

Amendment No. 386

Senate Amendment to Senate Bill No. 240	(BDR 18-792)
<b>Proposed by:</b> Senate Committee on Revenue and Economic Development	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of S.B. 240 (§§ 16, 21).
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ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date	
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____

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

JFD/BJF



Date: 4/24/2023

S.B. No. 240—Revises provisions relating to the Nevada New Markets Jobs Act. (BDR 18-792)





## SENATE BILL NO. 240—SENATOR NEAL

MARCH 9, 2023

Referred to Committee on Revenue and  
Economic DevelopmentSUMMARY—Revises provisions relating to the Nevada New Markets Jobs Act.  
(BDR 18-792)FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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

AN ACT relating to 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; 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) ~~[[This]]~~ **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.

**Section 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 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**

27 define terms related to the tax credit for investments in impact qualified community  
28 development entities.

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

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

3 Sec. 2. "Impact qualified active low-income community business" means a  
4 qualified active low-income community business as that term is defined in section  
5 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, and 26 C.F.R. §  
6 1.45D-1, except that term is limited to those businesses specified in section 7 of  
7 this act.

8 Sec. 3. "Impact qualified community development entity" means:

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

12 2. A qualified community development entity that complies with NRS  
13 221A.180; or

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

17 Sec. 4. 1. "Impact qualified equity investment" means any equity  
18 investment in, or long-term debt security issued by, an impact qualified  
19 community development entity that:

20 (a) Except as otherwise provided in this section, is acquired after July 1,  
21 2024, solely in exchange for cash at the original issuance of the equity  
22 investment;

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

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

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

33 Sec. 5. "Principal business operations" means the physical location of a  
34 business where at least 60 percent of the employees of the business work.

35 Sec. 6. A business that agrees to use the proceeds of a qualified low-income  
36 community investment to establish principal business operations in this State  
37 shall be deemed to have its principal business operations in this State if, within  
38 180 days after receiving the qualified low-income community investment or such  
39 other time as agreed to in writing by the business and the Department, the  
40 business has a physical location in this State where at least 60 percent of the  
41 employees of the business work.

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

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

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

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

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

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

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

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

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

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

27 (c) A business engaged in banking or lending.

28 (d) A massage parlor.

29 (e) A bath house.

30 (f) A tanning salon.

31 (g) A country club.

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

34 (i) A liquor store.

35 (j) A golf course.

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

43 (a) Within the period required by this subsection:

44 (1) Any agreement entered into by the business and the Office of  
45 Economic Development pursuant to NRS 274.310, 274.320, 274.330, 360.750,  
46 360.753 or 360.754 is void; and

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

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

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

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

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

6        231A.040 “Applicable percentage” means :

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

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

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

14        231A.050 “Credit allowance date” means, with respect to any qualified equity  
15 investment **or impact qualified equity investment:**

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

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

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

20        231A.100 “Purchase price” means the amount paid to the issuer of a qualified  
21 equity investment **or impact qualified equity investment** for the qualified equity  
22 investment **or impact qualified equity investment.**

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

24        231A.140 “Qualified low-income community investment” means any capital  
25 or equity investment in, or loan to, any qualified active low-income community  
26 business **or impact qualified active low-income community business.**

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

28        231A.160 To qualify as long-term debt security, a debt instrument must be  
29 issued by a qualified community development entity **or impact qualified**  
30 **community development entity,** at par value or a premium, with an original  
31 maturity date of at least 7 years after the date of its issuance, with no acceleration of  
32 repayment, amortization or prepayment features before its original maturity date.  
33 The qualified community development entity **or impact qualified community**  
34 **development entity** that issues the debt instrument must not make interest payments  
35 in the form of cash on the debt instrument during the period beginning on the date  
36 of issuance and ending on the final credit allowance date in an amount that exceeds  
37 the cumulative operating income, as defined by regulations adopted under section  
38 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, of the qualified  
39 community development entity **or impact qualified community development entity**  
40 for that period before giving effect to the interest expense of the long-term debt  
41 security. This section does not limit the holder’s ability to accelerate payments on  
42 the debt instrument in situations in which the issuer has defaulted on covenants  
43 designed to ensure compliance with this chapter or section 45D of the Internal  
44 Revenue Code of 1986, 26 U.S.C. § 45D.

