

ASSEMBLY BILL NO. 162—ASSEMBLYMEN DALY, BENITEZ-THOMPSON; FUMO, JAUREGUI AND MONROE-MORENO

FEBRUARY 15, 2019

JOINT SPONSOR: SENATOR CANNIZZARO

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions relating to governmental administration. (BDR 18-777)

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; authorizing the Legislative Commission to suspend or nullify certain administrative 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:

1 Under the separation-of-powers provision of the Nevada Constitution, one
2 branch of the State Government may not exercise powers properly belonging to
3 another branch of the State Government “except in the cases expressly directed or
4 permitted in this constitution.” (Nev. Const. Art. 3, § 1) As a general rule under the
5 separation-of-powers doctrine, because the question of whether a regulation
6 adopted by an executive agency exceeds its statutory authority or is inconsistent
7 with legislative intent presents a question of statutory interpretation, the power to
8 resolve that question of statutory interpretation and determine whether to invalidate
9 or nullify the regulation is usually regarded as judicial power because “it is
10 emphatically the province and duty of the judicial department to say what the law
11 is.” (*Nevadans for Nev. v. Beers*, 122 Nev. 930, 943 n.20 (2006) (quoting *Marbury*
12 *v. Madison*, 5 U.S. 137, 177-78 (1803)); *Berkson v. LePome*, 126 Nev. 492, 499
13 (2010) (explaining that “[t]o declare what the law is or has been is judicial power;
14 to declare what the law shall be is legislative.” (quoting 1 Thomas M. Cooley,
15 *Constitutional Limitations* 191 (8th ed. 1927)); *Silver State Elec. Supply Co. v.*
16 *State ex rel. Dep’t of Tax’n*, 123 Nev. 80, 84 (2007) (“Appeals involving
17 interpretation of a statute or regulation present questions of law subject to our
18 independent review.”))



19 For example, in applying the separation-of-powers doctrine to the Federal
20 Government and other state governments, courts have found that the separation-of-
21 powers doctrine ordinarily prohibits legislative committees or other legislative
22 bodies from exercising the power to nullify a regulation adopted by an executive
23 agency on the basis that the regulation exceeds the statutory authority of the agency
24 or is inconsistent with legislative intent, unless Congress or the state legislature
25 passes a law that expressly nullifies the regulation or revises or repeals the agency's
26 statutory authority. (*I.N.S. v. Chadha*, 462 U.S. 919, 953 n.16 (1983); *State v.*
27 *A.L.I.V.E. Voluntary*, 606 P.2d 769, 772-79 (Alaska 1980); *Legis. Research*
28 *Comm'n v. Brown*, 664 S.W.2d 907, 917-20 (Ky. 1984); *Blank v. Dep't of Corr.*,
29 611 N.W.2d 530, 537-39 (Mich. 2000); *General Assembly of N.J. v. Byrne*, 448
30 A.2d 438, 443-49 (N.J. 1982); *State ex rel. Barker v. Manchin*, 279 S.E.2d 622,
31 630-36 (W. Va. 1981))

32 However, in Nevada, the voters in 1996 approved a constitutional amendment
33 to Nevada's separation-of-powers provision which expressly empowers the
34 Legislature to provide by law for legislative agencies and legislative bodies
35 composed of members of the Senate and Assembly to suspend or nullify
36 regulations adopted by executive agencies on the basis that the regulations exceed
37 the statutory authority of the agencies or are inconsistent with legislative intent. The
38 constitutional amendment provides that if the Legislature authorizes the adoption of
39 regulations by executive agencies which bind persons outside the agencies, the
40 Legislature is authorized to enact laws providing for: (1) the review of such
41 regulations by a legislative agency before their effective date to determine whether
42 each such regulation is within the statutory authority for its adoption; (2) the
43 suspension by a legislative agency of any such regulation which appears to exceed
44 the statutory authority for its adoption until the regulation is reviewed by a
45 legislative body composed of members of the Senate and Assembly; and (3) the
46 nullification of any such regulation by a majority vote of a legislative body
47 composed of members of the Senate and Assembly. (Nev. Const. Art. 3, § 1) When
48 the constitutional amendment was presented to the voters, the ballot materials
49 explained that its purpose was to ensure that the Legislative Branch had the specific
50 constitutional power to suspend or nullify regulations adopted by executive
51 agencies which exceed the statutory authority granted by the Legislature when it
52 passed the laws that authorized the agencies to adopt the regulations. (*State of*
53 *Nevada Ballot Questions 1996*, Question No. 5, at pp. 1-2 (Nev. Sec'y of State
54 1996))

55 When the Nevada Constitution expressly grants specific powers to the
56 Legislative Branch, the other branches may not infringe upon the exercise of those
57 powers out of respect for an equal and coordinate branch of government. (*Heller v.*
58 *Legislature*, 120 Nev. 456, 466-72 (2004); *Comm'n on Ethics v. Hardy*, 125 Nev.
59 285, 291-94 (2009)) For example, the Nevada Supreme Court has determined that
60 because the Nevada Constitution expressly grants to each legislative House the
61 specific power to "judge" the qualifications, returns and elections of its own
62 members, the constitutional assignment of that power to the Legislative Branch
63 "insulates a legislator's qualifications to hold office from judicial review. In other
64 words, a legislative body's decision to admit or expel a member is almost
65 unreviewable in the courts." (*Heller v. Legislature*, 120 Nev. 456, 466-67 (2004))
66 Because Nevada's voters expressly granted specific constitutional power to the
67 Legislature to provide by law for legislative agencies and legislative bodies
68 composed of members of the Senate and Assembly to suspend or nullify
69 regulations adopted by executive agencies, the other branches may not infringe
70 upon the exercise of that power out of respect for an equal and coordinate branch of
71 government.

