

NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
LCB File No. R036-23
AND WORKSHOP AGENDA

The State of Nevada, Department of Business and Industry, Director’s Office (“Director” or “Department”) is proposing the adoption of regulations to Chapter 231A of the Nevada Administrative Code ("NAC") pertaining to the Nevada New Markets Jobs Act. The proposed regulations are required as a result of the passage of Senate Bill 240 (S.B. 240) during the 82nd Session of the Nevada Legislature and the expiration of previously adopted clarifying language in LCB File No.T004-20A.

The purpose of the workshop is to solicit comments from interested persons through videoconference, teleconference, and in-person on the general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restrict the formation, operation, or expansion of a small business. This workshop will be conducted in accordance with NRS 233B.061.

Date: **Friday, December 15, 2023**

Time: **11:00 a.m. Pacific Time**

To join by Webex, join the Webex meeting by clicking on the link below:

<https://businessnv.webex.com/businessnv/j.php?MTID=macbbaa6b09ac487204a9073865bbe664>

Meeting number (access code): 2484 921 6296

Meeting password: abUuHXtm246

To join by phone, call the following toll-free number:

1-844-992-4726 United States Toll-Free

For those wishing to participate in-person, the following physical location is being made available:

Nevada Department of Business and Industry
Nevada State Business Center
Nevada Room, 4th Floor (Suite 400)
3300 W. Sahara Avenue
Las Vegas, Nevada 89102

Below is an agenda of all items scheduled to be considered. Live public comment and written public comment will be taken as designated in the workshop agenda. At the discretion of the workshop presenter, public comment may be limited to three minutes per person.

Members of the public are encouraged to submit written comments for the record no later than **December 13, 2023**. Written comments can be submitted to the Department by email: cweiss@business.nv.gov or by mail: 3300 W. Sahara Ave., Suite 425, Las Vegas, NV 89102.

A copy of all materials relating to the proposal may be obtained from the Department's website at https://business.nv.gov/About/Meetings/Meetings_and_Agendas/ 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, Director's Office, at (702) 486-5320, or via e-mail to cweiss@business.nv.gov.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Department of your request for reasonable accommodation in writing no later than five (5) working days before the workshop via email to cweiss@business.nv.gov or by calling (702) 486-1750.

WORKSHOP AGENDA

1. Open Workshop: R036-23
2. Public Comment.
3. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R036-23RP1

A regulation relating to economic development; authorizing the recapture of tax credits received for an impact qualified equity investment under certain circumstances; authorizing investments in or loans to certain businesses through one or more special purpose entities; revising provisions implementing the Nevada New Markets Jobs Act to include certain additional investments for which tax credits are authorized; and providing other matters properly relating thereto.

4. Public Comment.
5. Close Workshop: R036-23.

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 workshop presenter will indicate when live public comment will be taken and, within his/her discretion, may allow for public comment on individual agenda items.

NOTICE OF THE WORKSHOP HAS BEEN PROVIDED AS FOLLOWS:

By email to all persons on the Department's Financial Institutions Division email list for NRS 675 licensees.

By email to all persons on the Director's Office email list for the Nevada NMJA Program.
Posted at the Department's principal offices/in-person physical locations in Las Vegas and Carson City (3300 W. Sahara Ave., Las Vegas, NV 89102 and 1830 College Parkway, Suite 100, Carson City, NV 89706, respectively).

By email for posting by the Nevada State Library, Archives and Public Records Administrator.
By email for posting by the Nevada Legislature.

Posted online to the Nevada Legislature website: <https://leg.state.nv.us/>.

Posted online to the State of Nevada Public Notice website: <https://notice.nv.gov>.

Posted online to the Department's website: <https://business.nv.gov/>.

DATED this 27th day of November, 2023.


DR. KRISTOPHER SANCHEZ
Director

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

LCB File No. R036-23

November 14, 2023

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

AUTHORITY: §§ 1, 3, 8 and 14-16, NRS 231A.150; §§ 2 and 9-12, NRS 231A.150 and 231A.250, as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363; §§ 4-6 and 13, NRS 231A.150 and 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360; § 7, NRS 231A.150 and 231A.245, as amended by section 18 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363.

A REGULATION relating to economic development; authorizing the recapture of tax credits received for an impact qualified equity investment under certain circumstances; authorizing investments in or loans to certain businesses through one or more special purpose entities; revising provisions implementing the Nevada New Markets Jobs Act to include certain additional investments for which tax credits are authorized; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law enacts the Nevada New Markets Jobs Act. (Chapter 231A of NRS) Under the Act, certain business entities are entitled to receive credit against certain taxes imposed on insurance companies in exchange for making an investment in a qualified community development entity. (NRS 231A.200, as amended by section 14 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3358) Existing law requires a qualified community development entity in which such an investment is made to use 85 percent of the investment to make capital or equity investments in, or loans to, qualified active low-income community businesses. (NRS 231A.250; 26 U.S.C. § 45D) “Qualified active low-income community business” refers to certain small businesses in low-income communities. (NRS 231A.110, 231A.170; 26 U.S.C. § 45D) Senate Bill No. 240 (S.B. 240) of the 2023 Legislative Session expanded the Act to: (1) authorize a business entity to receive a similar tax credit in exchange for making an investment in an impact qualified community development entity; and (2) require an

impact qualified community development entity to use at least 85 percent of such an investment to make a capital or equity investment in, or a loan to, a qualified active low-income community business. (Chapter 517, Statutes of Nevada 2023, at page 3355) “Impact qualified active low-income community business” refers to certain businesses with the majority of owners who are members of certain historically disadvantaged groups. (Sections 2 and 7 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at pages 3355-56) Existing law authorizes the Director of the Department of Business and Industry to adopt regulations to carry out the provisions of the Act. (NRS 231A.150)

Existing law requires the Department to recapture a tax credit allowed under the Act in certain circumstances. (NRS 231A.250, as amended by section 19 of Senate Bill No. 240, Statutes of Nevada 2023, at page 3363) **Section 2** of this regulation additionally requires the Department to recapture a tax credit for an impact qualified equity investment made to an impact qualified community development entity that ceases to qualify as an impact qualified community development entity before the last credit allowance date.

Section 3 of this regulation authorizes a qualified community development entity or an impact qualified community development entity to make an investment or issue a loan to a qualified active low-income community business or an impact qualified active low-income community business: (1) directly; or (2) indirectly through one or more special purpose entities. **Section 15** of this regulation makes **section 3** retroactively applicable.

Existing regulations set forth the requirements to apply for the certification of a qualified equity investment and the procedure to obtain such a certification. (NAC 231A.020, 231A.040, 231A.060) Existing regulations interpret the provisions of law setting forth the circumstances under which the Department must recapture a tax credit. (NAC 231A.070, 231A.100, 231A.110) Existing regulations require a qualified community development entity to make annual reports to the Director concerning applicable qualified equity investments. (NAC 231A.120) **Sections 4-13** of this regulation make changes to conform to the changes made by S.B. 240. Specifically, **sections 4-13** integrate investments in impact qualified community development entities and investments in, or loans to, impact qualified active low-income community businesses into existing regulations governing the eligibility for and administration of tax credits under the Act and related reports.

Existing regulations authorize a person to obtain from the Director information on the Act and related regulations. (NAC 231A.130) **Section 14** of this regulation revises the contact information for the Director for the purpose of obtaining such information.

Existing law requires the Department, on or after July 1, 2024, to certify certain amounts of investments in qualified community development entities and impact qualified community development entities as being eligible for tax credits under the Act. (NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360) **Section 16** of this regulation prescribes a schedule for the submission of applications for such certification.

Section 1. Chapter 231A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *In addition to the circumstances described in NRS 231A.250, as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363, the Department shall recapture, from the entity that claimed the credit on a return, the amount of the tax credit allowed under chapter 231A of NRS pursuant to subsection 2 if the credit was claimed for an impact qualified equity investment that was made in an impact qualified community development entity that ceases to qualify as an impact qualified community development entity before the last credit allowance date for the investment.*

2. Any recapture made pursuant to subsection 1 must be proportionate to the amount of the impact qualified equity investment made after the entity ceases to qualify as an impact qualified community development entity.

Sec. 3. 1. *For the purpose of making a qualified low-income community investment, a qualified community development entity or an impact qualified community development entity may:*

(a) Directly make a capital or equity investment in or issue a loan to a qualified active low-income community business or an impact qualified active low-income community business, as applicable; or

(b) Make such an investment or issue such a loan indirectly through one or more special purpose entities.

2. *A special purpose entity through which a capital or equity investment is made or a loan is issued pursuant to paragraph (b) of subsection 1 may not pay any fees associated with the qualified low-income community investment.*

3. *For the purposes of this section, “special purpose entity” means an entity created solely for the purpose of making or otherwise facilitating a qualified low-income community investment in a qualified active low-income community business or an impact qualified active low-income community business.*

Sec. 4. NAC 231A.020 is hereby amended to read as follows:

231A.020 In addition to the requirements set forth in subsection 1 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, an application submitted pursuant to that subsection must:

1. Be in writing;
2. Be made on a form provided for that purpose by the Department;
3. Include, with regard to the qualified community development entity *or impact qualified community development entity* which is submitting the application:

- (a) The name of the qualified community development entity ~~is~~ *or impact qualified community development entity;*

- (b) Any name under which the qualified community development entity *or impact qualified community development entity* does or expects to do business;

- (c) The federal employer identification number of the qualified community development entity ~~is~~ *or impact qualified community development entity;*

- (d) The state in which the qualified community development entity *or impact qualified community development entity* is incorporated or otherwise organized, if applicable;
- (e) The date upon which the qualified community development entity *or impact qualified community development entity* was incorporated or otherwise organized, if applicable;
- (f) The mailing address of the qualified community development entity ~~§~~ *or impact qualified community development entity*;
- (g) The county in which the mailing address of the qualified community development entity *or impact qualified community development entity* is located;
- (h) The physical address of the qualified community development entity ~~§~~ *or impact qualified community development entity*;
- (i) Every telephone number, facsimile number, electronic mail address and Internet address of the qualified community development entity ~~§~~ *or impact qualified community development entity*; and
- (j) The name and title of the natural person who is the primary contact for the qualified community development entity ~~§~~ *or impact qualified community development entity*; and

4. Include any other information required by the Department.

Sec. 5. NAC 231A.030 is hereby amended to read as follows:

231A.030 For the purposes of subsection 3 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, if the names of the entities that are eligible to use the tax credits change as the result of a transfer of a qualified equity investment *or impact qualified equity investment* or an allocation pursuant to NRS 231A.210, the qualified community development entity *or impact qualified community*

development entity, as applicable, shall notify the Department of the change not later than 30 days after the date of the transfer or allocation, as applicable.

