

Amendment No. 805

Senate Amendment to Assembly Bill No. 403 First Reprint (BDR 18-573)
Proposed by: Senate Committee on Legislative Operations and Elections
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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

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

KCP



Date: 5/22/2017

A.B. No. 403—Revises various provisions relating to governmental administration.
 (BDR 18-573)



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

MARCH 20, 2017

Referred to Committee on Legislative Operations and Elections

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

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

~

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:

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

For example, in applying the separation-of-powers doctrine to the Federal Government and other state governments, courts have found that the separation-of-powers doctrine ordinarily prohibits legislative committees or other legislative bodies from exercising the power to nullify a regulation adopted by an executive agency on the basis that the regulation exceeds the statutory authority of the agency or is inconsistent with legislative intent, unless Congress or the state legislature passes a law that expressly nullifies the regulation or revises or repeals the agency’s statutory authority. (L.N.S. v. Chadha, 462 U.S. 919, 953 n.16 (1983); State v. A.L.I.V.E. Voluntary, 606 P.2d 769, 772-79 (Alaska 1980); Legis. Research Comm’n v. Brown, 664 S.W.2d 907, 917-20 (Kv. 1984); Blank v. Dep’t of Corr., 611 N.W.2d 530, 537-39 (Mich. 2000); General Assembly of N.J. v.

27 Byrne, 448 A.2d 438, 443-49 (N.J. 1982); State ex rel. Barker v. Manchin, 279 S.E.2d 622,
28 630-36 (W. Va. 1981)

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

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

65 In exercising its expressly granted and specific constitutional power regarding
66 regulations, the Legislature has enacted provisions of the Nevada Administrative
67 Procedure Act ~~sets~~ which set forth the procedures for the adoption of emergency, temporary
68 and permanent regulations by ~~nonexempt state~~ certain executive agencies. (NRS
69 233B.0395-233B.120) ~~With~~ Under existing law, with limited exceptions, the Legislative
70 Commission or the Subcommittee to Review Regulations of the Legislative Commission ~~is~~
71 ~~required under existing law~~ has the authority to review and to approve or object to certain
72 temporary or permanent regulations before those regulations become effective. (NRS
73 233B.0633, 233B.067-233B.070)

74 Section 10 of this bill authorizes the Legislative Commission to suspend or nullify a
75 regulation adopted pursuant to the Nevada Administrative Procedure Act if the regulation: (1)
76 exceeds the statutory authority for its adoption; (2) is inconsistent with the intent of the
77 Legislature in granting the statutory authority for its adoption; or (3) is no longer being
78 administered or interpreted in a manner that is consistent with the agency's stated intention
79 when adopting the regulation or the agency's stated intention during the review and approval
80 of the regulation by the Legislative Commission. Section 10 also ~~precludes~~ establishes
81 procedures that the Legislative Commission must follow before and after it takes action
82 to suspend or nullify a regulation.

83 Additionally, sections 10 and 12 of this bill preclude judicial review of ~~a decision of~~
84 any action taken or determination made by the Legislative Commission in exercising its
85 powers to review, object to, suspend or nullify a regulation, and ~~authorize~~ sections 10

86 and 13 of this bill allow the Legislative Commission to determine ~~(what)~~ whether an agency
 87 rule, standard, directive or statement constitutes a regulation for the purposes of exercising
 88 ~~(the Legislative Commission's power to suspend or nullify a regulation. Sections 12,)~~ those
 89 powers. Sections 17.5, 26 and 28 of this bill make conforming changes.

90 Section 22 of this bill abolishes the Subcommittee to Review Regulations of the
 91 Legislative Commission and ~~is, with limited exceptions, required~~ provides only the
 92 Legislative Commission ~~(to review and approve)~~ with the powers of reviewing and
 93 approving or objecting to certain temporary or permanent regulations before those
 94 regulations become effective. Sections 16, 19, 21-24, 27 and 29 of this bill make conforming
 95 changes.