72 In exercising its expressly granted and specific constitutional power regarding
73 regulations, the Legislature has enacted provisions of the Nevada Administrative



74 Procedure Act which set forth the procedures for the adoption of emergency,
75 temporary and permanent regulations by certain executive agencies. (NRS
76 233B.0395-233B.120) Under existing law, with limited exceptions, the Legislative
77 Commission or the Subcommittee to Review Regulations of the Legislative
78 Commission has the authority to review and to approve or object to certain
79 temporary or permanent regulations before those regulations become effective.
80 (NRS 233B.0633, 233B.067-233B.070)

81 **Section 3** of this bill authorizes the Legislative Commission to suspend or
82 nullify a regulation adopted pursuant to the Nevada Administrative Procedure Act
83 if the regulation: (1) exceeds the statutory authority for its adoption; (2) is
84 inconsistent with the intent of the Legislature in granting the statutory authority for
85 its adoption; or (3) is no longer being administered or interpreted in a manner that is
86 consistent with the agency's stated intention when adopting the regulation or the
87 agency's stated intention during the review and approval of the regulation by the
88 Legislative Commission. **Section 3** also establishes procedures that the Legislative
89 Commission must follow before and after it takes action to suspend or nullify a
90 regulation.

91 Additionally, **sections 3 and 5** of this bill preclude judicial review of any action
92 taken or determination made by the Legislative Commission in exercising its
93 powers to review, object to, suspend or nullify a regulation, and **sections 3 and 6** of
94 this bill allow the Legislative Commission to determine whether an agency rule,
95 standard, directive or statement constitutes a regulation for the purposes of
96 exercising those powers. **Sections 11, 20 and 22** of this bill make conforming
97 changes.

98 **Section 16** of this bill abolishes the Subcommittee to Review Regulations of
99 the Legislative Commission and provides only the Legislative Commission with the
100 powers of reviewing and approving or objecting to certain temporary or permanent
101 regulations before those regulations become effective. **Sections 9, 13, 15-18, 21**
102 **and 23** of this bill make conforming changes.

103 **Section 4** of this bill directs the Legislative Commission to adopt such
104 regulations as are necessary to carry out the provisions of the Nevada
105 Administrative Procedure Act governing administrative regulations. **Section 4** also
106 requires the regulations to establish certain procedural rights and standards for
107 proceedings of the Legislative Commission concerning the suspension or
108 nullification of a regulation, including: (1) procedural rights that provide regulated
109 persons and other interested persons with an opportunity to comment on whether
110 the regulation should be suspended or nullified; and (2) standards and requirements
111 for making a determination that the immediate suspension or nullification of the
112 regulation is necessary to protect public health or safety.

113 Existing law excludes the application of certain agency policies as applied to a
114 person with sufficient prior actual notice of the policy from the definition of
115 "regulation" for the purposes of the Nevada Administrative Procedure Act. (NRS
116 233B.038) **Section 6** of this bill removes this exception.

117 Existing law ratifies the Nevada Administrative Code as revised or
118 supplemented before May 15, 1987. (NRS 233B.0395) **Section 7** of this bill ratifies
119 the Code as revised or supplemented before February 4, 2019.

120 Under existing law, if an agency adopts by reference in a regulation material
121 published by another authority, the agency is required to disclose the source and
122 price for purchase of the publication in the reference in the regulation. (NRS
123 233B.040) **Section 8** of this bill eliminates the requirement to disclose the price for
124 purchase of the publication in the reference.

125 Existing law requires an agency to adopt a proposed regulation not later than 2
126 years after the proposed regulation is submitted to the Legislative Counsel. (NRS
127 233B.040) **Section 8** of this bill requires an agency to also submit the proposed
128 regulation to the Legislative Commission for review within the same 2-year period.



129 Existing law requires an agency to hold an oral public hearing on a proposed
130 regulation if an oral hearing is requested by certain persons and the proposed
131 regulation is substantive. (NRS 233B.061) **Section 10** of this bill eliminates the
132 requirement regarding the substantiveness of the regulation.

133 Under existing law, the Legislative Counsel is required to prepare and publish a
134 Register of Administrative Regulations, which includes information relating to
135 adopted permanent regulations. (NRS 233B.0653) **Section 14** of this bill eliminates
136 the requirement that the Legislative Counsel publish paper copies of the Register
137 and instead requires the Legislative Counsel to publish the Register electronically
138 on the public website of the Legislature on the Internet. **Section 24** of this bill
139 removes a requirement that is made duplicative by the provisions of **section 14**.

