

**NOTICE OF PUBLIC MEETING
TO CONDUCT A HEARING FOR ADOPTION AND AMENDMENT
OF REGULATIONS OF THE OFFICE OF DIRECTOR
LCB FILE No. R089-19
AND
MEETING AGENDA**

The State of Nevada, Department of Business and Industry, Director's Office ("Department") is proposing the adoption, amendment or repeal of a regulation pertaining to **chapter 657A** of the Nevada Administrative Code ("NAC") and a Regulatory Experimentation Program for Product Innovation for the State of Nevada. A public meeting on this matter has been set for **11:00 a.m. on January 17, 2020**, at the following location:

**Nevada Room
Nevada State Business Center
Nevada Department of Business and Industry
3300 W. Sahara Avenue, Suite 400
Las Vegas, Nevada 89102**

Interested persons may also participate through a simultaneous videoconference conducted at:

**1st Floor Hearing Room
Nevada Division of Insurance
Nevada Department of Business and Industry
1818 E. College Parkway
Carson City, Nevada 89706**

The purpose of the meeting is to conduct a hearing of all interested persons regarding the following proposed regulation and for the Department to take possible action on the regulation's adoption and amendment. Please submit any written comments no later than **January 10, 2020**.

LCB File No. R089-19.

Regulatory Experimentation Program for Product Innovation

A regulation relating to certain financial businesses, products and services; establishing the Regulatory Experimentation Program for Product Innovation and setting forth certain requirements for the operation of the Program; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal(s) may be obtained at the meeting or by visiting the Department's Internet Web site at <http://business.nv.gov/> or by contacting the Department, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102, (702) 486-2750. A reasonable fee for copying may be charged. Members of the public who would like additional information about the proposed regulation may contact Chris Weiss, Management Analyst, at (702) 486-5320, or via e-mail to cweiss@business.nv.gov.

Notice of the meeting was provided via electronic means to all persons on the e-mail lists for noticing of administrative regulations maintained by the Department's Financial Institutions Division and Mortgage Lending Division. This *Notice of Public Meeting* was posted to the agency's Internet Web site at http://business.nv.gov/About/Meetings/2019_Meetings_and_Agendas/, the Nevada Legislature's Internet Web site at <http://www.leg.state.nv.us>, and at the following locations:

Nevada Financial Institutions Division
3300 W. Sahara Ave., Suite 250
Las Vegas, Nevada 89102

Nevada Division of Mortgage Lending
3300 W. Sahara Avenue, Suite 285
Las Vegas, Nevada 89102

Nevada Dept. of Business & Industry
1830 College Parkway, Suite 100
Carson City, Nevada 89706

Nevada State Business Center
3300 W. Sahara Avenue
Las Vegas, Nevada 89102

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada 89101

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Nevada DETR
2800 E. Saint Louis Avenue
Las Vegas, Nevada 89104

Capitol Building, Main Floor
101 North Carson Street
Carson City, Nevada 89701

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Douglas County Public Library
1625 Library Lane, P.O. Box 337
Minden, Nevada 89423-0337

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Goldfield Public Library/Esmeralda County
Corner of Crook Ave. & Fourth St.,
P.O. Box 430
Goldfield, Nevada 89013

Elko County Library
720 Court Street
Elko, Nevada 89801

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Eureka Branch Library
80 S. Monroe Street
P.O. Box 293
Eureka, Nevada 89316-0293

Las Vegas-Clark County Library District
7060 W. Windmill Lane
Las Vegas, NV 89113

Lander County Library
625 S. Broad Street
P.O. Box 141
Battle Mountain, Nevada 89820

Lincoln County Library
63 Main Street
P.O. Box 330
Pioche, Nevada 89043-0330

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
110 1st Street
P.O. Box 1390
Hawthorne, Nevada 89415

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, Nevada 89419

Storey County Clerk
26 S. B Street, Drawer D
Virginia City, Nevada 89440


Tonopah Public Library
167 S. Central Street
P.O. Box 449
Tonopah, Nevada 89049

Downtown Reno Library/Washoe County
301 S. Center Street
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Director's Office, in writing, no later than five (5) working days before the meeting: 1830 E. College Parkway, Suite 100, Carson City, Nevada 89706, or leslie.olson@business.nv.gov.