96 Section 11 of this bill ~~(authorizes)~~ directs the Legislative Commission to adopt such
 97 regulations as are necessary to carry out the provisions of the Nevada Administrative
 98 Procedure Act governing administrative regulations. Section 11 also requires the
 99 regulations to establish certain procedural rights and standards for proceedings of the
 100 Legislative Commission concerning the suspension or nullification of a regulation,
 101 including: (1) procedural rights that provide regulated persons and other interested
 102 persons with an opportunity to comment on whether the regulation should be suspended
 103 or nullified; and (2) standards and requirements for making a determination that the
 104 immediate suspension or nullification of the regulation is necessary to protect public
 105 health or safety.

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

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

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

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

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

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

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

- 1 **Section 1.** (Deleted by amendment.)
- 2 **Sec. 2.** (Deleted by amendment.)
- 3 **Sec. 3.** (Deleted by amendment.)
- 4 **Sec. 4.** (Deleted by amendment.)
- 5 **Sec. 5.** (Deleted by amendment.)
- 6 **Sec. 6.** (Deleted by amendment.)
- 7 **Sec. 7.** (Deleted by amendment.)

8 Sec. 8. (Deleted by amendment.)

9 Sec. 8.5. 1. The Legislature hereby finds that:

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

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

21 (c) When the constitutional amendment was presented to the voters, the
22 ballot materials explained that its purpose was to ensure that the Legislative
23 Branch had the specific constitutional power to suspend or nullify regulations
24 adopted by executive agencies which exceed the statutory authority granted by
25 the Legislature when it passed the laws that authorized the agencies to adopt
26 the regulations.

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

33 (e) When executive agencies adopt regulations which exceed their
34 statutory authority or are inconsistent with legislative intent, the regulations
35 thwart and undermine the will of the people who, through their elected
36 representatives in the Legislature, determine by properly enacted laws the
37 scope and extent of the authority granted to executive agencies to adopt the
38 regulations.

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

43 (a) Provide by law for legislative agencies and legislative bodies composed
44 of members of the Senate and Assembly to suspend or nullify regulations
45 adopted by executive agencies which exceed their statutory authority or are
46 inconsistent with legislative intent; and

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

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

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

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

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

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

1 2. Before holding the initial meeting to consider the suspension or
2 nullification of a regulation, the Legislative Commission shall, at least 30 days
3 before the meeting, provide the adopting agency with written notice of the
4 meeting which informs the agency of:

5 (a) The specific regulation that will be considered at the meeting; and

6 (b) The potential reasons for the suspension or nullification of the
7 regulation. The potential reasons provided in the written notice:

8 (1) Must include sufficient information to allow the agency to prepare
9 for the meeting.

10 (2) Do not preclude the Legislative Commission from considering other
11 reasons at the initial meeting or any subsequent meeting held to consider the
12 suspension or nullification of the regulation.

13 3. At the initial meeting to consider the suspension or nullification of a
14 regulation, the Legislative Commission:

15 (a) Shall provide the adopting agency with an opportunity to comment on
16 whether the regulation should be suspended or nullified.

17 (b) May not take action to suspend or nullify the regulation unless the
18 Legislative Commission makes a specific determination that the immediate
19 suspension or nullification of the regulation is necessary to protect public health
20 or safety. If the Legislative Commission does not make such a specific
21 determination, the Legislative Commission may not take action to suspend or
22 nullify the regulation unless such action is taken at a subsequent meeting held at
23 least 30 days after the date of the initial meeting to consider the suspension or
24 nullification of the regulation.

25 4. If the Legislative Commission ~~exercises its authority~~ takes action to
26 suspend or nullify a regulation pursuant to this section, the Legislative
27 Commission shall

28 ~~(a) Notify~~, as soon as practicable after taking such action, provide the
29 Secretary of State and the adopting agency ~~that~~ with written notice of:

30 ~~(a) The suspension of the regulation ~~has been suspended or nullified,~~~~
31 ~~and~~

32 ~~(b) Within 120 days after~~ and when the suspension ~~for nullification~~
33 becomes effective ~~,~~ provide the reason for the suspension or nullification to the
34 agency.