140 An emergency regulation becomes effective when certain documents are filed
141 with the Secretary of State. (NRS 233B.070) **Section 19** of this bill requires that a
142 copy of the written statement of the emergency endorsed by the Governor is
143 included with the information that must be filed with the Secretary of State before
144 an emergency regulation becomes effective.

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

1 **Section 1.** 1. The Legislature hereby finds that:

2 (a) Under the separation-of-powers provision of Section 1 of
3 Article 3 of the Nevada Constitution, one branch of the State
4 Government may not exercise powers properly belonging to another
5 branch of the State Government except in the cases expressly
6 directed or permitted in the Nevada Constitution.

7 (b) In 1996, Nevada's voters approved a constitutional
8 amendment to the separation-of-powers provision which expressly
9 empowers the Legislature to provide by law for legislative agencies
10 and legislative bodies composed of members of the Senate and
11 Assembly to suspend or nullify regulations adopted by executive
12 agencies on the basis that the regulations exceed the statutory
13 authority of the agencies or are inconsistent with legislative intent.

14 (c) When the constitutional amendment was presented to the
15 voters, the ballot materials explained that its purpose was to ensure
16 that the Legislative Branch had the specific constitutional power to
17 suspend or nullify regulations adopted by executive agencies which
18 exceed the statutory authority granted by the Legislature when it
19 passed the laws that authorized the agencies to adopt the regulations.

20 (d) Because Nevada's voters expressly granted specific
21 constitutional power to the Legislature to provide by law for
22 legislative agencies and legislative bodies composed of members of
23 the Senate and Assembly to suspend or nullify regulations adopted
24 by executive agencies, the other branches may not infringe upon the
25 exercise of that power out of respect for an equal and coordinate
26 branch of government.



1 (e) When executive agencies adopt regulations which exceed
2 their statutory authority or are inconsistent with legislative intent,
3 the regulations thwart and undermine the will of the people who,
4 through their elected representatives in the Legislature, determine by
5 properly enacted laws the scope and extent of the authority granted
6 to executive agencies to adopt the regulations.

7 2. The Legislature hereby declares that there is a legitimate and
8 compelling need to exercise its expressly granted and specific
9 constitutional power under Section 1 of Article 3 of the Nevada
10 Constitution, in the manner set forth in the provisions of this act, in
11 order to:

12 (a) Provide by law for legislative agencies and legislative bodies
13 composed of members of the Senate and Assembly to suspend or
14 nullify regulations adopted by executive agencies which exceed
15 their statutory authority or are inconsistent with legislative intent;
16 and

17 (b) Protect and safeguard the rights of the people against such
18 unlawful and invalid regulations.

19 **Sec. 2.** Chapter 233B of NRS is hereby amended by adding
20 thereto the provisions set forth as sections 3 and 4 of this act.

21 **Sec. 3. 1. *Upon its own initiative, the Legislative***
22 ***Commission may suspend or nullify a regulation, in whole or in***
23 ***part, adopted pursuant to this chapter if, in the opinion of the***
24 ***Legislative Commission, the regulation:***

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

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

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

34 2. *Before holding the initial meeting to consider the*
35 *suspension or nullification of a regulation, the Legislative*
36 *Commission shall, at least 30 days before the meeting, provide the*
37 *adopting agency with written notice of the meeting which informs*
38 *the agency of:*

39 (a) *The specific regulation that will be considered at the*
40 *meeting; and*

41 (b) *The potential reasons for the suspension or nullification of*
42 *the regulation. The potential reasons provided in the written*
43 *notice:*

44 (1) *Must include sufficient information to allow the agency*
45 *to prepare for the meeting.*



1 (2) *Do not preclude the Legislative Commission from*
2 *considering other reasons at the initial meeting or any subsequent*
3 *meeting held to consider the suspension or nullification of the*
4 *regulation.*

5 3. *At the initial meeting to consider the suspension or*
6 *nullification of a regulation, the Legislative Commission:*

7 (a) *Shall provide the adopting agency with an opportunity to*
8 *comment on whether the regulation should be suspended or*
9 *nullified.*

10 (b) *May not take action to suspend or nullify the regulation*
11 *unless the Legislative Commission makes a specific determination*
12 *that the immediate suspension or nullification of the regulation is*
13 *necessary to protect public health or safety. If the Legislative*
14 *Commission does not make such a specific determination, the*
15 *Legislative Commission may not take action to suspend or nullify*
16 *the regulation unless such action is taken at a subsequent meeting*
17 *held at least 30 days after the date of the initial meeting to*
18 *consider the suspension or nullification of the regulation.*

19 4. *If the Legislative Commission takes action to suspend or*
20 *nullify a regulation pursuant to this section, the Legislative*
21 *Commission shall, as soon as practicable after taking such action,*
22 *provide the Secretary of State and the adopting agency with*
23 *written notice of:*

24 (a) *The suspension of the regulation and when the suspension*
25 *becomes effective and when it expires; or*

26 (b) *The nullification of the regulation and when the*
27 *nullification becomes effective.*