DATED this 16th day of December, 2019.



TERRY REYNOLDS
Director

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Director's Office

January 17, 2020 • 11:00 a.m.

Location of Workshop:
Nevada Room
Nevada Dept. of Business & Industry
3300 W. Sahara Avenue, Suite 400
Las Vegas, Nevada 89102

Available via Videoconference at:
1st Floor Hearing Room
Nevada Division of Insurance
1818 E. College Parkway
Carson City, Nevada 89706

1. Open Hearing: R089-19.
2. Public comment.
3. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R089-19

Regulatory Experimentation Program for Product Innovation

A regulation relating to certain financial businesses, products and services; establishing the Regulatory Experimentation Program for Product Innovation and setting forth certain

requirements for the operation of the Program; and providing other matters properly relating thereto.

4. Adoption or Amendment of Proposed Regulation R089-19. (For Possible Action)
5. Public Comment.
6. Close Hearing: R089-19.

Supporting public material for this workshop may be requested from Chris Weiss, Management Analyst, Director's Office, Nevada Department of Business and Industry, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102, (702) 486-5320, or cweiss@business.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Director's secretary, in writing, no later than five (5) working days before the workshop: 1830 E. College Parkway, Suite 100, Carson City, Nevada 89706, or leslie.olson@business.nv.gov.

NOTICES FOR THIS WORKSHOP HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Department of Business & Industry, Director's Office, 1830 E. College Parkway, Suite 100, Carson City, Nevada 89706

Nevada Department of Business & Industry, Director's Office, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102

Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701

Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101

Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701

Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701

Nevada Dept. of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104

The State of Nevada Website (www.nv.gov)

The Nevada State Legislature Website (www.leg.state.nv.us)

The Nevada Department of Business and Industry Website (www.business.nv.gov)

**PROPOSED REGULATION OF THE DIRECTOR OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R089-19

December 5, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted-material~~] is material to be omitted.

AUTHORITY: §§1-7, 9, 12 and 15, section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210); §§8, 10 and 11, section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400) and section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210); §§13 and 14, section 22 Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.500) and section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210).

A REGULATION relating to the Regulatory Experimentation Program for Product Innovation; establishing conditions for participation in the Program; requiring the location maintained by each participant to satisfy certain conditions; requiring participants to collect certain consumer information; requiring participants to submit certain reports; requiring participants to retain business documents; establishing the process by which complaints related to Program will be resolved; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Director of the Department of Business and Industry to establish and administer the Regulatory Experimentation Program for Product Innovation. (Section 11 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.200)) Existing law also authorizes the Director to adopt such regulations he or she deems necessary to administer the Program. (Section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210))

Sections 2-6 of this regulation define terms related to the Program.

Section 7 of this regulation provides that any authority, duties and responsibilities assigned to the Director related to the Program may be delegated to a designee employed by the

Department. **Section 7** similarly provides that any authority, duties or responsibilities related to the Program assigned to the Department may be exercised or performed by the Director.

Section 8 of this regulation requires each applicant for participation in the Program to consent in writing to: (1) the applicability of the laws of this State and personal jurisdiction of the courts of this State regarding all matters associated with the program and testing; (2) credit, criminal and background checks; and (3) certain requirements imposed by the Director as a condition or restriction on participation in the Program.

Existing law requires each application to participate in the Program submitted to the Director to be accompanied by a nonrefundable fee of not more than \$1,000. (Section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400)) **Section 8** of this regulation requires each applicant to submit a nonrefundable application fee of \$500.