35 ~~3.~~ and when it expires; or

36 (b) The nullification of the regulation and when the nullification becomes
37 effective.

38 5. Any ~~decision of~~ action taken or determination made by the Legislative
39 Commission pursuant to this section, including, without limitation, any action to
40 suspend or nullify a regulation, is final and not subject to judicial review.

41 ~~4.~~ 6. In exercising the powers granted in this section, the Legislative
42 Commission ~~shall have~~ :

43 (a) Has the authority to determine ~~if~~ whether an agency rule, standard,
44 directive or statement is a regulation ~~pursuant to~~ as defined in NRS 233B.038
45 ~~if~~ ; and

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

48 7. Any ~~agency rule, standard, directive or statement~~ regulation which is
49 nullified by the Legislative Commission pursuant to this section must be removed
50 from the Nevada Administrative Code and from any agency publications and
51 notices.

1 8. As used in this section, “adopting agency” or “agency” means the agency
2 that adopted the regulation or any successor agency that administers the
3 regulation.

4 **Sec. 11. 1.** The Legislative Commission ~~may~~ shall adopt such
5 regulations as are necessary to carry out the provisions of this section and NRS
6 233B.0395 to 233B.120, inclusive, and section 10 of this act.

7 **2.** The regulations adopted by the Legislative Commission must establish
8 for proceedings of the Legislative Commission concerning the suspension or
9 nullification of a regulation pursuant to section 10 of this act:

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

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

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

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

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

24 (b) The exercise by the Legislative Commission of the power to review, object
25 to, suspend or nullify a regulation as authorized by Section 1 of Article 3 of the
26 Nevada Constitution and NRS 233B.0395 to 233B.120, inclusive, and sections 10
27 and 11 of this act, except that the exercise of such a power by the Legislative
28 Commission is final and not subject to judicial review.

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

31 ~~2-3~~ **3.** The provisions of this chapter are intended to supplement statutes
32 applicable to specific agencies. This chapter does not abrogate or limit additional
33 requirements imposed on such agencies by statute or otherwise recognized by law.

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

35 233B.038 1. “Regulation” means:

36 (a) An agency rule, standard, directive or statement of general applicability
37 which effectuates or interprets law or policy, or describes the organization,
38 procedure or practice requirements of any agency ~~it~~, including, without
39 limitation, an agency rule, standard, directive or statement that the Legislative
40 Commission determines is a regulation pursuant to section 10 of this act;

41 (b) A proposed regulation;

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

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

47 **2.** The term does not include:

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

50 (b) A declaratory ruling;

51 (c) An intraagency memorandum;

52 (d) A manual of internal policies and procedures or audit procedures of an
53 agency which is used solely to train or provide guidance to employees of the

1 agency and which is not used as authority in a contested case to determine whether
2 a person is in compliance with a federal or state statute or regulation;

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

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

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

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

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

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

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

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

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

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

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

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

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

28 233B.0395 The Nevada Administrative Code as most recently revised or
29 supplemented before ~~May 15, 1987,~~ **February 6, 2017**, and the text of those
30 regulations which have been prepared by the Legislative Counsel for inclusion in
31 the Nevada Administrative Code on or before ~~May 15, 1987,~~ **February 6, 2017**,
32 but have not been included, are hereby ratified.

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

34 233B.040 1. To the extent authorized by the statutes applicable to it, each
35 agency may adopt reasonable regulations to aid it in carrying out the functions
36 assigned to it by law and shall adopt such regulations as are necessary to the proper
37 execution of those functions. If adopted and filed in accordance with the provisions
38 of this chapter, the following regulations have the force of law and must be
39 enforced by all peace officers:

40 (a) The Nevada Administrative Code; and

41 (b) Temporary and emergency regulations.