28 5. *Any action taken or determination made by the Legislative*
29 *Commission pursuant to this section, including, without*
30 *limitation, any action to suspend or nullify a regulation, is final*
31 *and not subject to judicial review.*

32 6. *In exercising the powers granted in this section, the*
33 *Legislative Commission:*

34 (a) *Has the authority to determine whether an agency rule,*
35 *standard, directive or statement is a regulation as defined in NRS*
36 *233B.038; and*

37 (b) *After making such a determination, may take action to*
38 *suspend or nullify the regulation pursuant to this section.*

39 7. *Any regulation which is nullified by the Legislative*
40 *Commission pursuant to this section must be removed from the*
41 *Nevada Administrative Code and from any agency publications*
42 *and notices.*

43 8. *As used in this section, "adopting agency" or "agency"*
44 *means the agency that adopted the regulation or any successor*
45 *agency that administers the regulation.*



1 **Sec. 4. 1. The Legislative Commission shall adopt such**
2 **regulations as are necessary to carry out the provisions of this**
3 **section and NRS 233B.0395 to 233B.120, inclusive, and section 3**
4 **of this act.**

5 **2. The regulations adopted by the Legislative Commission**
6 **must establish for proceedings of the Legislative Commission**
7 **concerning the suspension or nullification of a regulation**
8 **pursuant to section 3 of this act:**

9 **(a) Procedural rights that provide persons who are regulated**
10 **by or otherwise interested in the regulation with an opportunity to**
11 **comment on whether the regulation should be suspended or**
12 **nullified.**

13 **(b) Standards and requirements for making a specific**
14 **determination that the immediate suspension or nullification of**
15 **the regulation is necessary to protect public health or safety.**

16 **Sec. 5. NRS 233B.020 is hereby amended to read as follows:**

17 233B.020 1. By this chapter, the Legislature intends to
18 establish ~~minimum~~ procedural requirements for :

19 **(a) Except as otherwise provided in paragraph (b), the**
20 **regulation-making and adjudication procedure of all agencies of the**
21 **Executive Department of the State Government and for judicial**
22 **review of both functions, except as to those agencies expressly**
23 **exempted pursuant to the provisions of this chapter.**

24 **(b) The exercise by the Legislative Commission of the power to**
25 **review, object to, suspend or nullify a regulation as authorized by**
26 **Section 1 of Article 3 of the Nevada Constitution and NRS**
27 **233B.0395 to 233B.120, inclusive, and sections 3 and 4 of this act,**
28 **except that the exercise of such a power by the Legislative**
29 **Commission is final and not subject to judicial review.**

30 **2. This chapter confers no additional regulation-making**
31 **authority upon any agency except to the extent provided in**
32 **subsection 1 of NRS 233B.050.**

33 ~~2.~~ **3. The provisions of this chapter are intended to**
34 **supplement statutes applicable to specific agencies. This chapter**
35 **does not abrogate or limit additional requirements imposed on such**
36 **agencies by statute or otherwise recognized by law.**

37 **Sec. 6. NRS 233B.038 is hereby amended to read as follows:**

38 233B.038 1. "Regulation" means:

39 **(a) An agency rule, standard, directive or statement of general**
40 **applicability which effectuates or interprets law or policy, or**
41 **describes the organization, procedure or practice requirements of**
42 **any agency ~~;~~, including, without limitation, an agency rule,**
43 **standard, directive or statement that the Legislative Commission**
44 **determines is a regulation pursuant to section 3 of this act;**

45 **(b) A proposed regulation;**



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

6 2. The term does not include:

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

10 (b) A declaratory ruling;

11 (c) An intraagency memorandum;

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

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

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

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

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

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

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

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

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

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

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

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

44 ~~[(p)]~~ (p) A technical bulletin prepared pursuant to NRS 360.133.



1 **Sec. 7.** NRS 233B.0395 is hereby amended to read as follows:
2 233B.0395 The Nevada Administrative Code as most recently
3 revised or supplemented before ~~[May 15, 1987,]~~ *February 4, 2019,*
4 and the text of those regulations which have been prepared by the
5 Legislative Counsel for inclusion in the Nevada Administrative
6 Code on or before ~~[May 15, 1987,]~~ *February 4, 2019,* but have not
7 been included, are hereby ratified.

8 **Sec. 8.** NRS 233B.040 is hereby amended to read as follows:
9 233B.040 1. To the extent authorized by the statutes
10 applicable to it, each agency may adopt reasonable regulations to aid
11 it in carrying out the functions assigned to it by law and shall adopt
12 such regulations as are necessary to the proper execution of those
13 functions. If adopted and filed in accordance with the provisions of
14 this chapter, the following regulations have the force of law and
15 must be enforced by all peace officers:

- 16 (a) The Nevada Administrative Code; and
- 17 (b) Temporary and emergency regulations.

18 ➤ In every instance, the power to adopt regulations to carry out a
19 particular function is limited by the terms of the grant of authority
20 pursuant to which the function was assigned.

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

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

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

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

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

36 (b) The reference discloses the source ~~[and price]~~ for purchase
37 of the publication.

38 ➤ An agency shall not attempt to incorporate any other material in a
39 regulation by reference.