Section 9 of this regulation requires each participant to possess each license, registration and permit required by this State or by a local government as a condition to conducting business under the Program. **Section 10** of this regulation requires each participant to maintain with the Director the physical or virtual address of the participant and, if the participant is not a natural person, the address of each officer, director or other principal of the applicant.

Existing law requires each participant to establish and maintain a physical or virtual location that is reasonably accessible to the Director, from which testing will occur and all records are maintained. (Section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400)) **Section 11** of this regulation requires that such a location be accessible by the Director from within this State and once established, may not be relocated without the prior approval of the Director. **Section 11** also prohibits a participant from engaging in testing where another business operates without prior approval from the Director and requires a participant to allow the Director to access and review any documents maintained at the physical or virtual location of the participant.

Section 12 of this regulation requires each participant to collect and record certain consumer information.

Existing law authorizes the Director to establish by regulation periodic reporting requirements for participants in the Program. (Section 22 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.500)) **Section 13** of this regulation requires each participant to submit periodic reports as required by the Director.

Existing law requires participants to retain all records and data produced in the ordinary course of business relating to a financial product or service tested in the Program for not less than 2 years after the end of the prescribed period of testing or for such longer period as the Director requires. (Section 22 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at

page 3990 (NRS 657A.500)) **Section 14** of this regulation requires each participant to retain all records and data produced in the ordinary course of business related to the test for not less than 6 years. **Section 14** also requires each participant to submit any records and data to the Director upon request.

Existing law requires the Director to establish and maintain a toll-free telephone number and Internet website through which a consumer may submit a complaint relating to any financial product or service provided by a participant. (Section 21 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.600)) **Section 15** of this regulation requires the Director to provide to the Bureau of Consumer Protection in the Office of the Attorney General a copy of any complaint received through the toll-free telephone number or Internet website and establishes how the Director will resolve complaints.

Section 1. Chapter 657A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Department” means the Department of Business and Industry.*

Sec. 4. *“Director” means the Director of the Department.*

Sec. 5. *“Document” means any electronic, written, printed or recorded material or information of any kind inscribed on a tangible medium or stored in an electronic format that is retrievable in perceivable form, including, without limitation, records, data, communications and audio and video recordings. The term includes originals and copies of documents that have been altered, including, without limitation, copies of documents that have been amended by adding notes, underlining or attachments.*

Sec. 6. *“Program” means the Regulatory Experimentation Program for Product Innovation established and administered by the Director pursuant to sections 2 to 31,*

inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive).

Sec. 7. 1. *Any authority granted to the Director and any duty or responsibility assigned to the Director by any provision of this chapter or sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive), may be exercised or performed by any employee of the Department who is designated by the Director for that purpose.*

2. *Any authority granted to the Department and any duty or responsibility assigned to the Department by any provision of this chapter or sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530), may be exercised or performed by the Director.*

Sec. 8. 1. *Before the Director will approve a financial product or service for participation in the Program, the applicant must consent in writing to:*

(a) The applicability of the laws of this State and the exercise of personal jurisdiction by the courts of this State over all matters related to the Program and the test of the financial product or service;

(b) The review or investigation of the credit history, criminal history and background of the applicant, if the applicant is a natural person and, if the applicant is not a natural person, each officer, director or other principal of the applicant; and

(c) Comply with any requirements imposed by the Director pursuant to section 15 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3988 (NRS 657A.430), section 20 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3989 (NRS

657A.330) or section 26.3 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.620).

2. Each application must be accompanied by a nonrefundable application fee of \$500.

Sec. 9. Except as otherwise provided in sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993 inclusive (NRS 657A.100 to 657A.530, inclusive), each participant must possess each license, registration and permit required by this State or by a local governmental entity as a condition to conducting business under the Program.

Sec. 10. Each participant shall maintain with the Director:

1. The current physical or virtual location of the participant established and maintained by the participant during the test of a financial product or service pursuant to section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400); and

2. If the participant is not a natural person, the current address of each officer, director or other principal of the participant.