42 ↪ In every instance, the power to adopt regulations to carry out a particular
43 function is limited by the terms of the grant of authority pursuant to which the
44 function was assigned.

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

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

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

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

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

6 (b) The reference discloses the source and price for purchase of the
7 publication.

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

10 4. An agency shall adopt *and submit* a proposed regulation *to the Legislative*
11 *Commission for review* not later than 2 years after the date on which the proposed
12 regulation is submitted to the Legislative Counsel pursuant to subsection 1 of NRS
13 233B.063. If an agency does not adopt *and submit* a proposed regulation *to the*
14 *Legislative Commission for review* within the time prescribed by this subsection,
15 the executive head of the agency shall appear personally before the Legislative
16 Commission and explain why the proposed regulation has not been adopted ~~†~~ *and*
17 *submitted to the Legislative Commission for review*.

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

19 233B.060 1. Except as otherwise provided in subsection 2 and NRS
20 233B.061, before adopting, amending or repealing:

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

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

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

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

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

41 233B.061 1. All interested persons must be afforded a reasonable
42 opportunity to submit data, views or arguments upon a proposed regulation, orally
43 or in writing.

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

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

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

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

6 4. An agency shall not hold the public hearing required pursuant to subsection
7 3 on the same day that the agency holds the workshop required pursuant to
8 subsection 2.

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

11 Sec. 17.5. NRS 233B.0613 is hereby amended to read as follows:

12 233B.0613 1. If an agency determines that an emergency exists ~~+~~ and
13 wants to adopt an emergency regulation, it shall submit to the Governor the
14 original copy of the proposed emergency regulation with a written statement of the
15 emergency which sets forth the reasons for ~~the~~ its determination ~~+~~ that an
16 emergency exists.

17 2. Except as otherwise provided in this section, if the Governor endorses the
18 statement of the emergency by written endorsement at the end of the full text of the
19 statement of the emergency on the original copy of ~~+~~ the proposed emergency
20 regulation, the emergency regulation may be adopted and become effective
21 immediately upon its being filed in the Office of the Secretary of State pursuant to
22 subsection 3 of NRS 233B.070. The statement of the emergency endorsed by the
23 Governor must be included as a part of the emergency regulation for all purposes.

24 ~~+~~ 3. If practicable, the agency shall, not later than 9 a.m. on the first
25 working day before the date on which the emergency regulation is filed in the
26 Office of the Secretary of State pursuant to subsection 3 of NRS 233B.070, make
27 the emergency regulation available to the public by:

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

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

32 ~~+~~ 4. If practicable, the agency shall, not later than 9 a.m. on the first
33 working day before the date of any hearing at which the agency considers the
34 emergency regulation, make the version of the proposed emergency regulation that
35 will be considered at the hearing available to the public by:

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

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

40 ~~+~~ 4.
41 5. An emergency regulation adopted pursuant to this section may not be
42 ~~[effective]~~ ;

43 (a) Effective for a period ~~[of not]~~ longer than 120 days + ~~[A regulation may be~~
44 ~~adopted]~~

45 (b) Adopted by this emergency procedure ~~[only once.~~

46 ~~+~~ 5.] more than once.

47 (c) Substantially identical, in whole or in part, to a regulation suspended or
48 nullified by the Legislative Commission pursuant to Section 1 of Article 3 of the
49 Nevada Constitution and NRS 233B.0395 to 233B.120, inclusive, and sections 10
50 and 11 of this act.

51 6. If an agency adopts, after providing notice and the opportunity for a
52 hearing as required in this chapter, a permanent or temporary regulation which
53 becomes effective and is substantially identical to its effective emergency

1 regulation, the emergency regulation expires automatically on the effective date of
2 the temporary or permanent regulation.

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

4 233B.0617 No regulation adopted after July 1, 1965, is valid unless adopted
5 in substantial compliance with this chapter but no objection to any regulation on the
6 ground of noncompliance with the procedural requirements of NRS 233B.060 to
7 233B.0617, inclusive, may be made more than 2 years after its effective date.

