulation for~~
42 ~~review by the Subcommittee to Review Regulations. The~~
43 ~~Subcommittee shall meet to review the regulation as soon as~~
44 ~~practicable.~~



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

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

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

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

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

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

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

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

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

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

2. If the Legislative Commission ~~for Subcommittee]~~ objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if



1 practicable, a statement of the reasons for the objection, and shall
2 promptly return the revised regulation to the agency. The agency
3 shall continue to revise it and resubmit it to the Commission ~~for~~
4 ~~Subcommittee~~ within 30 days after the agency received the written
5 notice of the objection to the revised regulation.

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

8 233B.0677 1. Before holding a meeting to review temporary
9 regulations pursuant to NRS 233B.0633 or adopted regulations
10 pursuant to NRS 233B.067 or 233B.0675, the Legislative
11 Commission ~~for the Subcommittee to Review Regulations~~
12 ~~appointed pursuant to subsection 6 of NRS 233B.067, as~~
13 ~~applicable,~~ shall provide written notice of the meeting at least 3
14 working days before the meeting. The notice must include, without
15 limitation:

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

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

22 2. If the Legislative Counsel Bureau maintains a website on the
23 Internet or its successor, the Legislative Counsel Bureau shall, at
24 least 3 working days before the Legislative Commission ~~for the~~
25 ~~Subcommittee to Review Regulations~~ holds a meeting to review
26 temporary regulations pursuant to NRS 233B.0633 or adopted
27 regulations pursuant to NRS 233B.067 or 233B.0675, post on its
28 website a list of the regulations that the Legislative Commission ~~for~~
29 ~~the Subcommittee to Review Regulations~~ will review at the
30 meeting, unless the Legislative Counsel Bureau is unable to do so
31 because of technical problems relating to the operation or
32 maintenance of its website.

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

34 233B.070 1. A permanent regulation becomes effective when
35 the Legislative Counsel files with the Secretary of State the original
36 of the final draft or revision of a regulation, except as otherwise
37 provided in NRS 293.247 or where a later date is specified in the
38 regulation.

39 2. Except as otherwise provided in NRS 233B.0633, an agency
40 that has adopted a temporary regulation may not file the temporary
41 regulation with the Secretary of State until 35 days after the date on
42 which the temporary regulation was adopted by the agency. A
43 temporary regulation becomes effective when the agency files with
44 the Secretary of State the original of the final draft or revision of the
45 regulation, together with the informational statement prepared



1 pursuant to NRS 233B.066. The agency shall also file a copy of the
2 temporary regulation with the Legislative Counsel, together with the
3 informational statement prepared pursuant to NRS 233B.066.

4 3. An emergency regulation becomes effective when the
5 agency files with the Secretary of State the original of the final draft
6 or revision of an emergency regulation, together with the
7 informational statement prepared pursuant to NRS 233B.066 **H and**
8 **a copy of the written statement of the emergency endorsed by the**
9 **Governor pursuant to NRS 233B.0613.** The agency shall also file a
10 copy of the emergency regulation with the Legislative Counsel,
11 together with the informational statement prepared pursuant to NRS
12 233B.066 **H and a copy of the written statement of the emergency**
13 **endorsed by the Governor pursuant to NRS 233B.0613.**

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

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

21 6. Immediately after each permanent or temporary regulation is
22 filed, the agency shall deliver one copy of the final draft or revision,
23 bearing the stamp of the Secretary of State indicating that it has
24 been filed, including material adopted by reference which is not
25 already filed with the State Library, Archives and Public Records
26 Administrator, to the State Library, Archives and Public Records
27 Administrator for use by the public. If the agency is a licensing
28 board as defined in NRS 439B.225 and it has adopted a permanent
29 regulation relating to standards for the issuance or renewal of
30 licenses, permits or certificates of registration issued to a person or
31 facility regulated by the agency, the agency shall also deliver one
32 copy of the regulation, bearing the stamp of the Secretary of State,
33 to the Legislative Committee on Health Care within 10 days after
34 the regulation is filed with the Secretary of State.

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

40 8. An agency which publishes any regulations included in the
41 Nevada Administrative Code shall use the exact text of the
42 regulation as it appears in the Nevada Administrative Code,
43 including the leadlines and numbers of the sections. Any other
44 material which an agency includes in a publication with its



1 regulations must be presented in a form which clearly distinguishes
2 that material from the regulations.

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

4 233B.100 1. Any interested person may petition an agency
5 requesting the adoption, filing, amendment or repeal of any
6 regulation and shall accompany the petition with relevant data,
7 views and arguments. Each agency shall prescribe by regulation the
8 form for such petitions and the procedure for their submission,
9 consideration and disposition. Upon submission of such a petition,
10 the agency shall within 30 days either deny the petition in writing,
11 stating its reasons, or initiate regulation-making proceedings.

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

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

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

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

18 233B.105 1. A small business that is aggrieved by a
19 regulation adopted by an agency on or after January 1, 2000, may
20 object to all or a part of the regulation by filing a petition with the
21 agency that adopted the regulation within 90 days after the date on
22 which the regulation was adopted. An agency which receives such a
23 petition shall transmit a copy of the petition to the Legislative
24 Counsel for submission to the Legislative Commission . ~~for the~~
25 ~~Subcommittee to Review Regulations appointed pursuant to~~
26 ~~subsection 6 of NRS 233B.067.~~

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

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

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

37 3. After receiving a petition pursuant to subsection 1, an
38 agency shall determine whether the petition has merit. If the agency
39 determines that the petition has merit, the agency may, pursuant to
40 this chapter, take action to amend the regulation to which the small
41 business objected.

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

43 233B.110 1. The validity or applicability of any regulation
44 may be determined in a proceeding for a declaratory judgment in the
45 district court in and for Carson City, or in and for the county where



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

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

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

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

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

23 514A.110 A permanent regulation adopted by the:

24 1. Nevada Tax Commission, pursuant to NRS 360.090,
25 concerning any taxation related to the extraction of any mineral in
26 this State, including, without limitation, the taxation of the net
27 proceeds pursuant to chapter 362 of NRS and Section 5 of Article
28 10 of the Nevada Constitution;

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

32 3. Commission on Mineral Resources pursuant to NRS
33 513.063, 513.094 or 519A.290; and

34 4. State Environmental Commission pursuant to
35 NRS 519A.160,

36 ➔ is not effective unless it is reviewed by the Mining Oversight and
37 Accountability Commission before it is approved pursuant to
38 chapter 233B of NRS by the Legislative Commission . ~~for the~~
39 ~~Subcommittee to Review Regulations appointed pursuant to~~
40 ~~subsection 6 of NRS 233B.067.~~ After conducting its review of the
41 regulation, the Mining Oversight and Accountability Commission
42 shall provide a report of its findings and recommendations regarding
43 the regulation to the Legislative Counsel for submission to the
44 Legislative Commission . ~~for the Subcommittee to Review~~
45 ~~Regulations, as appropriate.~~



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

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