Sec. 11. 1. The physical or virtual location established and maintained by a participant during the test of a financial product or service pursuant to section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400):

(a) Must be accessible to the Director from within this State; and

(b) May not be relocated without prior approval from the Director.

2. A participant shall not engage in testing within any office, suite, room or business location in which any other business is solicited or engaged, or in association or conjunction with any other business, without prior approval from the Director.

3. Each participant shall allow the Director to access and review any document maintained at the physical or virtual location of the participant pursuant to sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive).

Sec. 12. Each participant shall collect and record data for each consumer that purchases a financial product or service offered through the Program during the test of the financial product or service including, without limitation:

- 1. The name of and contact information for the consumer;*
- 2. A description of the financial product or service; and*
- 3. Any other relevant information regarding the transaction.*

Sec. 13. 1. Each participant shall submit periodic reports to the Director on the status of the test of a financial product or service, as required by the Director. The Director will consider the type of financial product or service being tested when determining the frequency of the required reports.

2. Each report must be in the form prescribed by the Director and include any documents related to the test requested by the Director.

3. The Director may request additional documents related to the test at any time. A participant must submit all documents requested pursuant to this section to the Director.

Sec. 14. 1. Each participant must retain all records and data produced in the ordinary course of business related to the testing of a financial product or service for not less than 6 years after the end of the test.

2. Each participant must submit any records or data retained pursuant to this section to the Director upon request.

Sec. 15. 1. The Director, in consultation with the applicable regulator, may resolve any complaint received relating to a financial product or service provided by a participant:

(a) By informal discussion and resolution between the consumer and the participant identified in the complaint;

(b) By referring the complaint to the Commissioner of Consumer Affairs of the Department;

(c) By requesting the Attorney General bring an action in any court of competent jurisdiction;

(d) Pursuant to any provisions agreed to by the participant pursuant to section 15 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3988 (NRS 657A.430), section 20 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3989 (NRS 657A.330) or section 26.3 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.620); or

(e) Any combination of the actions described in paragraphs (a) to (d), inclusive.

2. The Director shall provide to the Bureau of Consumer Protection in the Office of the Attorney General a copy of any complaint submitted through the toll-free telephone number or Internet website established and maintained by the Director pursuant to section 21 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.600).

3. Nothing in this section limits the authority of the Director to remove a participant from the Program or order the participant to exit the Program pursuant to section 26.3 of Senate

Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.620) or section 27 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.610), or take any other action authorized by sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive).

SMALL BUSINESS IMPACT STATEMENT
LCB FILE NO. R089-19

LCB File No. 089-19 Small Business Impact Statement pursuant to NRS 233B.0608:

(a) A description of the manner in which comment was solicited from affected small business, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

From October 30, 2019, to November 1, 2019, the Department posted the draft regulation on its website, *www.business.nv.gov*, and made e-mail notification to all licensees of the Financial Institutions Division (a total of 236 persons, of which 11 proved undeliverable) and Mortgage Lending Division (a total of 7,738 email addresses, of which 236 proved undeliverable), as well as to other interested persons (a total of approximately six recipients), soliciting input concerning the proposed regulation. The Department sought both public and industry feedback concerning whether or not such proposals were (1) likely to impose a direct and significant economic burden upon a small business subject to NRS chapters 645A, 645B, 645F, or 645G; NRS titles 55 or 56; or any regulation adopted pursuant thereto; or (2) likely to restrict the formation, operation, or expansion of a small business subject to NRS chapters 645A, 645B, 645F, or 645G; NRS titles 55 or 56; or any regulation adopted pursuant thereto. The Department set forth the definition of a "small business" as provided in NRS 233B.0382: "[A] business conducted for profit which employs fewer than 150 full-time or part-time employees."