8 *Nothing in this section shall be construed to preclude the making of an objection*
9 *to a regulation on a ground other than noncompliance with the procedural*
10 *requirements of NRS 233B.060 to 233B.0617, inclusive.* Regulations in effect on
11 July 1, 1965, continue in effect until amended, *suspended, nullified* or repealed in
12 accordance with the provisions of this chapter, if an original and two copies were
13 deposited with the Secretary of State on or before July 1, 1965.

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

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

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

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

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

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

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

43 ~~5.] 4. If the Legislative Commission ~~;~~ or the Subcommittee to Review~~
44 ~~Regulations if the temporary regulation was referred.]~~ approves the temporary
45 regulation, the Legislative Counsel shall notify the agency that the agency may file
46 the temporary regulation with the Secretary of State. If the Commission ~~for the~~
47 ~~Subcommittee]~~ objects to the temporary regulation after determining that:

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

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

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

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

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

16 ~~7. 6. If the Legislative Commission for the Subcommittee to Review~~
17 ~~Regulations~~ objects to the revised temporary regulation, the Legislative Counsel
18 shall attach to the revised temporary regulation a written notice of the objection,
19 including, if practicable, a statement of the reasons for the objection, and shall
20 promptly return the revised temporary regulation to the agency. The agency shall
21 continue to revise it and resubmit it to the Legislative Commission ~~for the~~
22 ~~Subcommittee~~ within 30 days after the agency received the written notice of the
23 objection to the revised temporary regulation.

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

25 233B.0653 1. The Legislative Counsel shall *periodically* prepare and
26 publish ~~for cause to be prepared and published~~ *electronically* a Register of
27 Administrative Regulations ~~†~~ *on the public website of the Legislature on the*
28 *Internet*. The Register must include the following information regarding each
29 permanent regulation adopted by an agency:

30 (a) The proposed and adopted text of the regulation and any revised version of
31 the regulation;

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

33 (c) The written notice of adoption of the regulation required pursuant to NRS
34 233B.064;

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

36 (e) The effective date of the regulation, as determined pursuant to NRS
37 233B.070.

38 ~~† In carrying out the duties set forth in this subsection, the Legislative Counsel~~
39 ~~may use the services of the State Printing Office.~~

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

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

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

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

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

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

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

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

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

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

1 ~~—5.]~~ 2. The Legislative Council is immune from civil liability which may
2 result from failure to include any information in the Register.

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

4 233B.0665 If a regulation submitted to the Legislative Council Bureau
5 pursuant to NRS 233B.067 is not accompanied by an informational statement
6 which complies with the requirements of NRS 233B.066 or a small business impact
7 statement which complies with the requirements of NRS 233B.0608 and
8 233B.0609, the Legislative Council shall return the regulation to the agency with a
9 note indicating the statement which is missing. Unless the missing statement is
10 supplied, the Legislative Council shall not submit the regulation to the Legislative
11 Commission ~~for the Subcommittee to Review Regulations, as applicable,~~ and the
12 regulation never becomes effective.

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

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

21 2. If an agency submits an adopted regulation to the Legislative Council
22 pursuant to subsection 1 that:

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

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

27 it shall include a statement that adoption of the regulation is required by a federal
28 statute or regulation. The statement must include the specific citation of the federal
29 statute or regulation requiring such adoption.