40 4. An agency shall adopt *and submit* a proposed regulation *to*
41 *the Legislative Commission for review* not later than 2 years after
42 the date on which the proposed regulation is submitted to the
43 Legislative Counsel pursuant to subsection 1 of NRS 233B.063. If
44 an agency does not adopt *and submit* a proposed regulation *to the*
45 *Legislative Commission for review* within the time prescribed by



1 this subsection, the executive head of the agency shall appear
2 personally before the Legislative Commission and explain why the
3 proposed regulation has not been adopted ~~and submitted to the~~
4 *Legislative Commission for review.*

5 **Sec. 9.** NRS 233B.060 is hereby amended to read as follows:

6 233B.060 1. Except as otherwise provided in subsection 2
7 and NRS 233B.061, before adopting, amending or repealing:

8 (a) A permanent regulation, the agency must, after receiving the
9 approved or revised text of the proposed regulation prepared by the
10 Legislative Counsel pursuant to NRS 233B.063:

11 (1) If it is the first hearing on the regulation, give at least 30
12 days' notice of its intended action, unless a shorter period of notice
13 is specifically permitted by statute. When posted, the agency must
14 include notice that the regulation that is posted on the Internet
15 website of the agency 3 working days before the hearing will be the
16 regulation considered. The agency shall ensure that the regulation to
17 be considered at the hearing is posted on the Internet website of the
18 agency 3 working days before the hearing.

19 (2) If it is the second or subsequent hearing on the regulation,
20 including, without limitation, a subsequent hearing on an adopted
21 regulation that has not been approved by the Legislative
22 Commission ~~for the Subcommittee to Review Regulations~~ pursuant
23 to NRS 233B.067, in order to approve a revision to the regulation,
24 give at least 3 working days' notice of its intended action.

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

28 2. Except as otherwise provided in subsection 3, if an agency
29 has adopted a temporary regulation after notice and the opportunity
30 for a hearing as provided in this chapter, it may adopt, after
31 providing a second notice and the opportunity for a hearing, a
32 permanent regulation, but the language of the permanent regulation
33 must first be approved or revised by the Legislative Counsel and the
34 adopted regulation must be approved by the Legislative
35 Commission . ~~for the Subcommittee to Review Regulations~~
36 ~~appointed pursuant to subsection 6 of NRS 233B.067.]~~

37 3. If the Public Utilities Commission of Nevada has adopted a
38 temporary regulation after notice and the opportunity for a hearing
39 as provided in this chapter, it may adopt a substantively equivalent
40 permanent regulation without further notice or hearing, but the
41 language of the permanent regulation must first be approved or
42 revised by the Legislative Counsel and the adopted regulation must
43 be approved by the Legislative Commission . ~~for the Subcommittee~~
44 ~~to Review Regulations.]~~



1 **Sec. 10.** NRS 233B.061 is hereby amended to read as follows:
2 233B.061 1. All interested persons must be afforded a
3 reasonable opportunity to submit data, views or arguments upon a
4 proposed regulation, orally or in writing.

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

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

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

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

25 4. An agency shall not hold the public hearing required
26 pursuant to subsection 3 on the same day that the agency holds the
27 workshop required pursuant to subsection 2.

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

31 **Sec. 11.** NRS 233B.0613 is hereby amended to read as
32 follows:

33 233B.0613 1. If an agency determines that an emergency
34 exists ~~[]~~ *and wants to adopt an emergency regulation*, it shall
35 submit to the Governor *the original copy of the proposed*
36 *emergency regulation with* a written statement of the emergency
37 which sets forth the reasons for ~~[the]~~ *its* determination ~~[. If]~~ *that an*
38 *emergency exists.*

39 2. *Except as otherwise provided in this section, if* the
40 Governor endorses the statement of the emergency by written
41 endorsement at the end of the full text of the statement of *the*
42 emergency on the original copy of ~~[a]~~ *the* proposed *emergency*
43 regulation, the *emergency* regulation may be adopted and become
44 effective immediately upon its being filed in the Office of the
45 Secretary of State pursuant to subsection 3 of NRS 233B.070. The



1 statement of the emergency endorsed by the Governor must be
2 included as a part of the *emergency* regulation for all purposes.

3 ~~[2.]~~ 3. If practicable, the agency shall, not later than 9 a.m. on
4 the first working day before the date on which the emergency
5 regulation is filed in the Office of the Secretary of State pursuant to
6 subsection 3 of NRS 233B.070, make the emergency regulation
7 available to the public by:

8 (a) Providing a copy of the emergency regulation to a member
9 of the public upon request; and

10 (b) Making a copy of the emergency regulation available on its
11 website on the Internet, if any.

12 ~~[3.]~~ 4. If practicable, the agency shall, not later than 9 a.m. on
13 the first working day before the date of any hearing at which the
14 agency considers the emergency regulation, make the version of
15 the proposed emergency regulation that will be considered at the
16 hearing available to the public by:

17 (a) Providing a copy of the proposed emergency regulation to a
18 member of the public upon request; and

19 (b) Making a copy of the proposed (b) emergency regulation
20 available on its website on the Internet, if any.