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

46        231A.200 An entity that makes a qualified equity investment **or impact**  
47 **qualified equity investment** earns a vested right to credit against the entity’s  
48 liability for insurance premium tax on a premium tax report filed pursuant to NRS  
49 680B.030 that may be used as follows:

50        1. Except as otherwise provided in this subsection, on each credit allowance  
51 date of the qualified equity investment **or impact qualified equity investment,**  
52 the entity, or the subsequent holder of the qualified equity investment **or impact**  
53 **qualified equity investment,** is entitled to use a portion of the credit during the

1 taxable year that includes the credit allowance date. If an entity makes a ~~qualified~~  
2 ~~:~~

3 (a) Qualified equity investment on or after July 1, 2019, but before July 1,  
4 2024, the entity may not use any portion of the credit against the entity's liability  
5 for insurance premium tax for any period beginning before July 1, 2021.

6 (b) Qualified equity investment or impact qualified equity investment on or  
7 after July 1, 2024, the entity may not use any portion of the credit against the  
8 entity's liability for insurance premium tax for any period beginning before July  
9 1, 2026.

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

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

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

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

25 **Sec. 15. NRS 231A.220 is hereby amended to read as follows:**

26 231A.220 1. An insurer or an affiliate of an insurer may not:

27 (a) Manage a qualified community development entity ~~or impact qualified~~  
28 ~~community development entity;~~ or

29 (b) Control the direction of equity investments for a qualified community  
30 development entity ~~or impact qualified community development entity.~~

31 2. The provisions of subsection 1 apply to any entity described in subsection  
32 1 regardless of whether the entity does business in this State.

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

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

42 5. For the purposes of this section:

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

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

46 ~~[Section 1.]~~ **Sec. 16. NRS 231A.230 is hereby amended to read as follows:**

47 231A.230 1. A qualified community development entity ~~or impact~~  
48 ~~qualified community development entity~~ that seeks to have an equity investment or  
49 long-term debt security designated as a qualified equity investment ~~or impact~~  
50 ~~qualified equity investment~~ and eligible for tax credits under this chapter must  
51 apply to the Department for that designation. An application submitted by a  
52 qualified community development entity ~~or impact qualified community~~  
53 ~~development entity~~ must include the following:

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

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

5 ~~(1)~~ (2) A copy of an allocation agreement executed by the applicant, or its  
 6 controlling entity, and the Community Development Financial Institutions Fund of  
 7 the United States Department of the Treasury which includes the State of Nevada in  
 8 the service area set forth in the allocation agreement.

9 ~~(2)~~ (3) A certificate executed by an executive officer of the applicant:

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

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

15 ~~(3)~~ (b) If the application is for the designation of an equity investment or  
 16 long-term debt security as an impact qualified equity investment:

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

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

22 (c) A description of the proposed amount, structure and purchaser of the  
 23 qualified equity investment ~~or~~ or impact qualified equity investment.

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

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

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

36 ~~(7)~~ (g) The refundable performance fee required by subsection 1 of NRS  
 37 231A.270.

38 2. Within 30 days after receipt of a completed application containing the  
 39 information set forth in subsection 1, including the payment of the application fee  
 40 and the refundable performance fee, the Department shall grant or deny the  
 41 application in full or in part. If the Department denies any part of the application, it  
 42 shall inform the qualified community development entity or impact qualified  
 43 community development entity of the grounds for the denial. If the qualified  
 44 community development entity or impact qualified community development entity  
 45 provides any additional information required by the Department or otherwise  
 46 completes its application within 15 days after the date of the notice of denial, the  
 47 application must be considered complete as of the original date of submission. If  
 48 the qualified community development entity or impact qualified community  
 49 development entity fails to provide the information or complete its application  
 50 within the 15-day period, the application remains denied and must be resubmitted  
 51 in full with a new date of submission.

52 3. If the application is complete, the Department shall certify the proposed  
 53 equity investment or long-term debt security as a qualified equity investment or



1 impact qualified equity investment that is eligible for tax credits under this chapter,  
 2 subject to the limitations contained in subsection 5 ~~or 6~~. The Department shall  
 3 provide written notice of the certification to the qualified community development  
 4 entity ~~or impact qualified community development entity~~. The notice must  
 5 include the names of those entities who will earn the credits and their respective  
 6 credit amounts. If the names of the entities that are eligible to use the credits change  
 7 as the result of a transfer of a qualified equity investment or impact qualified equity  
 8 investment or an allocation pursuant to NRS 231A.210, the qualified community  
 9 development entity or impact qualified community development entity shall notify  
 10 the Department of the change.