Sec. 6. NAC 231A.040 is hereby amended to read as follows:

231A.040 A qualified community development entity , *impact qualified community development entity* or transferee pursuant to subsection ~~[6]~~ 7 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, which provides to the Department, in accordance with subsection ~~[7]~~ 8 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, evidence of the receipt of a cash investment must include with the evidence provided to the Department:

1. Identifying information for any entity which will use the tax credits earned as a result of the issuance of the qualified equity investment ~~[i]~~ *or impact qualified equity investment*, including, without limitation, any information previously submitted in accordance with paragraph ~~[(e)]~~ (d) of subsection 1 of NRS 231A.230 ~~[i]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*;

2. Notification of any change to the names of the entities which are eligible to use the tax credits as required pursuant to subsection 3 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and NAC 231A.030; and

3. Any other information required by the Department.

Sec. 7. NAC 231A.050 is hereby amended to read as follows:

231A.050 1. A qualified active low-income community business *or impact qualified active low-income community business* shall not accept qualified low-income community investments from more than one qualified community development entity *or impact qualified community development entity, as applicable*, unless the ~~qualified active low-income community~~ business first obtains approval from the Department.

2. To request approval from the Department for the purposes of subsection 1, a qualified active low-income community business *or impact qualified active low-income community business* must submit to the Department at the address set forth in NAC 231A.130 a written request for approval on a form prescribed by the Department.

3. The Department will grant or deny a written request for approval submitted in accordance with subsection 2 not later than ~~21~~ 28 calendar days after the date on which the Department receives the written request. If the Department does not grant or deny the written request within ~~21~~ 28 calendar days after the Department receives the written request, the request shall be deemed approved.

4. The Department will approve a written request pursuant to subsection 3 unless the Department determines that it is in the best interests of this State to deny the written request.

Sec. 8. NAC 231A.060 is hereby amended to read as follows:

231A.060 1. Not later than 30 days after the date on which a qualified community development entity *or impact qualified community development entity* makes a qualified low-income community investment, the ~~qualified community development~~ entity shall notify the Department of the ~~qualified low-income community~~ investment.

2. Not later than 30 days after the date on which a qualified community development entity *or impact qualified community development entity* makes a qualified low-income community investment which causes 85 percent or more of the amount of a qualified equity investment *or impact qualified equity investment, as applicable*, regarding which the qualified community development entity *or impact qualified community development entity* has certified ~~qualified equity~~ investment authority to have been invested in qualified low-income community investments in this State, in accordance with the requirements of subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, as interpreted by the Department pursuant to NAC 231A.100, the qualified community development entity *or impact qualified community development entity* shall notify the Department that 85 percent or more of the applicable amount of the qualified equity investment *or impact qualified equity investment* has been invested in qualified low-income community investments in this State.

3. A notification made in accordance with this section must include any other information required by the Department.

Sec. 9. NAC 231A.080 is hereby amended to read as follows:

231A.080 For the purposes of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, if a qualified community development entity *or impact qualified community development entity* transfers, pursuant to subsection ~~6~~ 7 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, all or a portion of its certified ~~qualified equity~~ investment authority regarding a qualified equity investment *or impact qualified equity investment* to

another qualified community development entity ~~[]~~ *or impact qualified community development entity*, and:

1. The transferee causes a recapture of tax credits pursuant to NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will recapture only those tax credits relating to the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferee received certified ~~[qualified equity]~~ investment authority.

2. The transferor causes a recapture of tax credits pursuant to NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will recapture only those tax credits relating to the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferor retained certified ~~[qualified equity]~~ investment authority.

Sec. 10. NAC 231A.090 is hereby amended to read as follows:

231A.090 1. For the purposes of subsection 1 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, a qualified community development entity *or impact qualified community development entity* which has certified ~~[qualified equity]~~ investment authority pursuant to NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, regarding any portion of a qualified equity investment *or impact qualified equity investment* shall notify the Department not later than 30 days after the qualified community development entity ~~[]~~ *or impact qualified community development entity, as applicable*:

(a) Learns of the recapture under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, of any amount of a federal tax credit relating to the portion of the qualified equity investment *or impact qualified equity investment* regarding which the qualified community development entity *or impact qualified community development entity* has certified ~~[qualified equity]~~ investment authority; or

(b) Experiences a recapture event as described in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D.

2. *For the purposes of section 2 of this regulation, a qualified community development entity or impact qualified community development entity which has certified investment authority pursuant to NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360, regarding any portion of a qualified equity investment or impact qualified equity investment shall notify the Department not later than 30 days after the qualified community development entity or impact qualified community development entity, as applicable, experiences a recapture event described in section 2 of this regulation.*

3. The provisions of this section apply to a qualified community development entity *or impact qualified community development entity* without regard to whether the ~~[qualified community development]~~ entity received its certified ~~[qualified equity]~~ investment authority regarding a portion of a qualified equity investment ~~[-]~~ *or impact qualified equity investment, as applicable:*

(a) By applying for and receiving certification pursuant to NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, for the qualified equity investment ~~[]~~ *or impact qualified equity investment*; or

(b) Through a transfer pursuant to subsection ~~[6] 7~~ of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, from another qualified community development entity ~~[]~~ *or impact qualified community development entity*.

Sec. 11. NAC 231A.100 is hereby amended to read as follows:

231A.100 For the purposes of subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will interpret the requirements of that subsection to apply only to the amount of the qualified equity investment *or impact qualified equity investment* regarding which a qualified community development entity *or impact qualified community development entity* has certified ~~[qualified equity]~~ investment authority. In accordance with the requirements of subsection 3 of NRS 231A.250 , *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363, and* as interpreted by the Department pursuant to this section:

1. If a qualified community development entity *or impact qualified community development entity* applies for and receives certification pursuant to NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, for a qualified equity investment *or impact qualified equity investment* and the ~~[qualified community development]~~ entity does not transfer, pursuant to subsection ~~[6] 7~~ of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada*

2023, at page 3360, any portion of its certified ~~[qualified equity]~~ investment authority regarding the qualified equity investment ~~[.]~~ *or impact qualified equity investment*, the ~~[qualified community development]~~ entity must invest and maintain invested as required by subsection 3 of NRS 231A.250 , *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, an amount equal to 85 percent or more of the original amount of the qualified equity investment *or impact qualified equity investment* which is certified by the Department pursuant to subsection 3 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and for which cash is received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[.]~~ , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*.

2. If a qualified community development entity *or impact qualified community development entity* transfers, pursuant to subsection ~~[6]~~ 7 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, all or a portion of its certified ~~[qualified equity]~~ investment authority regarding a qualified equity investment *or impact qualified equity investment* to another qualified community development entity ~~[.]~~ *or impact qualified community development entity*:

(a) The transferee must invest and maintain invested as required by subsection 3 of NRS 231A.250 , *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, an amount equal to 85 percent or more of the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferee received certified ~~[qualified equity]~~ investment authority and for which cash is received in accordance

with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[8]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360.*

(b) The transferor must invest and maintain invested as required by subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, an amount equal to 85 percent or more of the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferor retained certified ~~[qualified equity]~~ investment authority and for which cash is received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[8]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360.*

Sec. 12. NAC 231A.110 is hereby amended to read as follows:

231A.110 For the purposes of subsection 4 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, the Department will interpret the requirements of that subsection to apply only to the original amount of a qualified equity investment *or impact qualified equity investment* which is certified by the Department pursuant to subsection 3 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and for which cash is received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[8]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360.* In accordance with the requirements of subsection 4 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363, and* as interpreted by the Department pursuant to this section:

1. Up to 25 percent of the original amount of the qualified equity investment *or impact qualified equity investment* may be invested in any one qualified active low-income community business *or impact qualified active low-income community business, as applicable*, without regard to whether the qualified community development entity *or impact qualified community development entity* which applied for and received certification pursuant to NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, for the qualified equity investment *or impact qualified equity investment* has transferred to another qualified community development entity *or impact qualified community development entity* any portion of the certified ~~[qualified equity]~~ investment authority regarding that qualified equity investment ~~[;]~~ *or impact qualified equity investment*; and

2. A qualified community development entity *or impact qualified community development entity* which, as referenced in subsection 1, receives a portion of the certified ~~[qualified equity]~~ investment authority regarding a qualified equity investment *or impact qualified equity investment* may invest , *as applicable*, in any one qualified active low-income community business *or impact qualified active low-income community business* up to 100 percent of the amount of the qualified equity investment *or impact qualified equity investment* over which the qualified community development entity *or impact qualified community development entity* received authority if the amount of the investment, when combined with all other investments in the qualified active low-income community business *or impact qualified active low-income community business* which are directly or indirectly drawn from the original qualified equity investment ~~[;]~~ *or impact qualified equity investment* does not exceed 25 percent of the original amount of the qualified equity investment *or impact qualified equity investment* as certified by

the Department pursuant to subsection 3 of NRS 231A.230 , *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, and for which cash was received in accordance with subsection ~~[7]~~ 8 of NRS 231A.230 ~~[1]~~, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*.

Sec. 13. NAC 231A.120 is hereby amended to read as follows:

231A.120 1. Except as otherwise provided in this subsection, with regard to each qualified equity investment *or impact qualified equity investment* for which a qualified community development entity *or impact qualified community development entity* receives certification from the Department pursuant to NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, the ~~[qualified community development]~~ entity shall submit to the Director an annual report for each of the 6 years immediately following the date on which the qualified equity investment *or impact qualified equity investment* was initially made. If the ~~[qualified community development]~~ entity transfers, pursuant to subsection ~~[6]~~ 7 of NRS 231A.230, *as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360*, all or a portion of its certified ~~[qualified equity]~~ investment authority regarding the qualified equity investment *or impact qualified equity investment* to another qualified community development entity ~~[1]~~ *or impact qualified community development entity, as applicable:*

(a) The transferee shall submit to the Director the annual report for the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferee receives certified ~~[qualified equity]~~ investment authority; and

(b) The transferor shall submit to the Director the annual report for the portion of the qualified equity investment *or impact qualified equity investment* regarding which the transferor retains certified ~~[qualified equity]~~ investment authority.