30 3. ~~Except as otherwise provided in subsection 4, the~~ The Legislative
31 Commission shall ~~;~~

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

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

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

43 ~~—5.]~~ 4. If the Legislative Commission ~~;~~ or the Subcommittee to Review
44 ~~Regulations if the regulation was referred,~~ approves the regulation, the Legislative
45 Council shall promptly file the regulation with the Secretary of State and notify the
46 agency of the filing. If the Commission ~~for Subcommittee]~~ objects to the regulation
47 after determining that:

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

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

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

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

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

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

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

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

15 233B.0675 1. If the Legislative Commission ~~], or the Subcommittee to~~
16 ~~Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.]~~ has
17 objected to a regulation, the agency shall revise the regulation to conform to the
18 statutory authority pursuant to which it was adopted and to carry out the intent of
19 the Legislature in granting that authority and return it to the Legislative Counsel
20 within 60 days after the agency received the written notice of the objection to the
21 regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the
22 Legislative Counsel shall resubmit the regulation to the Commission ~~for~~
23 ~~Subcommittee]~~ for review. If the Commission ~~for Subcommittee]~~ approves the
24 revised regulation, the Legislative Counsel shall promptly file the revised
25 regulation with the Secretary of State and notify the agency of the filing.

26 2. If the Legislative Commission ~~for Subcommittee]~~ objects to the revised
27 regulation, the Legislative Counsel shall attach to the revised regulation a written
28 notice of the objection, including, if practicable, a statement of the reasons for the
29 objection, and shall promptly return the revised regulation to the agency. The
30 agency shall continue to revise it and resubmit it to the Commission ~~for~~
31 ~~Subcommittee]~~ within 30 days after the agency received the written notice of the
32 objection to the revised regulation.

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

34 233B.0677 1. Before holding a meeting to review temporary regulations
35 pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or
36 233B.0675, the Legislative Commission ~~for the Subcommittee to Review~~
37 ~~Regulations appointed pursuant to subsection 6 of NRS 233B.067, as applicable,]~~
38 shall provide written notice of the meeting at least 3 working days before the
39 meeting. The notice must include, without limitation:

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

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

45 2. If the Legislative Counsel Bureau maintains a website on the Internet or its
46 successor, the Legislative Counsel Bureau shall, at least 3 working days before the
47 Legislative Commission ~~for the Subcommittee to Review Regulations]~~ holds a
48 meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted
49 regulations pursuant to NRS 233B.067 or 233B.0675, post on its website a list of
50 the regulations that the Legislative Commission ~~for the Subcommittee to Review~~
51 ~~Regulations]~~ will review at the meeting, unless the Legislative Counsel Bureau is
52 unable to do so because of technical problems relating to the operation or
53 maintenance of its website.

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

2 233B.070 1. A permanent regulation becomes effective when the
3 Legislative Counsel files with the Secretary of State the original of the final draft or
4 revision of a regulation, except as otherwise provided in NRS 293.247 or where a
5 later date is specified in the regulation.

6 2. Except as otherwise provided in NRS 233B.0633, an agency that has
7 adopted a temporary regulation may not file the temporary regulation with the
8 Secretary of State until 35 days after the date on which the temporary regulation
9 was adopted by the agency. A temporary regulation becomes effective when the
10 agency files with the Secretary of State the original of the final draft or revision of
11 the regulation, together with the informational statement prepared pursuant to NRS
12 233B.066. The agency shall also file a copy of the temporary regulation with the
13 Legislative Counsel, together with the informational statement prepared pursuant to
14 NRS 233B.066.

15 3. An emergency regulation becomes effective when the agency files with the
16 Secretary of State the original of the final draft or revision of an emergency
17 regulation, together with the informational statement prepared pursuant to NRS
18 233B.066 ~~and a copy of the written statement of the emergency endorsed by~~
19 ~~the Governor pursuant to NRS 233B.0613.~~ The agency shall also file a copy of the
20 emergency regulation with the Legislative Counsel, together with the informational
21 statement prepared pursuant to NRS 233B.066 ~~and a copy of the written~~
22 ~~statement of the emergency endorsed by the Governor pursuant to NRS~~
23 ~~233B.0613.~~

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

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

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

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

46 8. An agency which publishes any regulations included in the Nevada
47 Administrative Code shall use the exact text of the regulation as it appears in the
48 Nevada Administrative Code, including the leadlines and numbers of the sections.
49 Any other material which an agency includes in a publication with its regulations
50 must be presented in a form which clearly distinguishes that material from the
51 regulations.