21 ~~[4.—A]~~

22 5. An *emergency* regulation adopted pursuant to this section
23 may *not* be ~~[effective]~~:

24 (a) *Effective* for a period ~~[of not]~~ longer than 120 days. ~~[A~~
25 ~~regulation may be adopted]~~

26 (b) *Adopted* by this emergency procedure ~~[only]~~ *more than*
27 *once.*

28 ~~[5.]~~ (c) *Substantially identical, in whole or in part, to a*
29 *regulation suspended or nullified by the Legislative Commission*
30 *pursuant to Section 1 of Article 3 of the Nevada Constitution and*
31 *NRS 233B.0395 to 233B.120, inclusive, and sections 3 and 4 of*
32 *this act.*

33 6. If an agency adopts, after providing notice and the
34 opportunity for a hearing as required in this chapter, a permanent or
35 temporary regulation which becomes effective and is substantially
36 identical to its effective emergency regulation, the emergency
37 regulation expires automatically on the effective date of the
38 temporary or permanent regulation.

39 **Sec. 12.** NRS 233B.0617 is hereby amended to read as
40 follows:

41 233B.0617 No regulation adopted after July 1, 1965, is valid
42 unless adopted in substantial compliance with this chapter but no
43 objection to any regulation on the ground of noncompliance with the
44 procedural requirements of NRS 233B.060 to 233B.0617, inclusive,
45 may be made more than 2 years after its effective date. *Nothing in*



1 *this section shall be construed to preclude the making of an*
2 *objection to a regulation on a ground other than noncompliance*
3 *with the procedural requirements of NRS 233B.060 to 233B.0617,*
4 *inclusive.* Regulations in effect on July 1, 1965, continue in effect
5 until amended, *suspended, nullified* or repealed in accordance with
6 the provisions of this chapter, if an original and two copies were
7 deposited with the Secretary of State on or before July 1, 1965.

8 **Sec. 13.** NRS 233B.0633 is hereby amended to read as
9 follows:

10 233B.0633 1. Upon the request of a Legislator, the
11 Legislative Commission may examine a temporary regulation
12 adopted by an agency that is not yet effective pursuant to subsection
13 2 of NRS 233B.070 to determine whether the temporary regulation
14 conforms to the statutory authority pursuant to which it was adopted
15 and whether the temporary regulation carries out the intent of the
16 Legislature in granting that authority.

17 2. If a temporary regulation that the Legislative Commission is
18 requested to examine pursuant to subsection 1 was required to be
19 adopted by the agency pursuant to a federal statute or regulation and
20 the temporary regulation exceeds the specific statutory authority of
21 the agency or sets forth requirements that are more stringent than a
22 statute of this State, the agency shall submit a statement to the
23 Legislative Commission that adoption of the temporary regulation
24 was required by a federal statute or regulation. The statement must
25 include the specific citation of the federal statute or regulation
26 requiring such adoption.

27 3. ~~Except as otherwise provided in subsection 4, the~~ *The*
28 *Legislative Commission shall* ~~;~~

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

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

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

44 ~~—5.]~~ 4. If the Legislative Commission ~~;~~ ~~or the Subcommittee to~~
45 ~~Review Regulations if the temporary regulation was referred,]~~



1 approves the temporary regulation, the Legislative Counsel shall
2 notify the agency that the agency may file the temporary regulation
3 with the Secretary of State. If the Commission ~~for the~~
4 ~~Subcommittee~~ objects to the temporary regulation after determining
5 that:

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

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

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

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

16 ~~[6.] 5.~~ If the Legislative Commission ~~for the Subcommittee to~~
17 ~~Review Regulations~~ has objected to a temporary regulation, the
18 agency that adopted the temporary regulation shall revise the
19 temporary regulation to conform to the statutory authority pursuant
20 to which it was adopted and to carry out the intent of the Legislature
21 in granting that authority and return it to the Legislative Counsel
22 within 60 days after the agency received the written notice of the
23 objection to the temporary regulation pursuant to subsection ~~[5.] 4.~~
24 Upon receipt of the revised temporary regulation, the Legislative
25 Counsel shall resubmit the temporary regulation to the
26 Legislative Commission . ~~for the Subcommittee for review.~~ If the
27 Legislative Commission ~~for the Subcommittee~~ approves the revised
28 temporary regulation, the Legislative Counsel shall notify the
29 agency that the agency may file the revised temporary regulation
30 with the Secretary of State.

31 ~~[7.] 6.~~ If the Legislative Commission ~~for the Subcommittee to~~
32 ~~Review Regulations~~ objects to the revised temporary regulation, the
33 Legislative Counsel shall attach to the revised temporary regulation
34 a written notice of the objection, including, if practicable, a
35 statement of the reasons for the objection, and shall promptly return
36 the revised temporary regulation to the agency. The agency shall
37 continue to revise it and resubmit it to the Legislative Commission
38 ~~for the Subcommittee~~ within 30 days after the agency received the
39 written notice of the objection to the revised temporary regulation.