2. The annual report required by subsection 1 must be submitted:

(a) Not earlier than ~~[the annual anniversary date at the end]~~ *October 1* of the year to which the annual report relates and not later than ~~[5 business days after that annual anniversary date;]~~ *October 31 of the year to which the annual report relates;* and

(b) In writing and in an electronic format acceptable to the Director.

3. The first annual report required by subsection 1 for a qualified equity investment *or impact qualified equity investment* must:

(a) Provide evidence satisfactory to the Director that 85 percent or more of the amount of the qualified equity investment *or impact qualified equity investment* regarding which the qualified community development entity *or impact qualified community development entity* has certified ~~[qualified equity]~~ investment authority has been invested in *applicable* qualified low-income community investments in this State in accordance with the requirements of subsection 3 of NRS 231A.250, *as amended by section 19 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3363*, as interpreted by the Department pursuant to NAC 231A.100;

(b) Identify ~~[any business owned by a person who is a member]~~, *as applicable, any business owned by a person who is a:*

(1) Member of a racial or ethnic minority group into which the qualified community development entity made a qualified low-income community investment relating to the qualified equity investment; *or*

(2) Woman, disabled veteran, person who is lesbian, gay, bisexual or transgender or member of a racial or ethnic minority group into which the impact qualified community development entity made a qualified low-income community investment relating to the impact qualified equity investment;

(c) Include a description of all organizations, agencies and other groups with which the qualified community development entity *or impact qualified community development entity* collaborated in identifying or selecting a qualified active low-income community business *or impacted qualified active low-income community business* into which to make a qualified low-income community investment;

(d) For each qualified low-income community investment relating to the qualified equity investment ~~or~~ *or impact qualified equity investment:*

(1) Include a bank statement of the qualified community development entity *or impact qualified community development entity* which clearly shows that the qualified low-income community investment was made;

(2) Provide evidence satisfactory to the Director, including, without limitation, a certified statement from the president of the business or another similar person, that the business into which the qualified low-income community investment was made was a qualified active low-income community business *or impact qualified active low-income community business, as applicable*, at the time the qualified low-income community investment was made;

(3) With regard to the business identified in subparagraph (2), indicate:

(I) The name of the business;

(II) The physical address of the business;

(III) The county in which the physical address of the business is located;

(IV) The federal employer identification number of the business;

(V) The standard industrial classification of the business; and

(VI) The amount of the qualified low-income community investment which was made in the business; and

(4) Include a projection of the total number of jobs which will be created because of the qualified low-income community investment and the total number of jobs which will be retained because of the qualified low-income community investment; and

(e) Include any other information required by the Director.

4. Except as otherwise provided in subsection 6, the second through sixth annual reports required by subsection 1 for a qualified equity investment *or impact qualified equity investment* must:

(a) Identify ~~[any business owned by a person who is a member]~~, *as applicable, any business owned by a person who is a:*

(1) Member of a racial or ethnic minority group into which the qualified community development entity made a qualified low-income community investment relating to the qualified equity investment; *or*

(2) Woman, disabled veteran, person who is lesbian, gay, bisexual or transgender or member of a racial or ethnic minority group into which the impact qualified community development entity made a qualified low-income community investment relating to the impact qualified equity investment;

(b) Identify any organization, agency or other group relating to ~~[a]~~, *as applicable:*

(1) A racial or ethnic minority group with which the qualified community development entity worked in making a qualified low-income community investment relating to the qualified equity investment; *or*

(2) Women, disabled veterans, persons who are lesbian, gay, bisexual or transgender or members of a racial or ethnic minority group with which the impact qualified community development entity worked in making a qualified low-income community investment relating to the impact qualified equity investment;

(c) For each qualified low-income community investment relating to the qualified equity investment ~~or~~ *or impact qualified equity investment, as applicable*, include the current total number of jobs created because of the qualified low-income community investment and the current total number of jobs retained because of the qualified low-income community investment;

(d) With regard to the numbers of jobs reported pursuant to paragraph (c), indicate *, as applicable:*

(1) For each qualified low-income community investment relating to a qualified equity investment, the current total number of jobs created and the current total number of jobs retained for persons who are members of a racial or ethnic minority group; *or*

(2) For each qualified low-income community investment relating to an impact qualified equity investment, the current total number of jobs created and the current total number of jobs retained for women, disabled veterans, persons who are lesbian, gay, bisexual or transgender or members of a racial or ethnic minority group;

(e) With regard to the jobs reported pursuant to paragraph (c), indicate the average salary;

- (f) Identify the current cost basis of the qualified equity investment ~~§~~ *or impact qualified equity investment*; and
- (g) Include any other information required by the Director.
5. In an annual report required by subsection 1 for a qualified equity investment ~~§~~ *or impact qualified equity investment*, the qualified community development entity *or impact qualified community development entity* may include any information in addition to the information required pursuant to subsection 3 or 4 to demonstrate the effectiveness of a qualified low-income community investment relating to the qualified equity investment ~~§~~ *or impact qualified equity investment*.
6. In the second through sixth annual reports required by subsection 1 for a qualified equity investment ~~§~~ *or impact qualified equity investment*, the qualified community development entity *or impact qualified community development entity* shall not include information relating to a qualified low-income community investment which has been sold by, returned to or repaid to the qualified community development entity ~~§~~ *or impact qualified community development entity*.
7. For the purposes of subparagraph (4) of paragraph (d) of subsection 3:
- (a) A job may be projected to be created if the job is reasonably anticipated by the qualified community development entity *or impact qualified community development entity* to meet the definition of “job created” beginning at any time on or before the last credit allowance date for the applicable qualified equity investment *or impact qualified equity investment* and continuing for 26 or more consecutive weeks, during which time the hours worked in the position are reasonably anticipated to average 30 or more hours per week.

(b) A job may be projected to be retained if the job is reasonably anticipated by the qualified community development entity ~~or~~ *or impact qualified community development entity*:

(1) To meet the definition of “job retained” at any time on or before the last credit allowance date for the applicable qualified equity investment ~~or~~ *or impact qualified equity investment*; and

(2) To be filled by an employee who meets the requirements of subparagraphs (1), (2) and (3) of paragraph (a) of subsection 8 beginning when the job meets the definition of “job retained” and continuing for 26 or more consecutive weeks, during which time the hours worked in the position are reasonably anticipated to average 30 or more hours per week.

8. As used in this section:

(a) “Job created” means, as represented by a qualified active low-income community business *or impact qualified active low-income community business* located within this State, a new, full-time and permanent position at the qualified active low-income community business *or impact qualified active low-income community business* which is filled by one or more natural persons, each of whom:

(1) Is a resident of this State and is expected by the qualified community development entity *or impact qualified community development entity* to be a resident of this State during the entire year for which the applicable annual report is made;

(2) Works and, after being hired, continues to work for the remainder of the year for which the applicable annual report is made:

(I) On the premises of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, located within this State; or

(II) Off the premises of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, only if the position is a qualified off-premises position; and

(3) Is employed by the qualified active low-income community business ~~or~~ *or impact qualified active low-income community business, as applicable*:

(I) Directly; or

(II) As a contractual employee only if the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, offers benefits to the contractual employee which are comparable to the benefits the business offers to the persons it employs directly.

↪ The term also includes a new position related to a qualified active low-income community business *or impact qualified active low-income community business* which is filled by a self-employed contractor if, during the year for which the applicable annual report is made, the self-employed contractor pays taxes to this State and works not less than 1,040 hours for the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, performing professional services for the business.

(b) “Job retained” means, as represented by a qualified active low-income community business *or impact qualified active low-income community business* located within this State, a position filled by an employee of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, if the employee meets the requirements of subparagraphs (1), (2) and (3) of paragraph (a), the employee was hired by the

business to fill the position before the business received the applicable qualified low-income community investment, and:

(1) The qualified active low-income community business *or impact qualified active low-income community business* was in existence and located in this State for not less than 2 years immediately preceding the date on which the business received the applicable qualified low-income community investment, and:

(I) The qualified active low-income community business *or impact qualified active low-income community business, as applicable*, lost 20 percent or more of its net worth during either the 1-year period or the 2-year period immediately preceding the date on which the business received the applicable qualified low-income community investment; or

(II) The president of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, or another similar person certifies that the position would not have been retained but for the applicable qualified low-income community investment; or

(2) The position would have been transferred to a location outside of this State but for the applicable qualified low-income community investment, as evidenced either by a certified statement from the president of the qualified active low-income community business *or impact qualified active low-income community business, as applicable*, or another similar person or by a written and accepted offer of relocation assistance from an economic development agency from another state.

(c) “Qualified off-premises position” means a position:

(1) Which has been filled for 26 or more consecutive weeks;

(2) For which, during the time the position has been filled, the hours worked in the position have averaged 30 or more hours per week; and

(3) For which it is anticipated by the qualified community development entity *or impact qualified community development entity* that the hours worked in the position will continue to average 30 or more hours per week for each tax year of the qualified active low-income community business *or impact qualified active low-income community business* which occurs, in whole or in part, on or before the last credit allowance date for the applicable qualified equity investment ~~[]~~ *or impact qualified equity investment.*

Sec. 14. NAC 231A.130 is hereby amended to read as follows:

231A.130 A person may obtain clarification of or information concerning the requirements of this chapter or chapter 231A of NRS and any procedure for submitting applications, requests or reports to the Department or the Director pursuant to this chapter or chapter 231A of NRS by sending a written request for the clarification or information to the Director at the following address:

~~[Attn: Director]~~ *Director's Office*

Nevada Department of Business and Industry

Attn: New Markets Jobs Act Program

~~[555 East Washington Avenue, Suite 4900]~~ *3300 W. Sahara Avenue, Suite 425*

Las Vegas, Nevada ~~[89101-1075]~~ *89102*

Sec. 15. This regulation is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. Section 3 of this regulation applies retroactively to a qualified low-income community investment made on or before the effective date of this regulation.

2. As used in this section, “qualified low-income community investment” has the meaning ascribed to it in NRS 231A.140, as amended by section 12 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3358.

Sec. 16. This regulation is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. For the purpose of certifying \$170,000,000 in qualified equity investments and \$30,000,000 in impact qualified equity investments on or after July 1, 2024, pursuant to subsections 5 and 6, respectively, of NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360:

(a) The Department of Business and Industry shall begin accepting applications for certification of qualified equity investments and impact qualified equity investments on July 1, 2024.