The Department received two written responses to its solicitations of comments or input concerning the proposed regulation, as follows:

1. Financial Service Centers of America (FISCA) submitted a comment letter dated November 11, 2019, primarily concerning keeping the proposed sandbox program as free of regulatory conditions or requirements as possible to encourage testing of products that target unbanked or underbanked populations; increasing the size of the available testing pool (customer base) to assure adequate scale for test analysis and capital investment; increasing the length of time permitted to tests to assure adequate data analysis and product or service development; and reducing the proposed six-year record retention schedule to the two-year minimum timeframe described in SB 161.
2. Blockchains LLC submitted a comment letter dated November 15, 2019, primarily concerning documenting all application requirements in the proposed regulation; ensuring the application process is reasonable in scope to limit costs to startups or small businesses; clarifying the respective delegation authorities of the Director as described in the program's enabling statute and the proposed regulation; revising the relocation approval mechanism described in the proposed regulation to a 60-day notification of the Director and affected customers, along with a determination by the Director of no harm from the relocation; and

incorporating language to allow for agreements between the Director and applicants to protect an applicant's confidential or trade secret information from public disclosure.

At a public workshop on November 21, 2019, the Department received additional oral comments or input concerning the proposed regulation from three individuals, as follows:

1. Lynn T. McConnell, Chief Financial Officer, Custody Digital Group, commented primarily concerning incorporating the perspective of businesses that deal with financial products designed for larger institutions business and more diversified financial customer segments; drafting program exit procedures; providing for regulatory guidance and related support such as interim conference meetings with program administrators; and considering mechanisms for data sharing of program results and information with other sandbox regulators. A copy of her comments was also provided to the Department by email dated November 21, 2019.
2. Peter Aldous, Staff Attorney, Legal Aid Center of Southern Nevada, commented primarily concerning the need for consumer protection and having program participants post a bond to help protect consumers in the event of a test failure or participant bankruptcy.
3. Taylor Altman, Staff Attorney, Legal Aid Center of Southern Nevada, commented primarily concerning protection of low-income consumers; requesting the implementation of an interest-rate cap in the regulation to protect Nevada consumers from predatory lenders; having an applicant disclose whether it had conducted a similar test in another sandbox jurisdiction; having an applicant submit copies of any approved or denied applications made to other sandbox jurisdictions; having an applicant provide statements on any complaints tied to its sandbox efforts elsewhere, the status of its other sandbox efforts, and any regulatory actions pending against or resolved by the applicant elsewhere; and providing an opportunity for public comment on Nevada sandbox applications prior to the Director making his decision.

Interested persons may obtain a copy of the small business impact statement or submit statements of impact to:

Chris Weiss, Director's Office
Nevada Department of Business and Industry
3300 West Sahara Avenue, Suite 425
Las Vegas, NV 89102
Email: cweiss@business.nv.gov
Phone: 702-486-5320

(b) The manner in which the small business analysis was conducted for LCB File No. R089-19.

Pursuant to NRS 233B.0608(1), the Department made a concerted effort to determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. For this effort, the Department used the definition of a "small business" as provided in NRS 233B.0382:

"[A] business conducted for profit which employs fewer than 150 full-time or part-time employees."

Given the recency and limited number of regulatory sandbox programs in general, a qualitative assessment was made that included a review and analysis of the authorizing statute (SB 161) and associated legislative testimony, a discussion with sandbox regulators in Arizona, a general review of open source information on sandbox initiatives nationwide, a review of the five comments received in response to the solicitation for comments, and consideration of the legal requirements and policies sought to be advanced by the 2019 Nevada Legislature in enacting SB 161, along with the Department's continued mission to protect the public interest.