40 **Sec. 14.** NRS 233B.0653 is hereby amended to read as
41 follows:

42 233B.0653 1. The Legislative Counsel shall *periodically*
43 prepare and publish ~~for cause to be prepared and published~~
44 *electronically* a Register of Administrative Regulations ~~[.]~~ *on the*
45 *public website of the Legislature on the Internet.* The Register



1 must include the following information regarding each permanent
2 regulation adopted by an agency:

3 (a) The proposed and adopted text of the regulation and any
4 revised version of the regulation;

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

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

9 (d) The informational statement required pursuant to NRS
10 233B.066; and

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

13 ~~↳ In carrying out the duties set forth in this subsection, the~~
14 ~~Legislative Counsel may use the services of the State Printing~~
15 ~~Office.~~

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

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

19 ~~—(a) The Secretary of State;~~

20 ~~—(b) The Attorney General;~~

21 ~~—(c) The Supreme Court Law Library;~~

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

23 ~~—(e) Each county clerk;~~

24 ~~—(f) Each county library; and~~

25 ~~—(g) The Legislative Counsel Bureau.~~

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

30 ~~—5.] 2.~~ The Legislative Counsel is immune from civil liability
31 which may result from failure to include any information in the
32 Register.

33 **Sec. 15.** NRS 233B.0665 is hereby amended to read as
34 follows:

35 233B.0665 If a regulation submitted to the Legislative Counsel
36 Bureau pursuant to NRS 233B.067 is not accompanied by an
37 informational statement which complies with the requirements of
38 NRS 233B.066 or a small business impact statement which
39 complies with the requirements of NRS 233B.0608 and 233B.0609,
40 the Legislative Counsel shall return the regulation to the agency
41 with a note indicating the statement which is missing. Unless the
42 missing statement is supplied, the Legislative Counsel shall not
43 submit the regulation to the Legislative Commission ~~for the~~
44 ~~Subcommittee to Review Regulations, as applicable.]~~ and the
45 regulation never becomes effective.



1 **Sec. 16.** NRS 233B.067 is hereby amended to read as follows:

2 233B.067 1. After adopting a permanent regulation, the
3 agency shall submit the informational statement prepared pursuant
4 to NRS 233B.066 and one copy of each regulation adopted to the
5 Legislative Counsel for review by the Legislative Commission to
6 determine whether to approve the regulation. The Legislative
7 Counsel shall endorse on the original and the copy of each adopted
8 regulation the date of their receipt. The Legislative Counsel shall
9 maintain the copy of the regulation in a file and make the copy
10 available for public inspection for 2 years.

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

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

15 (b) Exceeds the specific statutory authority of the agency or sets
16 forth requirements that are more stringent than a statute of this State,
17 ↪ it shall include a statement that adoption of the regulation is
18 required by a federal statute or regulation. The statement must
19 include the specific citation of the federal statute or regulation
20 requiring such adoption.

21 3. ~~Except as otherwise provided in subsection 4, the~~ **The**
22 Legislative Commission shall ~~;~~

23 —(a) ~~Review~~ **review** the regulation at its next regularly scheduled
24 meeting if the regulation is received more than 10 working days
25 before the meeting. ~~;~~ **or**

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

28 —4. ~~If an agency determines that an emergency exists which~~
29 ~~requires a regulation of the agency submitted pursuant to subsection~~
30 ~~1 to become effective before the next meeting of the Legislative~~
31 ~~Commission is scheduled to be held, the agency may notify the~~
32 ~~Legislative Counsel in writing of the emergency. Upon receipt of~~
33 ~~such a notice, the Legislative Counsel shall refer the regulation for~~
34 ~~review by the Subcommittee to Review Regulations. The~~
35 ~~Subcommittee shall meet to review the regulation as soon as~~
36 ~~practicable.~~

37 —5.] **4.** If the Legislative Commission ~~;~~ **or the Subcommittee to**
38 **Review Regulations if the regulation was referred,** approves the
39 regulation, the Legislative Counsel shall promptly file the regulation
40 with the Secretary of State and notify the agency of the filing. If the
41 Commission ~~for Subcommittee~~ objects to the regulation after
42 determining that:

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



1 (b) The regulation does not conform to statutory authority;
2 (c) The regulation does not carry out legislative intent;
3 (d) The small business impact statement is inaccurate,
4 incomplete or did not adequately consider or significantly
5 underestimated the economic effect of the regulation on small
6 businesses; or

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

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

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

19 **Sec. 17.** NRS 233B.0675 is hereby amended to read as
20 follows:

21 233B.0675 1. If the Legislative Commission ~~[, or the~~
22 ~~Subcommittee to Review Regulations appointed pursuant to~~
23 ~~subsection 6 of NRS 233B.067,]~~ has objected to a regulation, the
24 agency shall revise the regulation to conform to the statutory
25 authority pursuant to which it was adopted and to carry out the
26 intent of the Legislature in granting that authority and return it to
27 the Legislative Counsel within 60 days after the agency received the
28 written notice of the objection to the regulation pursuant to NRS
29 233B.067. Upon receipt of the revised regulation, the Legislative
30 Counsel shall resubmit the regulation to the Commission ~~for~~
31 ~~Subcommittee]~~ for review. If the Commission ~~for Subcommittee]~~
32 approves the revised regulation, the Legislative Counsel shall
33 promptly file the revised regulation with the Secretary of State and
34 notify the agency of the filing.