(b) An application for certification of a qualified equity investment or an impact qualified equity investment which is received by the Department before July 1, 2024, shall be deemed to have been received by the Department on July 1, 2024.

(c) All applications for certification of a qualified equity investment or an impact qualified equity investment which are received by the Department on July 1, 2024, or which are deemed to have been received by the Department on July 1, 2024, pursuant to paragraph (b), shall be deemed to have been received on the same day for the purposes of subsection 4 of NRS 231A.230, as amended by section 16 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3360, by the Department on July 1, 2024.

2. As used in this section:

(a) “Impact qualified equity investment” has the meaning ascribed to it in section 4 of Senate Bill No. 240, chapter 517, Statutes of Nevada 2023, at page 3356.

(b) “Qualified equity investment” has the meaning ascribed to it in NRS 231A.130.

STATE OF NEVADA

JOSEPH M. LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

PERRY FAIGIN
MARCEL SCHAERER
Deputy Directors

DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR

Small Business Impact Statement
LCB File No. R036-23

LCB File No. 036-23 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.

The Department of Business and Industry intends to solicit comments on the proposed regulation as part of the public workshop scheduled for December 15, 2023. Comments from the workshop will be incorporated into the small business impact statement and posted with the notice of adoption.

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
cweiss@business.nv.gov or 702-486-5320

(b) The manner in which the small business analysis was conducted for LCB File No. R036-23.

Pursuant to NRS 233B.0608(1) and before conducting a workshop for the proposed regulation, the Department has made a concerted effort to determine whether the 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. In doing so, 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."

This effort included review and analysis of the authorizing statutory language in NRS 231A; review and analysis of the requirements provided by Nevada Senate Bill 240 (2023); assessment of the administrative performance of the Nevada NMJA Program since 2013; assessment of the workforce and economic development performance of NMJA business investments to date; and study of economic modeling results contained in biennial reports of the Nevada NMJA Program to the Legislative Counsel Bureau.

As a result, the Department has preliminarily determined (as further described below) that the proposed regulation will not (1) impose a direct and significant economic burden upon a small business; (2) result in any direct or indirect adverse effects on small businesses; or (3) directly restrict the formation, operation, or expansion of a small business. The Department's determination is based on the following reasons:

- The NMJA Program (NRS 231A) helps meet the need for access to capital for Nevada small businesses in distressed areas of the state. The proposed regulation implements changes to support the program's performance in this area.
- The proposed regulation will not apply to a Nevada small business unless that business decides to pursue or accept funding from an allocatee of the NMJA Program as defined in NRS 231A and certified by the Director. The regulation is otherwise inapplicable to a Nevada small business.
- Performance of the Nevada NMJA Program from 2013 to date reflects no adverse impacts to small businesses inside or outside the program, and only neutral to beneficial impacts for small businesses inside the program, as documented in the NMJA Program's biennial reports to the Legislative Counsel Bureau.

In addition to the preceding analysis, as part of the workshop process the Department will post the proposed regulation on its website and distribute it to the email list maintained by the Department's Financial Institutions Division for NRS 675 and CDFI licensees and to the existing contact list for the Nevada New Markets Jobs Act program maintained by the Director's Office.

(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:

As described above, the Department has preliminarily determined that there will no adverse effects of the proposed regulation on small businesses and will solicit further input as part of the scheduled workshop referenced previously.

(II) Beneficial effects:

Beneficial effects of the proposed regulation on small businesses include potential access to additional capital under terms or conditions more favorable than other available sources of capital. At present there is no assurance as to how many Nevada small business lenders or community development entities and community development financial institutions will apply for available future allocations under the program, nor is there any assurance as to how many Nevada-based qualified or impact qualified active low-income community businesses will apply to program allocatees for funding.

(2) Both direct and indirect effects.

(I) Direct effects:

Direct effects of the proposed regulation on small businesses will be determined by the Department after the scheduled workshop referenced previously.

(II) Indirect effects:

Indirect effects of the proposed regulation on small businesses will be determined by the Department after the scheduled workshop referenced previously.

(d) A description of the methods that the Department of Business and Industry considered to reduce the impact of LCB File No. R036-23 on small businesses and a statement whether the Department actually used any part of those methods.

The Department has not considered methods to reduce the impact of the proposed regulation on small businesses, given the Department's preliminary determination that the regulation will not impose a direct and significant economic burden upon a small business; nor directly restrict the formation, operation or expansion of a small business. Methods may be considered after completion of the scheduled workshop referenced previously where the Department will solicit public comments on how the proposed regulation may impact interested parties.

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

The Department has identified additional costs to the Director's Office for implementation of the proposed regulation and administration of the "impact qualified" provisions. These costs were included in a fiscal note to Senate Bill 240 (2023), funded in the legislation as approved, and are estimated at \$103,135 for the fiscal year 2023-2024 and \$99,665 for the fiscal year 2024-2025.

(f) If LCB File No. R036-23 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 proposed regulation does not provide for new fees or increase an existing fee.

(g) If LCB File No. R036-23 include 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. R036-23 does not duplicate any existing federal, state or local standards regulating the same activity.

(h) The reasons for the conclusions of the Department regarding the impact of LCB File No. R036-23 on small businesses.

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

- The NMJA Program (NRS 231A) helps meet the need for access to capital for Nevada small businesses in distressed areas of the state. The proposed regulation implements changes to support the program's performance in this area.
- The proposed regulation will not apply to a Nevada small business unless that business decides to pursue or accept funding from an allocatee of the NMJA Program as defined in NRS 231A and certified by the Director. The regulation is otherwise inapplicable to a Nevada small business.

November 17, 2023

Page 4 of 4

- Performance of the Nevada NMJA Program from 2013 to date reflects no adverse impacts to small businesses inside or outside the program, and only neutral to beneficial impacts for small businesses inside the program, as documented in the NMJA Program's biennial reports to the Legislative Counsel Bureau.

The Department will have a better understanding of the impact to small business, if any, after the scheduled workshop referenced previously.

I, Dr. Kristopher Sanchez, Director, 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 business, and that the information contained in the statement above is accurate. (NRS 233B.0608(3))



Dr. Kristopher Sanchez, Director
Department of Business and Industry

Senate Bill No. 240–Senator Neal

CHAPTER.....

AN ACT relating to economic development; authorizing investments to be made in impact qualified community development entities in exchange for certain tax credits; authorizing an additional amount of investments to be made in qualified community development entities in exchange for certain tax credits; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law enacts the Nevada New Markets Jobs Act. (Chapter 231A of NRS) Under the Act, insurance companies are entitled to receive credit against certain taxes imposed on insurance companies in exchange for making an investment in a qualified community development entity. (NRS 231A.200) A qualified community development entity in which such an investment is made is required to use 85 percent of the investment to make capital or equity investments in, or loans to, qualified active low-income community businesses, which are defined as businesses in a low-income community. (NRS 231A.110, 231A.130, 231A.140, 231A.250; 26 U.S.C. § 45D) **Section 16** of this bill authorizes an additional amount of investments in qualified community development entities which may be made in exchange for a credit against certain taxes imposed on insurance companies.

Sections 14 and 25 of this bill allow certain business entities to receive a credit against the premium tax imposed on insurance companies in exchange for investing in an impact qualified community development entity. **Sections 2, 4 and 12** of this bill require an impact qualified community development entity in which such an investment is made to use 85 percent of the investment to make capital or equity investments in, or loans to, impact qualified active low-income community businesses. **Sections 2 and 7** of this bill provide that an “impact qualified active low-income community business” means certain types of manufacturing businesses, retail businesses or businesses where the majority of owners are from certain historically disadvantaged groups, but which may be located anywhere in this State. **Section 16** establishes the amount of investments in impact qualified community development entities which may be made in exchange for the tax credit. **Sections 8-24** of this bill make conforming changes to the provisions of the Nevada New Markets Jobs Act to integrate investments in impact qualified community development entities into the existing provisions governing the eligibility for and administration of tax credits under the Act. **Sections 6 and 7** of this bill establish provisions governing whether a business is an impact qualified active low-income community business. **Sections 2-5** of this bill define terms related to the tax credit for investments in impact qualified community development entities.

Section 25.5 of this bill makes an appropriation to the Department of Business and Industry for costs to carry out the provisions of this bill.



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

Section 1. Chapter 231A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *“Impact qualified active low-income community business” means a qualified active low-income community business as that term is defined in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, and 26 C.F.R. § 1.45D-1, except that term is limited to those businesses specified in section 7 of this act.*

Sec. 3. *“Impact qualified community development entity” means:*

1. A partnership, limited-liability company or corporation that has its principal business operations in this State and is engaged in lending or other investment activity;

2. A qualified community development entity that complies with NRS 221A.180; or

3. A qualified community development financial institution, as that term is defined in the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. § 4702(5).

Sec. 4. *1. “Impact qualified equity investment” means any equity investment in, or long-term debt security issued by, an impact qualified community development entity that:*

(a) Except as otherwise provided in this section, is acquired after July 1, 2024, solely in exchange for cash at the original issuance of the equity investment;

(b) Has at least 85 percent of the cash purchase price of the equity investment used by the issuer to make qualified low-income community investments in impact qualified active low-income community businesses located in this State by the first anniversary of the initial credit allowance date; and

(c) Is designated by the issuer as an impact qualified equity investment under this section and is certified by the Department as complying with the limitations contained in subsection 6 of NRS 231A.230.

2. The term includes an investment that does not meet the requirements of subsection 1 if the investment was an impact qualified equity investment in the possession or control of a prior holder.



Sec. 5. *“Principal business operations” means the physical location of a business where at least 60 percent of the employees of the business work.*

Sec. 6. *A business that agrees to use the proceeds of a qualified low-income community investment to establish principal business operations in this State shall be deemed to have its principal business operations in this State if, within 180 days after receiving the qualified low-income community investment or such other time as agreed to in writing by the business and the Department, the business has a physical location in this State where at least 60 percent of the employees of the business work.*

Sec. 7. 1. *For the purposes of section 2 of this act, an impact qualified active low-income community business is limited to those businesses which have their principal business operations in this State and:*

(a) Whose primary North American Industry Classification System classification is within sector 31, 32 or 33 or sector 44 or 45; or

(b) Are businesses that have 51 percent or more of its ownership interest held by women, disabled veterans, persons who are lesbian, gay, bisexual or transgender or members of a racial or ethnic minority group.