This review and analysis concluded that the proposed regulation does not change the established requirements for the business areas at interest (NRS chapters 645A, 645B, 645F, or 645G; NRS titles 55 or 56; or any regulation adopted pursuant thereto) and will apply only to an existing or prospective business that (1) elects to submit a product or service test application to the regulatory sandbox program and (2) receives approval from the Director to participate. Further, the Director is limited by law to approving no more than six applications in the first calendar year of the program and ten in each of the following two calendar years, or a total of 26. There is no assurance as to how many applications, if any, will be received or approved for the program, or what an approved application might involve in terms of product, service, or economic activity. Given these facts, the Director concluded the proposed regulation is unlikely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects:

(I) Adverse effects:

The proposed regulation is not expected to result in any adverse economic impact on small businesses because the regulation does not establish additional requirements for such businesses with respect to issuance of a license or adherence to business standards already in place under NRS chapters 645A, 645B, 645F, and 645G; NRS titles 55 and 56; and regulations adopted pursuant thereto. On the contrary, consistent with the legislative intent of SB 161, the proposed regulation will support an administrative framework that allows program applicants, if approved, to test innovative financial products or services in the subject areas of business for up to two years without necessarily having to meet all the licensing and regulatory standards that might otherwise apply.

The regulation will not apply to any *existing* Nevada small business in the areas of interest, unless that business (1) decides to test an innovative product or service that would otherwise fall under NRS chapters 645A, 645B, 645F, or 645G; NRS titles 55 or 56; or regulations adopted pursuant thereto; (2) determines there would be some advantage to offering the product or service as part

of a test under the regulatory sandbox program, instead of under its existing Nevada licenses or authorizations; and (3) applies and is approved for participation in the program. In such an instance, the effect of the proposed regulation (access to a reduction or temporary waiver of certain regulatory requirements) will be neutral to beneficial for the small business, not adverse.

(II) Beneficial effects:

The proposed regulation is anticipated to have a beneficial economic impact because it seeks to administer the subject program in a way that achieves the Legislature's intent of reducing existing barriers to the introduction of innovative financial products or services within the state, and thereby encouraging businesses focused on advanced or innovative financial technology to establish operations here, while maintaining the state's ability to protect consumers. At present there is no assurance as to how many businesses, if any, will apply to or receive approval to participate in the Nevada regulatory sandbox program, or what those businesses will involve in terms of products, services, or economic activities.

(2) Both direct and indirect effects.

(I) Direct or indirect beneficial effects:

The proposed regulation is expected to result in cost and time-savings by applicants who, among other things, may have an innovative financial product or service ready to test, but lack the resources or proof of end market necessary to validate the business model, attract capital for more conventional launch, or otherwise justify the time and cost in seeking establishment as a regulated Nevada business before knowing if their innovative product or service will work for consumers. To the extent the sandbox program attracts companies in the financial technology industry to Nevada, it will have a beneficial effect on employment and economic development. However, any such beneficial effects are not quantifiable at this time given program participants and the nature of their products and services are still unknown.

(II) Direct or indirect adverse effects:

No direct or indirect adverse effects are anticipated or have been noted.

(d) A description of the methods that the Department of Business and Industry considered to reduce the impact of LCB File No. R089-19 on small businesses and a statement whether the Department actually used any part of those methods.

The proposed regulation reflects the Director's effort to take a balanced approach in achieving the Legislature's policy objectives while meeting the Department's regulatory mandates. Given the language and legislative intent of SB 161, as well as the intrinsic purpose of regulatory sandbox programs, the Director's principal focus in drafting the proposed regulation was consumer protection and program administration. The Director consulted directly with the Office of Attorney General, Bureau of Consumer Protection, as well as the applicable regulators affected by the legislation, to discuss the minimum standards each required to ensure effective

program administration and to protect consumers during product or service tests in the program. As a result, the proposed regulation clarifies certain administrative and consumer protection aspects of the program, including application requirements, record retention and access, periodic reporting, and general authorities of the Director and Department.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

The Department anticipates costs to the Director's Office and applicable regulator divisions (Financial Institutions and Mortgage Lending) for enforcement of the proposed regulation. However, the Department is unable to provide estimates at present, pending launch and initial execution of the subject regulatory sandbox program. The Department currently expects the costs for enforcement to be met by the program application fee and/or absorbed into the existing workloads of current staffing levels.