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

22 5. The Department:

23 (a) Shall certify \$200,000,000 in qualified equity investments before July 1,  
 24 2019, ~~and~~ \$200,000,000 in qualified equity investments on or after July 1, 2019  
 25 ~~;~~ and ~~[\$200,000,000]~~ \$170,000,000 in qualified equity investments on or after  
 26 July 1, [2026] 2024;

27 (b) Shall not certify any single qualified equity investment of less than  
 28 \$8,000,000 ~~and~~, except as provided in paragraph (d);

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

32 ~~;~~ and  
 33 (d) If a pending request cannot be fully certified because of ~~those~~ the limits ~~of~~  
 34 ~~the Department]~~ set forth in this subsection, shall certify the portion that may be  
 35 certified unless the qualified community development entity elects to withdraw its  
 36 request rather than receive partial certification.

37 6. The Department:

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

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

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

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

1 ~~¶7~~ 8. Within 30 days after the applicant receives notice of certification, the  
2 qualified community development entity, impact qualified community  
3 development entity or any transferee pursuant to subsection ~~¶7~~ shall issue the  
4 qualified equity investment or impact qualified equity investment and receive cash  
5 in the amount certified by the Department. The qualified community development  
6 entity, impact qualified community development entity or transferee under  
7 subsection ~~¶7~~ must provide the Department with evidence of the receipt of the  
8 cash investment within 10 business days after receipt. If the qualified community  
9 development entity, impact qualified community development entity or any  
10 transferee under subsection ~~¶7~~ does not receive the cash investment and issue the  
11 qualified equity investment or impact qualified equity investment within 30 days  
12 after receipt of the notice of certification, the certification lapses and the entity may  
13 not issue the qualified equity investment or impact qualified equity investment  
14 without reapplying to the Department for certification. Lapsed certifications revert  
15 back to the Department and must be reissued, first, pro rata to other applicants  
16 whose qualified equity investment or impact qualified equity investment  
17 allocations were reduced pursuant to subsection 4 and, thereafter, in accordance  
18 with requirements for submitting the application.

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

20 231A.240 1. A qualified community development entity which issues  
21 qualified equity investments under this chapter shall make qualified low-income  
22 community investments in businesses located in severely distressed census tracts,  
23 on a combined basis with all of its affiliated qualified community development  
24 entities that have issued qualified equity investments under this chapter, in an  
25 amount equal to at least 30 percent of the purchase price of all qualified equity  
26 investments issued by such entities.

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

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

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

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

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

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

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

47 231A.245 1. A qualified community development entity or impact  
48 qualified community development entity may make a qualified low-income  
49 community investment jointly with one or more other qualified community  
50 development entities, ~~¶~~ or impact qualified community development entities.

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

1 (a) The purchase price of a qualified equity investment ~~is~~ or impact qualified  
2 equity investment;

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

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

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

9 231A.250 Except as otherwise provided in NRS 231A.260, the Department  
10 shall recapture, from the entity that claimed the credit on a return, the tax credit  
11 allowed under this chapter if:

12 1. Any amount of a federal tax credit available with respect to a qualified  
13 equity investment or impact qualified equity investment that is eligible for a credit  
14 under this chapter is recaptured under section 45D of the Internal Revenue Code of  
15 1986, 26 U.S.C. § 45D. In such a case, the Department's recapture must be  
16 proportionate to the federal recapture with respect to the qualified equity  
17 investment ~~is~~ or impact qualified equity investment.

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

24 3. The issuer fails to invest an amount equal to 85 percent of the purchase  
25 price of the qualified equity investment or impact qualified equity investment  
26 in qualified low-income community investments in this State within 12 months after  
27 the issuance of the qualified equity investment or impact qualified equity  
28 investment and maintain at least an 85-percent level of investment in qualified low-  
29 income community investments in the State until the last credit allowance date for  
30 the qualified equity investment ~~is~~ or impact qualified equity investment. For the  
31 purposes of this chapter, an investment shall be deemed held by an issuer even if  
32 the investment has been sold or repaid if the issuer reinvests an amount equal to the  
33 capital returned to or recovered by the issuer from the original investment,  
34 exclusive of any profits realized, in another qualified low-income community  
35 investment within 12 months after the receipt of such capital. An issuer is not  
36 required to reinvest capital returned from qualified low-income community  
37 investments after the earlier of:

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

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

49 4. At any time before the final credit allowance date of a qualified equity  
50 investment ~~is~~ or impact qualified equity investment, the issuer uses the cash  
51 proceeds of the qualified equity investment or impact qualified equity investment  
52 to make qualified low-income community investments in any one qualified active  
53 low-income community business ~~is~~ impact qualified active low-income

1 community business, including affiliated qualified active low-income community  
2 businesses ~~or impact qualified active low-income community businesses~~,  
3 exclusive of reinvestments of capital returned or repaid with respect to earlier  
4 investments in the qualified active low-income community business or impact  
5 qualified active low-income community business and its affiliates, in excess of 25  
6 percent of those cash proceeds.