2. *A business must be considered an impact qualified active low-income community business for the duration of the impact qualified community development entity’s investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being an impact qualified active low-income community business throughout the entire period of the investment or loan.*

3. *Except as otherwise provided in this subsection, the businesses limited by this section do not include any business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by, or under common control with, another business if the second business:*

(a) Does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and

(b) Is the primary tenant of the real estate leased from the first business.

4. *Except as otherwise provided in subsection 5, the following businesses are not impact qualified active low-income community businesses:*



(a) A business that has received an abatement from taxation pursuant to NRS 274.310, 274.320, 274.330, 360.750, 360.753 or 360.754.

(b) An entity that has liability for insurance premium tax on a premium tax report filed pursuant to NRS 680B.030.

(c) A business engaged in banking or lending.

(d) A massage parlor.

(e) A bath house.

(f) A tanning salon.

(g) A country club.

(h) A business operating under a nonrestricted license for gaming issued pursuant to NRS 463.170.

(i) A liquor store.

(j) A golf course.

5. A business that has received an abatement from taxation pursuant to NRS 274.310, 274.320, 274.330, 360.750, 360.753 or 360.754 is an impact qualified active low-income community business if the business elects to waive the abatement and provides written notice of the waiver of the abatement to the Office of Economic Development not later than the due date of the first payment of any tax which would be abated if the abatement became effective. If the business provides the written notice to the Office of Economic Development:

(a) Within the period required by this subsection:

(1) Any agreement entered into by the business and the Office of Economic Development pursuant to NRS 274.310, 274.320, 274.330, 360.750, 360.753 or 360.754 is void; and

(2) The Office of Economic Development must forward a copy of the written notice to the Department and each governmental entity or official to whom a copy of the certificate of eligibility for the abatement was forwarded.

(b) After the period required by this subsection has expired, the Office of Economic Development must provide written notice to the Department and the business that the abatement has not been waived and the business is not an impact qualified active low-income community business.

Sec. 8. NRS 231A.030 is hereby amended to read as follows:

231A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 231A.040 to 231A.145, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 231A.040 is hereby amended to read as follows:

231A.040 “Applicable percentage” means :



1. With respect to a qualified equity investment, 0 percent for the first two credit allowance dates, 12 percent for the next three credit allowance dates and 11 percent for the next two credit allowance dates.

2. With respect to an impact qualified equity investment, 0 percent for the first two credit allowance dates and 15 percent for the next five credit allowance dates.

Sec. 10. NRS 231A.050 is hereby amended to read as follows:

231A.050 “Credit allowance date” means, with respect to any qualified equity investment ~~or~~ *or impact qualified equity investment:*

1. The date on which the investment is initially made; and

2. Each of the six anniversary dates immediately following the date on which the investment is initially made.

Sec. 11. NRS 231A.100 is hereby amended to read as follows:

231A.100 “Purchase price” means the amount paid to the issuer of a qualified equity investment *or impact qualified equity investment* for the qualified equity investment ~~or~~ *or impact qualified equity investment.*

Sec. 12. NRS 231A.140 is hereby amended to read as follows:

231A.140 “Qualified low-income community investment” means any capital or equity investment in, or loan to, any qualified active low-income community business ~~or~~ *or impact qualified active low-income community business.*

Sec. 13. NRS 231A.160 is hereby amended to read as follows:

231A.160 To qualify as long-term debt security, a debt instrument must be issued by a qualified community development entity ~~or~~ *or impact qualified community development entity*, at par value or a premium, with an original maturity date of at least 7 years after the date of its issuance, with no acceleration of repayment, amortization or prepayment features before its original maturity date. The qualified community development entity *or impact qualified community development entity* that issues the debt instrument must not make interest payments in the form of cash on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, of the qualified community development entity *or impact qualified community development entity* for that period before giving effect to the interest expense of the long-term debt security. This section does not limit the holder’s ability to accelerate payments on the debt instrument in situations in which



the issuer has defaulted on covenants designed to ensure compliance with this chapter or section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D.

Sec. 14. NRS 231A.200 is hereby amended to read as follows:

231A.200 An entity that makes a qualified equity investment *or impact qualified equity investment* earns a vested right to credit against the entity's liability for insurance premium tax on a premium tax report filed pursuant to NRS 680B.030 that may be used as follows:

1. Except as otherwise provided in this subsection, on each credit allowance date of the qualified equity investment ~~[]~~ *or impact qualified equity investment*, the entity, or the subsequent holder of the qualified equity investment ~~[]~~ *or impact qualified equity investment*, is entitled to use a portion of the credit during the taxable year that includes the credit allowance date. If an entity makes a ~~[qualified]~~:

(a) *Qualified* equity investment on or after July 1, 2019, *but before July 1, 2024*, the entity may not use any portion of the credit against the entity's liability for insurance premium tax for any period beginning before July 1, 2021.

(b) *Qualified equity investment or impact qualified equity investment on or after July 1, 2024*, the entity may not use any portion of the credit against the entity's liability for insurance premium tax for any period beginning before July 1, 2026.

2. The credit amount is equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the issuer of the qualified equity investment ~~[]~~ *or impact qualified equity investment*.

3. Except as otherwise provided in subsection 4, the amount of the credit claimed by an entity must not exceed the amount of the entity's liability for insurance premium tax for the tax year for which the credit is claimed.

4. If the insurance premium tax is eliminated or reduced below the level that was in effect on the first credit allowance date, the entity is entitled to a credit against any other taxes paid to the Department of Taxation in an amount equal to the difference between the amount the entity would have been able to claim against its insurance premium tax liability had the tax not been eliminated or reduced and the amount the entity was actually able to claim, if any.

➔ Any amount of tax credit that the entity is prohibited from claiming in a taxable year as a result of subsection 3 or 4 may be carried forward for use in any subsequent taxable year.



Sec. 15. NRS 231A.220 is hereby amended to read as follows:
231A.220 1. An insurer or an affiliate of an insurer may not:

(a) Manage a qualified community development entity ~~{}~~ *or impact qualified community development entity*; or

(b) Control the direction of equity investments for a qualified community development entity ~~{}~~ *or impact qualified community development entity*.

2. The provisions of subsection 1 apply to any entity described in subsection 1 regardless of whether the entity does business in this State.

3. This section does not preclude an entity described in subsection 1 from exercising legal rights or remedies, including the interim management of a qualified community development entity ~~{}~~ *or impact qualified community development entity*, with respect to a qualified community development entity *or impact qualified community development entity* that is in default of any statutory or contractual obligations to the entity described in subsection 1.

4. This chapter does not limit the amount of nonvoting equity interests in a qualified community development entity *or impact qualified community development entity* that an entity described in subsection 1 may own.

5. For the purposes of this section:

(a) "Affiliate of an insurer" has the meaning ascribed to the term "affiliate" in NRS 692C.030.

(b) "Insurer" has the meaning ascribed to it in NRS 679A.100.

Sec. 16. NRS 231A.230 is hereby amended to read as follows:

231A.230 1. A qualified community development entity *or impact qualified community development entity* that seeks to have an equity investment or long-term debt security designated as a qualified equity investment *or impact qualified equity investment* and eligible for tax credits under this chapter must apply to the Department for that designation. An application submitted by a qualified community development entity *or impact qualified community development entity* must include the following:

(a) *If the application is for the designation of an equity investment or long-term debt security as a qualified equity investment:*

(1) Evidence of the applicant's certification as a qualified community development entity.

~~{(b)}~~ (2) A copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund of the United States Department of the



Treasury which includes the State of Nevada in the service area set forth in the allocation agreement.

~~[(e)]~~ (3) A certificate executed by an executive officer of the applicant:

~~[(1)]~~ (I) Attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund; and

~~[(2)]~~ (II) Setting forth the cumulative amount of allocations awarded to the applicant by the Community Development Financial Institutions Fund.

~~[(d)]~~ (b) *If the application is for the designation of an equity investment or long-term debt security as an impact qualified equity investment:*

(1) Proof that the applicant is an impact qualified community development entity; and

(2) The documentation required pursuant to subparagraphs (1), (2) and (3) of paragraph (a) if the impact qualified community development entity has been certified as a qualified community development entity.

(c) A description of the proposed amount, structure and purchaser of the qualified equity investment ~~[(1)]~~ *or impact qualified equity investment.*

~~[(e)]~~ (d) If known at the time of application, identifying information for any entity that will use the tax credits earned as a result of the issuance of the qualified equity investment.

~~[(f)]~~ (e) Examples of the types of qualified active low-income businesses *or impact qualified active low-income community businesses* in which the applicant, its controlling entity or the affiliates of its controlling entity have invested under the federal New Markets Tax Credit Program. An applicant is not required to identify the qualified active low-income community businesses *or impact qualified active low-income community businesses* in which it will invest when submitting an application.

~~[(g)]~~ (f) A nonrefundable application fee of \$5,000. This fee must be paid to the Department and is required for each application submitted.

~~[(h)]~~ (g) The refundable performance fee required by subsection 1 of NRS 231A.270.

2. Within 30 days after receipt of a completed application containing the information set forth in subsection 1, including the payment of the application fee and the refundable performance fee, the Department shall grant or deny the application in full or in part. If the Department denies any part of the application, it shall inform



the qualified community development entity *or impact qualified community development entity* of the grounds for the denial. If the qualified community development entity *or impact qualified community development entity* provides any additional information required by the Department or otherwise completes its application within 15 days after the date of the notice of denial, the application must be considered complete as of the original date of submission. If the qualified community development entity *or impact qualified community development entity* fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new date of submission.

3. If the application is complete, the Department shall certify the proposed equity investment or long-term debt security as a qualified equity investment *or impact qualified equity investment* that is eligible for tax credits under this chapter, subject to the limitations contained in subsection 5 ~~5~~ *or 6*. The Department shall provide written notice of the certification to the qualified community development entity ~~5~~ *or impact qualified community development entity*. The notice must include the names of those entities who will earn the credits and their respective credit amounts. If the names of the entities that are eligible to use the credits change as the result of a transfer of a qualified equity investment *or impact qualified equity investment* or an allocation pursuant to NRS 231A.210, the qualified community development entity *or impact qualified community development entity* shall notify the Department of the change.

