

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 ~~[(b)]~~ *or impact qualified community development entity*; or

(b) Control the direction of equity investments for a qualified community development entity ~~[(b)]~~ *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 ~~[(b)]~~ *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~~ *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.