(f) If LCB File No. R089-19 provides a new fee or increases an existing fee, the total annual amount the Department of Business and Industry expects to collect and the manner in which the money will be used.

The enabling statute (SB 161) requires an application fee of up to \$1,000 for each product or service application submitted to the program. This fee is set at \$500 in the proposed regulation. Under SB 161, no more than six applications can be approved for the program in its first year, no more than ten in its second year, and no more than ten in its third year. However, retention of the application fee is not contingent upon approval or disapproval of an applicant, which means the total annual amount the Department can collect will depend on the level of applicant interest in the program. If the number of applications received does not exceed the number of program approvals permitted by statute, a \$500 fee is anticipated to result in total revenues of \$13,000 over the three calendar years (2020-22) the program is authorized to operate. As referenced in the answer to (e) above, this money will be used to support enforcement costs of the regulation and program, as required by SB 161.

(g) If LCB File No. R089-19 includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

LCB File No. R089-19 does not include any such provisions.

(h) The reasons for the conclusions of the Department regarding the impact of LCB File No. R089-19 on small businesses.

The Department's conclusions are based on the following reasons:

- The proposed regulation does not change the established requirements for the business areas at interest (NRS chapters 645A, 645B, 645F, or 645G; NRS titles 55 or 56; or any regulation adopted pursuant thereto).

- The proposed regulation will apply only to an existing or prospective business that (1) elects to submit a product or service test application to the regulatory sandbox program and (2) receives approval from the Director to participate. At present, there is no assurance as to how many applications, if any, will be received or approved, or what an approved application might involve in terms of product, service, or economic activity.
- Regardless of level of interest, the Director is limited by statute to approving no more than six applications in the first calendar year of the program and ten in each of the following two calendar years, for a maximum of 26 product or service tests under the program.

Considering the legislative directives and goals that the regulatory sandbox program seeks to implement, the Director believes the impact of the proposed regulation upon small businesses may be only beneficial, neither being likely to impose a direct and significant economic burden upon a small business, nor likely to restrict the formation, operation, or expansion of a small business. For this reason, the Director of the Nevada Department of Business and Industry has determined that the proposed additions to NAC 657A will not impose a significant and direct burden upon a small business and will not restrict the formation, operation, or expansion of a small business.

I certify that, to the best of my knowledge or belief, the information contained in this Small Business Impact Statement for LCB File No. R089-19 was prepared properly and is accurate.



Terry Reynolds, Director
Department of Business and Industry

NRS 233B.0608(3) Statement

1. Identify the methods used by the agency in determining the impact of the proposed regulation on a small business.

The Department reviewed and analyzed the authorizing statutory language (SB 161), associated legislative testimony, and similar regulatory sandbox initiatives in other states (particularly the program in Arizona). The Department posted the proposed regulation on its website, solicited comments by email from the public and small businesses (a total of 7,980 contacts, of which 247 were undeliverable), and solicited comments at a public workshop conducted on November 21, 2019. In response to this effort, the Department received written comments from two parties and oral comments from three parties, none of which described specific or general impacts to small business from the regulation.

2. Identify the reasons for the conclusions of the agency concerning the impact of the proposed regulation on a small business.

The Department's conclusions are based on the following reasons:

- The proposed regulation does not change the established requirements for the business areas at interest (NRS chapters 645A, 645B, 645F, or 645G; NRS titles 55 or 56; or any regulation adopted pursuant thereto).
- The proposed regulation will apply only to an existing or prospective business that (1) elects to submit a product or service test application to the regulatory sandbox program and (2) receives approval from the Director to participate. At present, there is no assurance as to how many applications, if any, will be received or approved by the Director, or what an approved application might involve in terms of product, service, or economic activity.
- Regardless of level of interest, the Director is limited by statute to approving no more than six applications in the first calendar year of the program and ten in each of the following two calendar years, for a maximum of 26 product or service tests under the program.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))



Terry Reynolds, Director
Department of Business and Industry