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

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

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

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

12 (b) *Suspension or nullification by the Legislative Commission pursuant to*
13 ~~section 10 of this act.~~ *Section 1 of Article 3 of the Nevada Constitution and NRS*
14 *233B.0395 to 233B.120, inclusive, and sections 10 and 11 of this act.*

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

16 233B.105 1. A small business that is aggrieved by a regulation adopted by
17 an agency on or after January 1, 2000, may object to all or a part of the regulation
18 by filing a petition with the agency that adopted the regulation within 90 days after
19 the date on which the regulation was adopted. An agency which receives such a
20 petition shall transmit a copy of the petition to the Legislative Counsel for
21 submission to the Legislative Commission . ~~for the Subcommittee to Review~~
22 ~~Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~

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

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

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

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

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

36 233B.110 1. The validity or applicability of any regulation may be
37 determined in a proceeding for a declaratory judgment in the district court in and
38 for Carson City, or in and for the county where the plaintiff resides, when it is
39 alleged that the regulation, or its proposed application, interferes with or impairs, or
40 threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A
41 declaratory judgment may be rendered after the plaintiff has first requested the
42 agency to pass upon the validity of the regulation in question. The court shall
43 declare the regulation invalid if it finds that it violates constitutional or statutory
44 provisions or exceeds the statutory authority of the agency. The agency whose
45 regulation is made the subject of the declaratory action shall be made a party to the
46 action.

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

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

1 **4. Nothing in this section shall be construed to limit the authority of the**
2 **Legislative Commission to suspend or nullify a regulation ~~as provided in this~~**
3 **~~chapter,~~ pursuant to Section 1 of Article 3 of the Nevada Constitution and NRS**
4 **233B.0395 to 233B.120, inclusive, and sections 10 and 11 of this act.**

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

6 514A.110 A permanent regulation adopted by the:

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

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

13 3. Commission on Mineral Resources pursuant to NRS 513.063, 513.094 or
14 519A.290; and

15 4. State Environmental Commission pursuant to NRS 519A.160.

16 ↪ is not effective unless it is reviewed by the Mining Oversight and Accountability
17 Commission before it is approved pursuant to chapter 233B of NRS by the
18 Legislative Commission . ~~for the Subcommittee to Review Regulations appointed~~
19 ~~pursuant to subsection 6 of NRS 233B.067.~~ After conducting its review of the
20 regulation, the Mining Oversight and Accountability Commission shall provide a
21 report of its findings and recommendations regarding the regulation to the
22 Legislative Counsel for submission to the Legislative Commission . ~~for the~~
23 ~~Subcommittee to Review Regulations, as appropriate.~~

24 **Sec. 29.5. Section 1 of Senate Bill No. 160 of this session is hereby**
25 **amended to read as follows:**

26 Section 1. NRS 233B.060 is hereby amended to read as follows:

27 233B.060 1. Except as otherwise provided in subsection 2 and NRS
28 233B.061, before adopting, amending or repealing:

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

32 (1) If it is the first hearing on the regulation, give at least 30 days'
33 notice of its intended action, unless a shorter period of notice is specifically
34 permitted by statute. When posted, the agency must include notice that the
35 regulation that is posted on the Internet website of the agency 3 working
36 days before the hearing will be the regulation considered. The agency shall
37 ensure that the regulation to be considered at the hearing is posted on the
38 Internet website of the agency 3 working days before the hearing.

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

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

48 2. Except as otherwise provided in subsection 3, if an agency has
49 adopted a temporary regulation after notice and the opportunity for a
50 hearing as provided in this chapter, it may adopt, after providing a second
51 notice and the opportunity for a hearing, a permanent regulation, but the
52 language of the permanent regulation must first be approved or revised by
53 the Legislative Counsel and the adopted regulation must be approved by the

1 Legislative Commission. ~~for the Subcommittee to Review Regulations~~
2 ~~appointed pursuant to subsection 6 of NRS 233B.067.~~

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

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