Via Email

February 20, 2026

Nevada Department of Business & Industry
CIC Task Force

Subject: Request for Agenda Item – Administrative Procedure Act Compliance (NRS 233B)

Dear Director Sanchez and Members of the CIC Task Force,

I respectfully request that the CIC Task Force place on a future agenda the question of agency compliance with the rulemaking petition procedures established under Nevada's Administrative Procedure Act, NRS Chapter 233B, and that this issue be addressed in conjunction with the Task Force's scheduled review of multiple governance topics that are also the subject of pending rulemaking petitions.

The February 25, 2026 Task Force Agenda Item 5.1 serves as one example of why review of APA compliance, as it relates to NRS Chapter 116, is necessary. The agendized issues concerning what constitutes a "meeting" and permissible board voting practices were questions presented to, and acknowledged by, the Division in Advisory Opinion 11-01. Those questions, however, were not resolved and have remained unanswered for more than fifteen years without subsequent regulatory clarification or Commission review.

The Administrative Procedure Act exists precisely to prevent longstanding statutory ambiguity from persisting without resolution. When both advisory guidance and formal petition mechanisms fail to produce a regulatory determination, uncertainty is resolved by default rather than by law.

In July 2025, the NVHOAReform Coalition submitted multiple formal petitions under NRS 233B.100, including two addressing the same issues now appearing in Agenda Item 5.1. To date, those petitions have received no formal acceptance or denial, no initiation of rulemaking proceedings, and no published explanation of disposition, notwithstanding statutory provisions that contemplate agency action in response to such petitions.

NRS 233B.050 requires each agency to adopt regulations prescribing procedures for adopting, amending, or repealing regulations. A review of NAC Chapters 116, 116A, 119, 119A, 645, and related provisions does not identify regulations describing how rulemaking petitions are processed, how regulatory workshops are conducted, how the rulemaking record is assembled, how draft regulations are revised following workshops, or how petitions are formally disposed.

While reasonable legal interpretations may differ regarding these requirements, the absence of a publicly articulated procedural framework raises an appropriate question for Task Force review: whether the regulatory rulemaking process governing CIC matters is operating consistently with the Administrative Procedure Act.

I separately wrote to the CICCH Commission requesting clarification regarding its role and expectations concerning petitions submitted under NRS 233B, including whether the Commission receives notice of such petitions, what procedures govern their review, and what timelines or standards apply. That correspondence likewise received no response.

I further note that these petitions were included among materials transmitted to Commissioners in connection with the Commission's December 2025 quarterly meeting. However, the petitions were not placed on the Commission's agenda for consideration. The absence of agenda placement raises an additional procedural concern: Does the mere attachment of rulemaking petitions to Commission meeting materials, absent formal agenda placement or action, permit it later to be asserted that the Commission received the materials but elected to take no action? Clarification of this process is necessary to ensure that petitions submitted under NRS 233B receive the level of review contemplated by statute. This absence of visible process may account for much of the statutory ambiguity and uncertainty homeowners experience when attempting to understand what practices are permitted, prohibited, or subject to regulatory oversight.

Review of this procedural issue is therefore a threshold matter. As previously noted, several of the substantive issues raised through petition are now appearing before the Task Force on an ad hoc basis. I have submitted comments on Agenda Item 5.1 under separate cover. While I appreciate the Task Force's willingness to examine these subjects, an advisory process cannot substitute for the statutory responsibilities assigned to the Division and the CICCH Commission under NRS 233B. Without a functioning and transparent interpretive process under NRS Chapter 233B, recurring statutory ambiguities will continue to reappear regardless of substantive policy recommendations.

For these reasons, I respectfully request that the Task Force include as an agenda item a review of the handling of rulemaking petitions under NRS 233B, coordinated with its ongoing examination of related governance topics currently scheduled for discussion.

I ask that this correspondence be included in the Task Force record and would welcome the opportunity to provide additional information or appear before the Task Force should such discussion be scheduled.

Thank you for your consideration and for the significant effort the Task Force is dedicating to this work.

Respectfully submitted,

/s/ Mike Kosor

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