4. The Department shall certify qualified equity investments *and impact qualified equity investments* in the order applications are received by the Department. Applications received on the same day shall be deemed to have been received simultaneously. For applications that are complete and received on the same day, the Department shall certify, consistent with remaining qualified equity investment *or impact qualified equity investment* capacity, the qualified equity investments *or impact qualified equity investments* in proportionate percentages based upon the ratio that the amount of qualified equity investment *or impact qualified equity investment* requested in an application bears to the total amount of qualified equity investments *or impact qualified equity investments* requested in all applications received on the same day.

5. The Department:

(a) Shall certify \$200,000,000 in qualified equity investments before July 1, 2019, ~~and~~ \$200,000,000 in qualified equity



investments on or after July 1, 2019 ~~{}~~, and \$170,000,000 in qualified equity investments on or after July 1, 2024;

(b) Shall not certify any single qualified equity investment of less than \$8,000,000 ~~{; and}~~, except as provided in paragraph (d);

(c) Shall not certify more than a total of \$50,000,000 in qualified equity investments to any single applicant, including all affiliates and partners of the applicant which are qualified community development entities ~~{;~~

~~{;~~ and

(d) If a pending request cannot be fully certified because of ~~{these}~~ the limits ~~{, the Department}~~ set forth in this subsection, shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

6. *The Department:*

(a) Shall certify \$30,000,000 in impact qualified equity investments on or after July 1, 2024;

(b) Shall not certify any single impact qualified equity investment of less than \$8,000,000, except as provided in paragraph (c); and

(c) If a pending request cannot be fully certified because of the limits set forth in this subsection, shall certify the portion that may be certified unless the impact qualified community development entity elects to withdraw its request rather than receive partial certification.

7. An approved applicant may transfer all or a portion of its certified qualified equity investment *or impact qualified equity investment* authority to its controlling entity or any affiliate or partner of the controlling entity which is also a qualified community development entity ~~{;~~ *or impact qualified community development entity, as applicable*, if the applicant provided the information required in the application with respect to the transferee and the applicant notifies the Department of the transfer within 30 days after the transfer.

~~{}~~ 8. Within 30 days after the applicant receives notice of certification, the qualified community development entity, *impact qualified community development entity* or any transferee pursuant to subsection ~~{}~~ 7 shall issue the qualified equity investment *or impact qualified equity investment* and receive cash in the amount certified by the Department. The qualified community development entity, *impact qualified community development entity* or transferee under subsection ~~{}~~ 7 must provide the Department with evidence of the receipt of the cash investment within 10 business



days after receipt. If the qualified community development entity , *impact qualified community development entity* or any transferee under subsection ~~6~~ 7 does not receive the cash investment and issue the qualified equity investment *or impact qualified equity investment* within 30 days after receipt of the notice of certification, the certification lapses and the entity may not issue the qualified equity investment *or impact qualified equity investment* without reapplying to the Department for certification. Lapsed certifications revert back to the Department and must be reissued, first, pro rata to other applicants whose qualified equity investment *or impact qualified equity investment* allocations were reduced pursuant to subsection 4 and, thereafter, in accordance with requirements for submitting the application.

Sec. 17. NRS 231A.240 is hereby amended to read as follows:

231A.240 1. A qualified community development entity which issues qualified equity investments under this chapter shall make qualified low-income community investments in businesses located in severely distressed census tracts, on a combined basis with all of its affiliated qualified community development entities that have issued qualified equity investments under this chapter, in an amount equal to at least 30 percent of the purchase price of all qualified equity investments issued by such entities.

2. The Director may reduce the requirement in subsection 1 to 20 percent if the qualified community development entity uses its commercially reasonable best efforts to satisfy the requirements of subsection 1 and fails to do so within 9 months after its initial credit allowance date.

3. A qualified community development entity *or impact qualified community development entity* which makes a qualified low-income community investment must allow the business in which the qualified low-income community investment is made to apply to refinance the qualified low-income investment if at least 4 years has passed since the qualified community development entity *or impact qualified community development entity* made the qualified low-income investment and the qualified low-income investment has not previously been refinanced.

4. As used in this section, “severely distressed census tract” means a census tract that, in the immediately preceding census, had:

(a) More than 30 percent of households with a household income below the federally designated level signifying poverty;

(b) A median household income of less than 60 percent of the median household income in this State; or



(c) A rate of unemployment that was equal to or greater than 150 percent of the national average.

Sec. 18. NRS 231A.245 is hereby amended to read as follows:

231A.245 1. A qualified community development entity *or impact qualified community development entity* may make a qualified low-income community investment jointly with one or more other qualified community development entities ~~or~~ *or impact qualified community development entities.*

2. A qualified community development entity *or impact qualified community development entity* may make a qualified low-income community investment using money attributable to:

(a) The purchase price of a qualified equity investment ~~or~~ *or impact qualified equity investment;*

(b) The amount paid to a qualified community development entity *or impact qualified community development entity* for a qualified equity investment, as defined in 26 U.S.C. § 45D(b), by an entity that receives a tax credit pursuant to 26 U.S.C. § 45D; or

(c) Any combination of the amounts described in paragraphs (a) and (b).

Sec. 19. NRS 231A.250 is hereby amended to read as follows:

231A.250 Except as otherwise provided in NRS 231A.260, the Department shall recapture, from the entity that claimed the credit on a return, the tax credit allowed under this chapter if:

1. Any amount of a federal tax credit available with respect to a qualified equity investment *or impact qualified equity investment* that is eligible for a credit under this chapter is recaptured under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D. In such a case, the Department's recapture must be proportionate to the federal recapture with respect to the qualified equity investment ~~or~~ *or impact qualified equity investment.*

2. The issuer redeems or makes principal repayment with respect to a qualified equity investment *or impact qualified equity investment* before the seventh anniversary of the issuance of the qualified equity investment ~~or~~ *or impact qualified equity investment.* In such a case, the Department's recapture must be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment ~~or~~ *or impact qualified equity investment.*

3. The issuer fails to invest an amount equal to 85 percent of the purchase price of the qualified equity investment *or impact qualified equity investment* in qualified low-income community investments in this State within 12 months after the issuance of the qualified equity investment *or impact qualified equity investment*



and maintain at least an 85-percent level of investment in qualified low-income community investments in the State until the last credit allowance date for the qualified equity investment ~~§~~ *or impact qualified equity investment*. For the purposes of this chapter, an investment shall be deemed held by an issuer even if the investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months after the receipt of such capital. An issuer is not required to reinvest capital returned from qualified low-income community investments after the earlier of:

(a) The sixth anniversary of the issuance of the qualified equity investment ~~§~~ *or impact qualified equity investment*, the proceeds of which were used to make the qualified low-income community investment; or

(b) The date by which a qualified community development entity *or impact qualified community development entity* has made qualified low-income community investments with the proceeds of the qualified equity investment *or impact qualified equity investment* on a cumulative basis equal to at least 150 percent of those proceeds, in which case the qualified low-income community investment must be considered held by the issuer through the seventh anniversary of the ~~qualified equity investment's~~ issuance ~~§~~ *of the qualified equity investment or impact qualified equity investment*.

4. At any time before the final credit allowance date of a qualified equity investment ~~§~~ *or impact qualified equity investment*, the issuer uses the cash proceeds of the qualified equity investment *or impact qualified equity investment* to make qualified low-income community investments in any one qualified active low-income community business ~~§~~ *impact qualified active low-income community business*, including affiliated qualified active low-income community businesses ~~§~~ *or impact qualified active low-income community businesses*, exclusive of reinvestments of capital returned or repaid with respect to earlier investments in the qualified active low-income community business *or impact qualified active low-income community business* and its affiliates, in excess of 25 percent of those cash proceeds.

➤ As used in this section, “cash proceeds” or “proceeds” means the amount paid to the issuer of a qualified equity investment *or impact qualified equity investment* for the qualified equity investment ~~§~~ *or impact qualified equity investment*.



Sec. 20. NRS 231A.260 is hereby amended to read as follows:
231A.260 Enforcement of each of the recapture provisions set forth in NRS 231A.250 is subject to a 6-month cure period. No recapture may occur until the qualified community development entity *or impact qualified community development entity* has been given notice of noncompliance and afforded 6 months after the date of the notice to cure the noncompliance.

Sec. 21. NRS 231A.270 is hereby amended to read as follows:
231A.270 1. A qualified community development entity *or impact qualified community development entity* that seeks to have an equity investment or long-term debt security designated as a qualified equity investment *or impact qualified equity investment* and eligible for tax credits under this chapter must pay a fee in the amount of 0.5 percent of the amount of the equity investment or long-term debt security requested to be designated as a qualified equity investment *or impact qualified equity investment* to the Department. The fee must be deposited in the New Markets Performance Guarantee Account, which is hereby created in the State General Fund. The entity forfeits the fee in its entirety if:

(a) The qualified community development entity *or impact qualified community development entity* and its affiliates and partners which are also qualified community development entities *or impact qualified community development entities* fail to issue the total amount of qualified equity investments *or impact qualified equity investments* certified by the Department and receive cash in the total amount certified pursuant to subsection 3 of NRS 231A.230; or

(b) The qualified community development entity *or impact qualified community development entity* or any affiliate or partner which is also a qualified community development entity *or impact qualified community development entity* that issues a qualified equity investment *or impact qualified equity investment* certified under this chapter fails to meet the investment requirement specified in subsection 3 of NRS 231A.250 by the second credit allowance date of the qualified equity investment ~~§~~ *or impact qualified equity investment*. Forfeiture of the fee under this paragraph is subject to the 6-month cure period established pursuant to NRS 231A.260.

2. The fee required pursuant to subsection 1 must be paid to the Department and held in the New Markets Performance Guarantee Account until such time as compliance with the provisions of subsection 1 has been established. The qualified community development entity *or impact qualified community development entity* may request a refund of the fee from the Department no



sooner than 30 days after having met all the requirements of subsection 1. The Department shall refund the fee within 30 days after such a request or being given notice of noncompliance.

Sec. 22. NRS 231A.300 is hereby amended to read as follows:

231A.300 1. Once certified under subsection 3 of NRS 231A.230, a qualified equity investment *or impact qualified equity investment* may not be decertified unless all the requirements of subsection 2 have been met. Until all qualified equity investments *or impact qualified equity investments* issued by a qualified community development entity *or impact qualified community development entity* are decertified under this section, the qualified community development entity *or impact qualified community development entity* is not entitled to distribute to its equity holders or make cash payments on long-term debt securities that have been designated as qualified equity investments *or impact qualified equity investments* in an amount that exceeds the sum of:

(a) The cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, earned by the qualified community development entity *or impact qualified community development entity* since issuance of the qualified equity investment *or impact qualified equity investment* before giving effect to any interest expense from the long-term debt securities designated as qualified equity investments *or impact qualified equity investments*; and

(b) Fifty percent of the purchase price of the qualified equity investments *or impact qualified equity investments* issued by the qualified community development entity *or impact qualified community development entity*.

