

SENATE BILL NO. 329—SENATOR AMODEI

MARCH 17, 2003

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to administrative regulations. (BDR 18-730)

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

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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 administrative regulations; authorizing the review of a temporary regulation by the Legislative Commission upon the request of a Legislator; providing a procedure for such a review; authorizing the Legislative Commission to object to and suspend the filing of a temporary regulation and the Legislature to prevent that regulation from becoming effective under certain circumstances; providing a procedure for an agency to revise and resubmit to the Legislative Commission a temporary regulation to which the Commission has objected; revising the date by which an agency that adopts a temporary regulation may file the regulation with the Secretary of State; expanding the list of administrative regulations subject to review by the Legislative Committee on Health Care; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 233B of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. Upon the request of a Legislator, the Legislative*  
4 *Commission may examine a temporary regulation adopted by an*  
5 *agency that is not yet effective pursuant to subsection 2 of NRS*  
6 *233B.070 to determine whether the temporary regulation*



\* S B 3 2 9 R 2 \*

1 *conforms to the statutory authority pursuant to which it was*  
2 *adopted and whether the temporary regulation carries out the*  
3 *intent of the Legislature in granting that authority.*

4 *2. If a temporary regulation that the Legislative Commission*  
5 *is requested to examine pursuant to subsection 1 was required to*  
6 *be adopted by the agency pursuant to a federal statute or*  
7 *regulation and the temporary regulation exceeds the specific*  
8 *statutory authority of the agency or sets forth requirements that*  
9 *are more stringent than a statute of this state, the agency shall*  
10 *submit a statement to the Legislative Commission that adoption of*  
11 *the temporary regulation was required by a federal statute or*  
12 *regulation. The statement must include the specific citation of the*  
13 *federal statute or regulation requiring such adoption.*

14 *3. The Legislative Commission shall review the temporary*  
15 *regulation at its next regularly scheduled meeting if the temporary*  
16 *regulation is received more than 10 working days before the*  
17 *meeting and a regular meeting is held within 35 days after receipt*  
18 *of the temporary regulation. The Legislative Commission may*  
19 *direct the Committee to Review Regulations to examine any*  
20 *temporary regulation that a Legislator has requested to be*  
21 *reviewed more than 35 days before a regular meeting of the*  
22 *Commission is scheduled to be held.*

23 *4. The Legislative Counsel shall notify the agency that*  
24 *adopted the temporary regulation of the results of the review of the*  
25 *temporary regulation by the Legislative Commission within*  
26 *30 days after receipt of the request for review of the temporary*  
27 *regulation from a Legislator. If the Commission does not object to*  
28 *the temporary regulation, the Legislative Counsel shall notify the*  
29 *agency that the agency may file the temporary regulation with the*  
30 *Secretary of State. If the Commission objects to the temporary*  
31 *regulation after determining that:*

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

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

36 *(c) The temporary regulation does not carry out legislative*  
37 *intent,*  
38 *the Legislative Counsel shall attach to the temporary regulation a*  
39 *written notice of the objection of the Commission, including a*  
40 *statement of the reasons for its objection, and shall promptly*  
41 *return the temporary regulation to the agency.*

42 *5. If the Legislative Commission has objected to a temporary*  
43 *regulation, the agency that adopted the temporary regulation may*  
44 *revise it and return it to the Legislative Counsel. Upon receipt of*  
45 *the revised temporary regulation, the Legislative Counsel shall*



1 *resubmit the temporary regulation to the Commission at its next*  
2 *regularly scheduled meeting. If the Commission does not object to*  
3 *the revised temporary regulation, the Legislative Counsel shall*  
4 *notify the agency that the agency may file the revised temporary*  
5 *regulation with the Secretary of State.*

6 *6. If the Legislative Commission objects to the revised*  
7 *temporary regulation, the agency may continue to revise it and*  
8 *resubmit it.*

9 *7. If the agency refuses to revise a temporary regulation to*  
10 *which the Legislative Commission has objected, the Commission*  
11 *may suspend the filing of the temporary regulation until the final*  
12 *day of the next regular session of the Legislature. Before the final*  
13 *day of the next regular session, the Legislature may, by concurrent*  
14 *resolution or other appropriate legislative measure, declare that*  
15 *the temporary regulation will not become effective. If the*  
16 *Legislature makes such a declaration, the agency shall not file or*  
17 *enforce the temporary regulation or subsequently adopt a*  
18 *substantively identical permanent regulation. If the Legislature*  
19 *has not so declared by the final day of the session, the agency may*  
20 *file the temporary regulation with the Secretary of State.*