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

10 **Sec. 20. NRS 231A.260 is hereby amended to read as follows:**

11 231A.260 Enforcement of each of the recapture provisions set forth in NRS  
12 231A.250 is subject to a 6-month cure period. No recapture may occur until the  
13 qualified community development entity or impact qualified community  
14 development entity has been given notice of noncompliance and afforded 6 months  
15 after the date of the notice to cure the noncompliance.

16 **Sec. 21. NRS 231A.270 is hereby amended to read as follows:**

17 231A.270 1. A qualified community development entity or impact  
18 qualified community development entity that seeks to have an equity investment or  
19 long-term debt security designated as a qualified equity investment or impact  
20 qualified equity investment and eligible for tax credits under this chapter must pay  
21 a fee in the amount of 0.5 percent of the amount of the equity investment or long-  
22 term debt security requested to be designated as a qualified equity investment or  
23 impact qualified equity investment to the Department. The fee must be deposited in  
24 the New Markets Performance Guarantee Account, which is hereby created in the  
25 State General Fund. The entity forfeits the fee in its entirety if:

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

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

41 2. The fee required pursuant to subsection 1 must be paid to the Department  
42 and held in the New Markets Performance Guarantee Account until such time as  
43 compliance with the provisions of subsection 1 has been established. The qualified  
44 community development entity or impact qualified community development entity  
45 may request a refund of the fee from the Department no sooner than 30 days after  
46 having met all the requirements of subsection 1. The Department shall refund the  
47 fee within 30 days after such a request or being given notice of noncompliance.

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

49 231A.300 1. Once certified under subsection 3 of NRS 231A.230, a  
50 qualified equity investment or impact qualified equity investment may not be  
51 decertified unless all the requirements of subsection 2 have been met. Until all  
52 qualified equity investments or impact qualified equity investments issued by a  
53 qualified community development entity or impact qualified community

1 development entity are decertified under this section, the qualified community  
2 development entity or impact qualified community development entity is not  
3 entitled to distribute to its equity holders or make cash payments on long-term debt  
4 securities that have been designated as qualified equity investments or impact  
5 qualified equity investments in an amount that exceeds the sum of:

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

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

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

18 (a) Be beyond its seventh credit allowance date;

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

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

26 3. A qualified community development entity or impact qualified community  
27 development entity that seeks to have a qualified equity investment or impact  
28 qualified equity investment decertified pursuant to this section must send notice to  
29 the Department of its request for decertification together with evidence supporting  
30 the request. The provisions of paragraph (b) of subsection 2 shall be deemed to be  
31 met if no recapture action has been commenced by the Department as of the  
32 seventh credit allowance date. The Department shall respond to such a request  
33 within 30 days after receiving the request. Such a request must not be unreasonably  
34 denied. If the request is denied for any reason, the burden of proof is on the  
35 Department in any subsequent administrative or legal proceeding.

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

37 231A.310 A qualified community development entity or impact qualified  
38 community development entity is not entitled to pay to any affiliate of the qualified  
39 community development entity or impact qualified community development entity  
40 any fees in connection with any activity under this chapter before decertification  
41 pursuant to NRS 231A.300 of all qualified equity investments or qualified equity  
42 investments issued by the qualified community development entity ~~or~~ or impact  
43 qualified community development entity. This section does not prohibit a qualified  
44 community development entity or impact qualified community development entity  
45 from allocating or distributing income earned by it to such affiliates or paying  
46 reasonable interest on amounts loaned to the qualified community development  
47 entity or impact qualified community development entity by those affiliates.

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

49 231A.320 1. The Director shall conduct an annual review of each qualified  
50 community development entity and impact qualified community development  
51 entity that has been granted an application for a qualified equity investment or  
52 impact qualified equity investment pursuant to NRS 231A.230 to ensure that:

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

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

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

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

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

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

20 680B.0365 Each insurer that makes a qualified equity investment, as defined  
21 in NRS 231A.130, or impact qualified equity investment, as defined in section 4  
22 of this act, or is allocated a credit pursuant to NRS 231A.210 is entitled to a credit  
23 against the premium tax in the manner provided in NRS 231A.200.

24 ~~[Sec. 2.]~~ **Sec. 26.** This act becomes effective on July 1, 2023.