2. To be decertified, a qualified equity investment *or impact qualified equity investment* must:

(a) Be beyond its seventh credit allowance date;

(b) Have been in compliance with NRS 231A.250 through its seventh credit allowance date, including coming into compliance during any cure period allowed pursuant to NRS 231A.260; and

(c) Have had its proceeds invested in qualified active low-income community investments such that the total qualified active low-income community investments made, cumulatively including reinvestments, exceeds 150 percent of its qualified equity investment *or impact qualified equity investment*.

3. A qualified community development entity *or impact qualified community development entity* that seeks to have a qualified equity investment *or impact qualified equity investment* decertified pursuant to this section must send notice to the



Department of its request for decertification together with evidence supporting the request. The provisions of paragraph (b) of subsection 2 shall be deemed to be met if no recapture action has been commenced by the Department as of the seventh credit allowance date. The Department shall respond to such a request within 30 days after receiving the request. Such a request must not be unreasonably denied. If the request is denied for any reason, the burden of proof is on the Department in any subsequent administrative or legal proceeding.

Sec. 23. NRS 231A.310 is hereby amended to read as follows:

231A.310 A qualified community development entity *or impact qualified community development entity* is not entitled to pay to any affiliate of the qualified community development entity *or impact qualified community development entity* any fees in connection with any activity under this chapter before decertification pursuant to NRS 231A.300 of all qualified equity investments *or qualified equity investments* issued by the qualified community development entity ~~+~~ *or impact qualified community development entity*. This section does not prohibit a qualified community development entity *or impact qualified community development entity* from allocating or distributing income earned by it to such affiliates or paying reasonable interest on amounts loaned to the qualified community development entity *or impact qualified community development entity* by those affiliates.

Sec. 24. NRS 231A.320 is hereby amended to read as follows:

231A.320 1. The Director shall conduct an annual review of each qualified community development entity *and impact qualified community development entity* that has been granted an application for a qualified equity investment *or impact qualified equity investment* pursuant to NRS 231A.230 to ensure that:

(a) The qualified community development entity *or impact qualified community development entity* remains in compliance with the provisions of this chapter and any regulations adopted pursuant thereto; and

(b) Any qualified equity investment *or impact qualified equity investment* certified pursuant to NRS 231A.230 meets the eligibility criteria prescribed in this chapter and any regulations adopted pursuant thereto.

2. On June 30 of each even-numbered year, the Director shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The report must include, for each qualified equity investment *and impact qualified equity investment* certified pursuant to NRS 231A.230:



(a) Information on the impact of the qualified equity investment *or impact qualified equity investment* on the economy of this State, including, without limitation, the number of jobs created by the qualified equity investment ~~;~~ *or impact qualified equity investment*; and

(b) Proof that the qualified community development entity *or impact qualified community development entity* responsible for the qualified equity investment *or impact qualified equity investment* is in compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

Sec. 25. NRS 680B.0365 is hereby amended to read as follows:

680B.0365 Each insurer that makes a qualified equity investment, as defined in NRS 231A.130, *or impact qualified equity investment, as defined in section 4 of this act*, or is allocated a credit pursuant to NRS 231A.210 is entitled to a credit against the premium tax in the manner provided in NRS 231A.200.

Sec. 25.5. 1. There is hereby appropriated from the State General Fund to the Department of Business and Industry for the Business and Industry Administration budget account for personnel, operating and travel costs to carry out the provisions of this act the following sums:

For the Fiscal Year 2023-2024 \$103,135
For the Fiscal Year 2024-2025 \$99,665

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2024, and September 19, 2025, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2024, and September 19, 2025, respectively.

Sec. 26. This act becomes effective on July 1, 2023.



**ADOPTED TEMPORARY REGULATION OF THE
DIRECTOR OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB FILE NO. T004-20A

**The following document is an adopted temporary regulation submitted
by the agency on 10/27/2020**

SECRETARY OF STATE
FILING DATA

FILED.NV.SOS
2020 OCT 12 PM3:41

**Form for Filing
Administrative Regulations**

Agency

Nevada Department of Business and Industry

FOR EMERGENCY
REGULATIONS ONLY

Effective date / /2020

Effective date / /2020

Governor's Signature

Classification: PROPOSED

TEMPORARY
ADOPTED BY AGENCY

EMERGENCY

Brief description of action.

The Nevada Department of Business and Industry, New Market Tax Credits Program, is clarifying NRS 231A.140 in regard to capital or equity investment loans to be made directly or indirectly to a Qualified Low-Income Business.

Authority citation other than 233B, NRS 231A.150

Notice Date September 10, 2020

Date of Adoption by Agency August 1, 2020

STEVE SISOLAK
Governor

STATE OF NEVADA

TERRY J. REYNOLDS
Director



**DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR**

NOTICE OF ADOPTION OF TEMPORARY REGULATION

The Department of Business and Industry (B&I) adopted temporary regulations to administer the Nevada New Markets Jobs Act. This notice is provided in compliance with NRS 241.020 and 233B.061. A copy of the regulation as adopted is attached hereto.

Name of Organizations: Department of Business and Industry

Date and Time: September 10, 2020; 4:00 pm

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

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

AUTHORITY:§1 NRS 231A.150.

A TEMPORARY REGULATION revising provisions of the Nevada New Markets Jobs Act to facilitate the creation of a Qualified Low-Income Community Investment by allowing a capital, equity investment or loan to be made directly or indirectly to a Qualified Low-Income Community Business and providing other matters properly relating thereto.

Section 1. *1. For the purposes of NRS 231A.140, a capital or equity investment or loan may be made directly or indirectly to a qualified active low-income community business through one or more special purpose entity.*

2. A special purpose entity may not pay any fees in connection with any activity associated with the qualified low-income community investment.

3. For the purposes of this section, a “special purpose entity” means an entity created solely for the purpose to make or otherwise facilitate qualified low-income community investments in a qualified active low-income community business.

Sec. 2. This regulation applies retroactively to a qualified low-income community investment made on or before the effective date of this regulation.

Informational Statement for the Temporary Regulation to the Nevada New Markets Jobs Act

1. Explanation of the need for the proposed temporary regulation.

The New Markets Jobs Act (NRS321A) addresses the critical need for access to capital for Nevada businesses in low-income areas by providing below market rate loans. This temporary regulation delineates the administrative requirements of NRS 231A New Markets Job Act. It allows the equity investment or loan to be made indirectly to a qualified active low-income community business through one or more special purpose entities.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed temporary regulation, notices of workshop and notices of intent to act upon the adopted temporary regulations promulgated under NRS 231A were posted to Nevada Public Notice website: www.notice.nv.gov and Department of Business & Industry website: www.business.nv.gov

Pursuant to Governor Sisolak's March 22, 2020 Declaration of Emergency Directive 006, requirement contained in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Corona Virus). Accordingly, the workshop and hearing were held via videoconference.

A workshop was held pursuant to NRS 233B.061 on July 2, 2020 and a list of attendees and minutes of that meeting, attached hereto, contain a summary of the discussion held regarding the proposed regulations.

A public hearing was held on July 23rd, 2020. At that hearing public comments were solicited but no concerns were raised. The minutes of that meeting and attendance list is attached hereto.

Additional copies of this summary of the public response to the adopted temporary regulation may be obtained from the Department of Business and Industry by contacting Karen Schnog at (702) 486-3755 or email at kschnog@business.nv.gov.

3. The number of persons who:

(a) Attended each hearing: July 2, 2020: 29; July 23, 2020: 16

(b) Testified at each hearing: July 2, 2020: 1; July 23, 2020: 0

(c) Submitted to the agency written comments: Written comments were received from Ballard-Spahr and attached hereto as Exhibit B.

- 4. A list of names and contact information, including telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.**
- 5. A description of how comments were solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

These temporary regulations promulgated under NRS 231A facilitate and helps meet the critical need for access to capital for businesses in Low-Income Areas by providing them the ability to get below-market rate loans.

- 7. The estimated economic effect of the regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - (a) Both adverse and beneficial effects; and**
 - (b) Both immediate and long-term effects.**

- 1. The estimated economic effect of the regulation on the businesses, which it is to regulate:**

- a. Adverse effect:
 - i. Immediate effect - No adverse effect due to the promulgation of this temporary regulation.
 - ii. Long-term effect - No adverse effect due to the promulgation of this temporary regulation.
- b. Beneficial effect:
 - i. Immediate effect – Qualified Active Low-Income Community Businesses will be able to access below market rate loans. These loans will help them expand their business.
 - ii. Long-term effect – Qualified Active Low-Income Community Businesses will have below market rate loans to provide operating capital to grow and expand their businesses. They will be able to hire more employees.

- 2. The estimated economic effect of the regulation on the public:**

- a. Adverse effect:
 - i. Immediate effect - No adverse effect due to the promulgation of this temporary regulation.
 - ii. Long-term effect - No adverse effect due to the promulgation of this temporary regulation.

b. Beneficial effect:

i. Immediate effect – The public may become aware of low-interest loans for businesses in low-income areas and notice businesses are investing new operating capital to expand and grow.

ii. Long-term effect – With Qualified Active Low-Income Community Businesses having below market rate loans to help them grow and expand, the public will likely notice businesses are growing and more people are working.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this temporary regulation.