35 2. If the Legislative Commission ~~for Subcommittee]~~ objects to
36 the revised regulation, the Legislative Counsel shall attach to the
37 revised regulation a written notice of the objection, including, if
38 practicable, a statement of the reasons for the objection, and shall
39 promptly return the revised regulation to the agency. The agency
40 shall continue to revise it and resubmit it to the Commission ~~for~~
41 ~~Subcommittee]~~ within 30 days after the agency received the written
42 notice of the objection to the revised regulation.



1 **Sec. 18.** NRS 233B.0677 is hereby amended to read as
2 follows:

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

11 (a) A list of the regulations that the Legislative Commission ~~for~~
12 ~~the Subcommittee to Review Regulations]~~ will review at the
13 meeting; and

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

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

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

29 233B.070 1. A permanent regulation becomes effective when
30 the Legislative Counsel files with the Secretary of State the original
31 of the final draft or revision of a regulation, except as otherwise
32 provided in NRS 293.247 or where a later date is specified in the
33 regulation.

34 2. Except as otherwise provided in NRS 233B.0633, an agency
35 that has adopted a temporary regulation may not file the temporary
36 regulation with the Secretary of State until 35 days after the date on
37 which the temporary regulation was adopted by the agency. A
38 temporary regulation becomes effective when the agency files with
39 the Secretary of State the original of the final draft or revision of the
40 regulation, together with the informational statement prepared
41 pursuant to NRS 233B.066. The agency shall also file a copy of the
42 temporary regulation with the Legislative Counsel, together with the
43 informational statement prepared pursuant to NRS 233B.066.



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

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

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

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

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

37 8. An agency which publishes any regulations included in the
38 Nevada Administrative Code shall use the exact text of the
39 regulation as it appears in the Nevada Administrative Code,
40 including the leadlines and numbers of the sections. Any other
41 material which an agency includes in a publication with its
42 regulations must be presented in a form which clearly distinguishes
43 that material from the regulations.



1 **Sec. 20.** NRS 233B.100 is hereby amended to read as follows:
2 233B.100 1. Any interested person may petition an agency
3 requesting the adoption, filing, amendment or repeal of any
4 regulation and shall accompany the petition with relevant data,
5 views and arguments. Each agency shall prescribe by regulation the
6 form for such petitions and the procedure for their submission,
7 consideration and disposition. Upon submission of such a petition,
8 the agency shall within 30 days either deny the petition in writing,
9 stating its reasons, or initiate regulation-making proceedings.

10 2. Any regulation of any agency is subject to ~~amendment~~ :
11 (a) *Amendment* or suspension by the Governor pursuant to the
12 provisions of NRS 416.060.

13 (b) *Suspension or nullification by the Legislative Commission*
14 *pursuant to Section 1 of Article 3 of the Nevada Constitution and*
15 *NRS 233B.0395 to 233B.120, inclusive, and sections 3 and 4 of*
16 *this act.*

17 **Sec. 21.** 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. 22.** 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 pursuant to Section 1 of Article 3 of the Nevada*
22 *Constitution and NRS 233B.0395 to 233B.120, inclusive, and*
23 *sections 3 and 4 of this act.*

24 **Sec. 23.** NRS 514A.110 is hereby amended to read as follows:

25 514A.110 A permanent regulation adopted by the:

26 1. Nevada Tax Commission, pursuant to NRS 360.090,
27 concerning any taxation related to the extraction of any mineral in
28 this State, including, without limitation, the taxation of the net
29 proceeds pursuant to chapter 362 of NRS and Section 5 of Article
30 10 of the Nevada Constitution;

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

34 3. Commission on Mineral Resources pursuant to NRS
35 513.063, 513.094 or 519A.290; and

36 4. State Environmental Commission pursuant to NRS 519A.160,
37 ↗ is not effective unless it is reviewed by the Mining Oversight and
38 Accountability Commission before it is approved pursuant to
39 chapter 233B of NRS by the Legislative Commission . ~~for the~~
40 ~~Subcommittee to Review Regulations appointed pursuant to~~
41 ~~subsection 6 of NRS 233B.067.]~~ After conducting its review of the
42 regulation, the Mining Oversight and Accountability Commission
43 shall provide a report of its findings and recommendations regarding
44 the regulation to the Legislative Counsel for submission to the



- 1 Legislative Commission . ~~[for the Subcommittee to Review~~
2 ~~Regulations, as appropriate.]~~
3 **Sec. 24.** NRS 233B.0656 is hereby repealed.
4 **Sec. 25.** This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

233B.0656 Register of Administrative Regulations: Access via Internet.

1. The Legislative Counsel shall, without charge, make available for access on the Internet or its successor, if any, the information contained in the Register of Administrative Regulations created pursuant to NRS 233B.0653. The Legislative Counsel may determine the manner in which this information is compiled and must revise the information at least as often as the Register is published pursuant to NRS 233B.0653.

2. This section must not be construed to require the Legislative Counsel to provide any equipment or service that would enable a person to access the Internet.