21 **Sec. 2.** NRS 233B.0613 is hereby amended to read as follows:

22 233B.0613 1. If an agency determines that an emergency  
23 exists, it shall submit to the Governor a written statement of the  
24 emergency which sets forth the reasons for the determination. If the  
25 Governor endorses the statement of the emergency by written  
26 endorsement at the end of the full text of the statement of  
27 emergency on the original copy of a proposed regulation, the  
28 regulation may be adopted and become effective immediately upon  
29 its being filed in the Office of the Secretary of State pursuant to  
30 subsection ~~2~~ 3 of NRS 233B.070. The statement of the emergency  
31 endorsed by the Governor must be included as a part of the  
32 regulation for all purposes. A regulation so adopted may be effective  
33 for a period of not longer than 120 days. A regulation may be  
34 adopted by this emergency procedure only once.

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

41 **Sec. 3.** NRS 233B.063 is hereby amended to read as follows:

42 233B.063 1. At or before the time of giving notice of its  
43 intention to adopt, amend or repeal a permanent regulation an  
44 agency shall deliver to the Legislative Counsel a copy of the  
45 proposed regulation or amendment or an identification of the



1 regulation to be repealed. The Legislative Counsel shall examine  
2 and if appropriate revise the language submitted so that it is clear,  
3 concise and suitable for incorporation in the Nevada Administrative  
4 Code, but shall not alter the meaning or effect without the consent of  
5 the agency.

6 2. Unless the proposed regulation is submitted to him between  
7 July 1 of an even-numbered year and July 1 of the succeeding odd-  
8 numbered year, the Legislative Counsel shall deliver the approved  
9 or revised text of the regulation within 30 days after it is submitted  
10 to him. If the proposed or revised text of a regulation is changed  
11 before adoption, the agency shall submit the changed text to the  
12 Legislative Counsel, who shall examine and revise it if appropriate  
13 pursuant to the standards of subsection 1. Unless it is submitted  
14 between July 1 of an even-numbered year and July 1 of the  
15 succeeding odd-numbered year, the Legislative Counsel shall return  
16 it with any appropriate revisions within 30 days. If the agency is a  
17 licensing board as defined in NRS 439B.225 and the proposed  
18 regulation relates to standards for licensing *or registration* or for the  
19 renewal of a license *or a certificate of registration* issued to a  
20 person or facility regulated by the agency, the Legislative Counsel  
21 shall also deliver one copy of the approved or revised text of the  
22 regulation to the Legislative Committee on Health Care.

23 3. An agency may adopt a temporary regulation between  
24 August 1 of an even-numbered year and July 1 of the succeeding  
25 odd-numbered year without following the procedure required by this  
26 section and NRS 233B.064, but any such regulation expires by  
27 limitation on November 1 of the odd-numbered year. A  
28 substantively identical permanent regulation may be subsequently  
29 adopted.

30 4. An agency may amend or suspend a permanent regulation  
31 between August 1 of an even-numbered year and July 1 of the  
32 succeeding odd-numbered year by adopting a temporary regulation  
33 in the same manner and subject to the same provisions as prescribed  
34 in subsection 3.

35 **Sec. 4.** NRS 233B.066 is hereby amended to read as follows:

36 233B.066 1. Except as otherwise provided in subsection 2,  
37 each adopted regulation which is submitted to the Legislative  
38 Counsel ~~[Bureau]~~ pursuant to NRS 233B.067 or filed with the  
39 Secretary of State pursuant to subsection 2 *or 3* of NRS 233B.070  
40 must be accompanied by a statement concerning the regulation  
41 which contains the following information:

42 (a) A description of how public comment was solicited, a  
43 summary of the public response, and an explanation how other  
44 interested persons may obtain a copy of the summary.

45 (b) The number of persons who:



- 1 (1) Attended each hearing;
- 2 (2) Testified at each hearing; and
- 3 (3) Submitted to the agency written statements.
- 4 (c) A description of how comment was solicited from affected
- 5 businesses, a summary of their response, and an explanation how
- 6 other interested persons may obtain a copy of the summary.
- 7 (d) If the regulation was adopted without changing any part of
- 8 the proposed regulation, a summary of the reasons for adopting the
- 9 regulation without change.
- 10 (e) The estimated economic effect of the regulation on the
- 11 business which it is to regulate and on the public. These must be
- 12 stated separately, and in each case must include:
- 13 (1) Both adverse and beneficial effects; and
- 14 (2) Both immediate and long-term effects.
- 15 (f) The estimated cost to the agency for enforcement of the
- 16 proposed regulation.
- 17 (g) A description of any regulations of other state or government
- 18 agencies which the proposed regulation overlaps or duplicates and a
- 19 statement explaining why the duplication or overlapping is
- 20 necessary. If the regulation overlaps or duplicates a federal
- 21 regulation, the name of the regulating federal agency.
- 22 (h) If the regulation includes provisions which are more
- 23 stringent than a federal regulation which regulates the same activity,
- 24 a summary of such provisions.
- 25 (i) If the regulation provides a new fee or increases an existing
- 26 fee, the total annual amount the agency expects to collect and the
- 27 manner in which the money will be used.
- 28 2. The requirements of paragraphs (a) to (d), inclusive, of
- 29 subsection 1 do not apply to emergency regulations.
- 30 **Sec. 5.** NRS 233B.067 is hereby amended to read as follows:
- 31 233B.067 1. After adopting a permanent regulation, the
- 32 agency shall submit the informational statement prepared pursuant
- 33 to NRS 233B.066 and one copy of each regulation adopted to the
- 34 Legislative Counsel for review by the Legislative Commission,
- 35 which may refer it to a joint interim committee, to determine
- 36 whether the regulation conforms to the statutory authority pursuant
- 37 to which it was adopted and whether the regulation carries out the
- 38 intent of the Legislature in granting that authority. The Legislative
- 39 Counsel shall endorse on the original and the copy of each adopted
- 40 regulation the date of their receipt. The Legislative Counsel shall
- 41 maintain the copy of the regulation in a file and make the copy
- 42 available for public inspection for 2 years.
- 43 2. If an agency submits an adopted regulation to the Legislative
- 44 Counsel pursuant to subsection 1 that:



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

3 (b) Exceeds the specific statutory authority of the agency or sets  
4 forth requirements that are more stringent than a statute of this  
5 state,

6 it shall include a statement that adoption of the regulation is required  
7 by a federal statute or regulation. The statement must include the  
8 specific citation of the federal statute or regulation requiring such  
9 adoption.

10 3. The Legislative Commission, or the joint interim committee  
11 if the Commission has referred it to such a committee, shall review  
12 the regulation at its next regularly scheduled meeting if the  
13 regulation is received more than 10 working days before the  
14 meeting and a regular meeting is held within 35 days after receipt of  
15 the regulation. The Commission may appoint a ~~committee~~  
16 *Committee to Review Regulations* composed of three or more  
17 members of the Commission or any joint interim committee to  
18 examine proposed regulations received more than 35 days before a  
19 regular meeting is scheduled to be held.

20 4. The Legislative Commission shall notify the Legislative  
21 Counsel of the results of its review within 30 days after receipt of  
22 the regulation from the agency. If the Commission does not object  
23 to the regulation, the Legislative Counsel shall file it with the  
24 Secretary of State within 35 days after receipt from the agency and  
25 notify the agency of the filing. If the Commission objects to the  
26 regulation after determining that:

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

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

30 (c) The regulation does not carry out legislative intent,  
31 the Legislative Counsel shall attach to the regulation a written notice  
32 of the objection of the Commission, including a statement of the  
33 reasons for its objection, and shall promptly return the regulation to  
34 the agency.

35 **Sec. 6.** NRS 233B.0681 is hereby amended to read as follows:

36 233B.0681 The Legislative Commission may provide for:

37 1. Its early review of a *proposed permanent* regulation after  
38 the agency has given notice of a hearing on the regulation but before  
39 the hearing is held. If the *permanent* regulation adopted after the  
40 hearing is identical to the regulation submitted for early review,  
41 the Legislative Counsel shall promptly file the regulation with the  
42 Secretary of State and notify the agency of the filing.

43 2. A waiver of its review of a *permanent* regulation in a case  
44 of administrative convenience or necessity.



1       **Sec. 7.** NRS 233B.070 is hereby amended to read as follows:  
2       233B.070 1. A permanent regulation becomes effective when  
3 the Legislative Counsel files with the Secretary of State the original  
4 of the final draft or revision of a regulation, except as otherwise  
5 provided in NRS 233B.0665 or where a later date is specified in the  
6 regulation.

7       2. ~~[A temporary or]~~ *Except as otherwise provided in section 1*  
8 *of this act, an agency that has adopted a temporary regulation may*  
9 *not file the temporary regulation with the Secretary of State until*  
10 *35 days after the date on which the temporary regulation was*  
11 *adopted by the agency. A temporary regulation becomes effective*  
12 *when the agency files with the Secretary of State the original of*  
13 *the final draft or revision of the regulation, together with the*  
14 *informational statement prepared pursuant to NRS 233B.066. The*  
15 *agency shall also file a copy of the temporary regulation with*  
16 *the Legislative Counsel, together with the informational statement*  
17 *prepared pursuant to NRS 233B.066.*

18       3. An emergency regulation becomes effective when the  
19 agency files with the Secretary of State the original of the final draft  
20 or revision of ~~[a]~~ *an emergency* regulation, together with the  
21 informational statement prepared pursuant to NRS 233B.066. The  
22 agency shall also file a copy of the ~~[temporary or]~~ emergency  
23 regulation with the Legislative Counsel, together with the  
24 informational statement prepared pursuant to NRS 233B.066.

25       ~~[3.]~~ 4. The Secretary of State shall maintain the original of the  
26 final draft or revision of each regulation in a permanent file to be  
27 used only for the preparation of official copies.

28       ~~[4.]~~ 5. The Secretary of State shall file, with the original of  
29 each agency's rules of practice, the current statement of the agency  
30 concerning the date and results of its most recent review of those  
31 rules.

32       ~~[5.]~~ 6. Immediately after each permanent or temporary  
33 regulation is filed, the agency shall deliver one copy of the final  
34 draft or revision, bearing the stamp of the Secretary of State  
35 indicating that it has been filed, including material adopted by  
36 reference which is not already filed with the State Library and  
37 Archives Administrator, to the State Library and Archives  
38 Administrator for use by the public. If the agency is a licensing  
39 board as defined in NRS 439B.225 and it has adopted a permanent  
40 regulation relating to standards for licensing *or registration* or for  
41 the renewal of a license *or a certificate of registration* issued to a  
42 person or facility regulated by the agency, the agency shall also  
43 deliver one copy of the regulation, bearing the stamp of the  
44 Secretary of State, to the Legislative Committee on Health Care





1 within 10 days after the regulation is filed with the Secretary of  
2 State.

3 ~~[6.]~~ 7. Each agency shall furnish a copy of all or part of that  
4 part of the Nevada Administrative Code which contains its  
5 regulations, to any person who requests a copy, and may charge a  
6 reasonable fee for the copy based on the cost of reproduction if it  
7 does not have money appropriated or authorized for that purpose.

8 ~~[7.]~~ 8. An agency which publishes any regulations included in  
9 the Nevada Administrative Code shall use the exact text of the  
10 regulation as it appears in the Nevada Administrative Code,  
11 including the leadlines and numbers of the sections. Any other  
12 material which an agency includes in a publication with its  
13 regulations must be presented in a form which clearly distinguishes  
14 that material from the regulations.

15 **Sec. 8.** NRS 439B.225 is hereby amended to read as follows:  
16 439B.225 1. As used in this section, "licensing board" means  
17 any board empowered to adopt standards for licensing *or*  
18 *registration* or for the renewal of licenses *or certificates of*  
19 *registration* pursuant to chapter 449, *625A*, 630, *630A*, 631, 632,  
20 633, *634*, *634A*, *635*, *636*, *637*, *637A*, 637B, 639, 640, *640A*, 641,  
21 *641A*, 641B, *641C*, 652 or 654 of NRS.

22 2. The Committee shall review each regulation that a licensing  
23 board proposes or adopts that relates to standards for licensing *or*  
24 *registration* or to the renewal of a license *or certificate of*  
25 *registration* issued to a person or facility regulated by the board,  
26 giving consideration to:

27 (a) Any oral or written comment made or submitted to it by  
28 members of the public or by persons or facilities affected by the  
29 regulation;

30 (b) The effect of the regulation on the cost of health care in this  
31 state;

32 (c) The effect of the regulation on the number of licensed *or*  
33 *registered* persons and facilities available to provide services in this  
34 state; and

35 (d) Any other related factor the Committee deems appropriate.

36 3. After reviewing a proposed regulation, the Committee shall  
37 notify the agency of the opinion of the Committee regarding the  
38 advisability of adopting or revising the proposed regulation.

39 4. The Committee shall recommend to the Legislature as a  
40 result of its review of regulations pursuant to this section any  
41 appropriate legislation.