9. A description of any regulations of other state or government agencies of which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

10. Does the regulation include provisions that are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

N/A

11. Does the regulation provide a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

N/A

Exhibit A – Minutes of Workshop/Hearings and Attendees

Sign-in for Workshop on Temporary Regulation to the NMJA (NRS231A)
July 2, 2020 at 11:00 AM

Attendee	Company	Email	Phone
Karen Schnog	MA, B&I	kschnog@business.nv.gov	702-486-2750
Terry Reynolds	Director, B&I	on file	775-684-2920
Budd Milazzo	Deputy Director, B&I	on file	775-684-2920
Marcel Schaeerer	Deputy Director, B&I	on file	702-486-2750
Emily Ku	MA, B&I	on file	702-486-2750
Leslie Olson	Exec. Sec. B&I	on file	775-684-2920
Jennifer Ramsay	Financial Institutions Division	on file	702-486-2750
Mary Young	Financial Institutions Division	on file	702-486-2750
Chris Weiss	MA, B&I	on file	702-486-2750
Grant Reynolds	IT, B&I	on file	775-684-2920
Ted Hendricks	IT, B&I	on file	775-684-2920
Brian Sagert	Clearinghouse CDFI	brians@ccdfi.com	702-423-8555
Cindy Berg	Central States Development Partners	cberg@centralstates.us.com	309-794-6711
Clifford Kenwood	AMCREF Community Capital	cliff@amcref.com	on file
Jay Harrison	Clearinghouse CDFI	jayh@ccdfi.com	949-528-3069
John Hownack	Hampton Roads Ventures, LLC	jkownack@hamptonroadsventures.com	757-937-6830
Mark Scheffel	Advantage Capital	mscheffel@advantagecap.com	on file
Mendy Elliot	Capitol Partners	mendy@capitolpartners.us	on file
Mike	Value Advisor fund	mike.kewatwaski@bakertilly.com	262-853-7542
Nick Vander Poel	Capitol Partners	nick@capitolpartners.us	702-324-8781
Phil Aftuck	Consortium	Phil Aftuck < paftuck@tbco.biz >	on file
Robert Kim	Ballard Spahr LLP	kimr@ballardspahr.com	702-580-3521
Robin Stewart	United Fund Advisors	robin@unitedfundadvisors.com	(503) 546-2631
Shelly	United Fund Advisors	shelly@unitedfundadvisors.com	on file
Shelley Whittington	Stonehenge Community Development	sgwhittington@stonehengecapital.com	on file
Teresa Miranda	Prestamos CDFI	teresa.miranda@cplc.org	602) 257-6757,
Elizabeth Leathers	HRV	eleathers@hamptonroseventures.com	757-962-1531
Sandy O'Laughlin	Comissioner, Financial Institutions Division	solaughlin@fid.state.nv.us	on file
Ryan Congrove	Stonehenge Capital Company	rjcongrove@stonehengecapital.com	(614) 545-7248

WORKSHOP TO ADDRESS THE IMPACT OF THE PROPOSED
TEMPORARY REGULATION ON NRS 231A NEW MARKETS JOBS ACT.

MINUTES JULY 2, 2020 WORKSHOP

Due to Covid-19 this meeting was held via WebEx in accordance with Governor Sisolak's Directive 006. As such, a power point presentation was used during the meeting and can be found at the end of this document as Exhibit 1. The sign-in sheet for all attendees can be seen at the end of this document as Exhibit 2. Letters received by the department are at the end of this document as Exhibit 3.

Those conducting the meeting included:

- Terry Reynolds – Director of the Department of Business and Industry (B&I)
- Karen Schnog - Management Analyst, Director's office B&I, who oversees the NMJA

Emily Ku - Meeting Coordinator, Management Analyst, Director's office B&I

11:00 AM The workshop was called to order by Director Terry Reynolds, Department of Business and Industry.

Karen Schnog reviewed protocols for participating in the WebEx meeting and asked all participants to type their name, company, and contact information (phone and email) in to the chat box. For those joining by phone each were unmuted and their information was recorded. (see sign-in sheet)

The meeting agenda was reviewed.

The meeting was opened for Public Comments not pertaining directly to the regulations.

No comments were received.

The Temporary Regulation was read out loud in its' entirety.

In summary the purpose of this temporary regulation is to facilitate investments of NMJA funds into qualified businesses.

Director Reynolds pointed out that this temporary regulation is exactly the same as the one enacted in the 2013 round of NMJA.

One letter was received prior to the workshop on 6/29/2020 from Robert Kim of Ballard Spahr Law Firm (Exhibit 3).

Robert Kim reviewed the purpose of the letter which was to specify that the temporary regulation was consistent with and does not change the statute with respect to fees paid to affiliates outlined in the permanent regulations.

Director Reynolds thanked Mr. Kim and commented on the letter stating the department believes the temporary regulation is consistent with the fees outlined in the statute. He also stated that approval will be given for transactions closing prior to the adoption of the regulation as requested by Ballard Spahr. Reaffirming the last section of the temporary regulation, that it applies retroactively.

The meeting was opened for additional public comments regarding the temporary regulation, no additional comments were made.

The meeting was then opened to general public comments and none were made.

The meeting was closed by thanking all participants, providing website information and contact information for Karen Schnog and noting that the hearing to adopt the temporary regulation will be held at 10:30 AM on July 23, 2020.

11:18 AM Meeting Adjourned.

Sign-in for Hearing on Temporary Regulation to the NMJA (NRS231A)			
July 23, 2020 at 10:30 AM			
Attendee	Company	Email	Phone
Karen Schnog	MA, B&I	kschnog@business.nv.gov	702-486-2750
Terry Reynolds	Director, B&I	on file	775-684-2920
Marcel Schaerer	Deputy Director, B&I	on file	702-486-2750
Emily Ku	MA, B&I	on file	702-486-2750
Leslie Olson	Exec. Sec. B&I	on file	775-684-2920
Chris Weiss	MA, B&I	on file	702-486-2750
Cindy Berg	Central States Development Partners	cberg@centralstates.us.com	309-794-6711
Jay Harrison	Clearinghouse CDFI	jayh@ccdfi.com	949-528-3069
Mark Scheffel	Advantage Capital	mscheffel@advantagecap.com	on file
Robin Stewart	United Fund Advisors	robin@unitedfundadvisors.com	(503) 546-2631
Teresa Miranda	Prestamos CDFI	teresa.miranda@cplc.org	602) 257-6757,
Elizabeth Leathers	HRV	eleathers@hamptonroseventur	757-962-1531
Leah Hendricks	Advantage Capital	lhendricks@advantagecap.com	775-409-3266
Jabari Johnson	Bernstein Companies	jjohnson@tbco.biz	202-448-0142
David Castillo	Prestamos CDFI	David.Castillo@cplc.org	602-257-6750
Colleen Platt	Platt Law Group	Colleen.Platt <plattlawgroup@outlook.com>	

**HEARING TO ADOPT THE TEMPORARY REGULATION ON
NRS 231A NEW MARKETS JOBS ACT.
MINUTES JULY 23, 2020 HEARING**

Due to Covid-19 this meeting was held via WebEx in accordance with Governor Sisolak's Directive 006. As such, a power point presentation was used during the meeting and can be found at the end of this document as Exhibit 1. The sign-in sheet for all attendees can be seen at the end of this document as Exhibit 2. Letters received by the department are at the end of this document as Exhibit 3.

Those conducting the meeting included:

Terry Reynolds – Director of the Department of Business and Industry (B&I)
Karen Schnog - Management Analyst, Director's office B&I, who oversees the NMJA
Emily Ku - Meeting Coordinator, Management Analyst, Director's office B&I
Coleen Platt – Legal Council for the NMJA for the Department

10:30 AM The meeting was called to order by Director Terry Reynolds, Department of Business and Industry.

Karen Schnog reviewed protocols for participating in the WebEx meeting and asked all participants to type their name, company, and contact information (phone and email) into the chat box. For those joining by phone they were unmuted, and their information was recorded. (see sign-in sheet, Exhibit 2 below)

The meeting agenda was reviewed.

The meeting was opened for Public Comments not pertaining directly to the regulations.

No comments were received.

The Temporary Regulation was read out loud in its' entirety.

In summary the purpose of this temporary regulation is to facilitate investments of NMJA funds into qualified businesses.

Director Reynolds noted that this temporary regulation is exactly the same as the one enacted in the 2013 round of NMJA.

One letter was received prior to the workshop on 6/29/2020 from Robert Kim of Ballard Spahr Law Firm (Exhibit 3). No other comments or letters were received on or before the Hearing.

Director Reynolds noted the letter and stated we would not be making changes to the regulation based on the comments and thanked Mr. Kim for the comments.

The meeting was opened for additional public comments regarding the temporary regulation, no additional comments were made.

The meeting was then opened to general public comments and none were made.

Director Reynolds stated the regulation was officially adopted.

Colleen Platt requested that we open the meeting for general public comment a second time to follow open meeting law.

The meeting was open for public comment. No comment was received.

The meeting was closed by thanking all participants.

10:48 AM Meeting Adjourned.

Exhibit B – Letter from Ballard Spahr

Ballard Spahr LLP

One Summerlin
1980 Festival Plaza Drive, Suite 900
Las Vegas, NV 89135-2953
TEL 702.471.7000
FAX 702.471.7070
www.ballardspahr.com

Robert C. Kim
Direct: 702.868.7512
kimr@ballardspahr.com

June 29, 2020

Via Email (TReynolds@business.nv.gov)

Terry J. Reynolds, Director
Nevada Department of Business and Industry
1830 College Parkway, Suite 100
Carson City, NV 89706

Re: **Comments to Proposed Temporary Regulation dated May 28, 2020**

Mr. Reynolds:

The purpose of this letter is to provide comments to the proposed temporary regulation dated May 28, 2020 (the "Proposed Regulation") with respect to the language of Section 1(2) of the Proposed Regulation.

NRS 231A.150 provides that the Director may adopt regulations to carry out the provisions of NRS Chapter 231A. To this end, the Proposed Regulation provides clarification as to equity investments or loans so as to acknowledge that such equity investments or loans can be made either directly or indirectly to the qualified active low-income community business (the "QALICB") through one or more special purpose entities.

The Proposed Regulation is identical to the temporary regulation previously adopted by the Nevada Department of Business and Industry and is meant to facilitate New Markets Tax Credit ("NMTC") transactions that utilize both state and federal tax credits, i.e., a stacked state/federal NMTC transaction. These stacked state/federal NMTC transactions generally involve one or more federal sub-community development entities ("CDEs") and one or more federal investment funds that are a part of the flow of funds that constitute one or more qualified low income community investments (each, a "QLICI") in the QALICB. The support for such stacked state/federal NMTC transactions was further demonstrated through the adoption of NRS 231A.245 during the 2019 Nevada Legislative Session.

Based on the foregoing, we are submitting this letter to confirm the interpretation of Section 1(2) of the Proposed Regulation such that the limitation to the payment of fees is a limitation on the payment of fees to the affiliate of the special purpose entity. This interpretation is appropriate for the following reasons: