

ASSEMBLY BILL NO. 189—ASSEMBLYMEN HORNE, ATKINSON, KIRKPATRICK, CONKLIN, OCEGUERA; AIZLEY, BOBZIEN, CARRILLO, DALY, DIAZ, DONDERO LOOP, FRIERSON, OHRENSCHALL, SEGERBLOM AND SMITH

FEBRUARY 18, 2011

Referred to Committee on Taxation

SUMMARY—Authorizes certain tax credits for qualified investments in Nevada small businesses. (BDR 32-804)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 taxation; requiring the Department of Taxation to allow tax credits for qualified investments in Nevada small businesses; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill requires the Department of Taxation to grant certain tax credits for
2 qualified investments in Nevada small businesses. **Section 4** of this bill defines a
3 “Nevada small business” for the purposes of this bill as an independently owned
4 and operated business that has annual gross receipts of less than \$2,000,000 and
5 employs fewer than 150 employees, at least 80 percent of whom must be employed
6 in this State. **Section 8** of this bill allows a qualified investment to be made either
7 directly in such a business or through certain financial organizations, specifies the
8 amount of the applicable tax credit and authorizes the application of the tax credit,
9 at the option of the person making the investment, against the investor’s liability for
10 the payment of sales and use taxes, the state taxes on financial institutions and other
11 businesses, and the state tax on insurance premiums. **Section 9** of this bill specifies
12 the types of investments that qualify for a tax credit, and requires that the
13 investment must remain in the Nevada small business for at least 5 years, the
14 operation of the business must be the full-time professional activity of the principal
15 owners of the business, the qualified investors must invest not less than \$5,000 and
16 not more than \$1,000,000 in the business, and the qualified investors must
17 collectively own less than 50 percent of the business after their investments are
18 made. **Section 10** of this bill authorizes the Department of Taxation to revoke and
19 require the repayment of a tax credit granted to a person who ceases to qualify for
20 the tax credit.



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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Blighted urban area” means an area in this State in a county whose population is 100,000 or more which is characterized by one or more of the following factors:*

1. The existence of buildings and structures, used or intended to be used for residential, commercial, industrial or other purposes, or any combination thereof, which are unfit or unsafe for those purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime because of one or more of the following factors:

(a) Defective design and character of physical construction.

(b) Faulty arrangement of the interior and spacing of buildings.

(c) Overcrowding.

(d) Inadequate provision for ventilation, light, sanitation, open spaces and recreational facilities.

(e) Age, obsolescence, deterioration, dilapidation, mixed character or shifting of uses.

2. An economic dislocation, deterioration or disuse, resulting from faulty planning.

3. The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.

4. The laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions.

5. The existence of inadequate streets, open spaces and utilities.

6. The existence of lots or other areas which may be submerged.

7. Prevalence of depreciated values, impaired investments and social and economic maladjustment to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered.



8. A growing or total lack of proper utilization of some parts of the area, resulting in a stagnant and unproductive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare.

9. A loss of population and a reduction of proper use of some parts of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

Sec. 4. "Nevada small business" means an independently owned and operated business that:

1. Receives less than \$2,000,000 in annual gross receipts;
2. Employs fewer than 150 full-time or part-time employees; and
3. Employs at least 80 percent of its employees in this State.

Sec. 5. "Principal owners" means the persons who own 50 percent or more of a Nevada small business and who are involved in the operation of the Nevada small business as a full-time professional activity.

Sec. 6. "Qualified financial organization" means:

1. Any development corporation that is authorized to do business in this State pursuant to chapter 670 of NRS;
2. Any corporation for economic revitalization and diversification that is authorized to do business in this State pursuant to chapter 670A of NRS;
3. Any banking organization that:
 - (a) Is authorized to do business in this State;
 - (b) Receives investments from commercial financial institutions regulated by the Federal Government or the Commissioner of Financial Institutions; and
 - (c) Makes loans to or equity investments in businesses in this State for the public benefit; or
4. Any nonprofit corporation that is authorized to do business in this State whose board of directors is composed of business and civic and community leaders, and whose primary purpose is to encourage and promote the industrial, economic, entrepreneurial, commercial and civic development or redevelopment of a community or area in this State, including the provision of housing and community development projects that benefit low-income families and communities.

Sec. 7. "Rural area" means an area in this State in a county whose population is less than 100,000.

Sec. 8. 1. Except as otherwise provided in sections 2 to 11, inclusive, of this act, the Department shall, upon application, grant to a person who makes a qualified investment in:

(a) A Nevada small business:



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1 (1) A tax credit equal to 40 percent of the amount of the
2 investment; or

3 (2) If the Nevada small business is located or will be located
4 in a rural area or an area that the Commission on Economic
5 Development determines to constitute a blighted urban area, a tax
6 credit equal to 60 percent of the amount of the investment; or

7 (b) A qualified financial organization for direct investment in
8 a Nevada small business, a tax credit equal to 50 percent of the
9 amount of the investment.

10 2. Except as otherwise provided in this section and
11 notwithstanding any other provision of law to the contrary, a tax
12 credit authorized by this section may be applied to satisfy any
13 liability of the person to whom the credit is granted for, at the
14 option of that person, the payment of any one or combination of
15 the sales and use taxes collected by the Department and the taxes
16 collected by the Department pursuant to chapters 363A, 363B and
17 680B of NRS which:

18 (a) Become due during the fiscal year in which the qualified
19 investment is made or in any of the next succeeding 9 fiscal years;
20 or

21 (b) If the pertinent Nevada small business is located or will be
22 located in a rural area or an area that the Commission on
23 Economic Development determines to constitute a blighted urban
24 area:

25 (1) Become due during any of the fiscal years specified in
26 paragraph (a); or

27 (2) Became due during either of the 2 fiscal years
28 immediately preceding the fiscal year in which the qualified
29 investment is made.

30 3. A tax credit authorized by this section may not be applied
31 to satisfy any liability of the person to whom the credit is granted
32 for:

33 (a) The payment of:

34 (1) Sales and use taxes collected by that person from any
35 other person;

36 (2) Any taxes regarding which the proceeds thereof have
37 been pledged pursuant to a specific statute to secure the payment
38 of any obligations of any local governmental entity or political
39 subdivision of this State;

40 (3) Any amount of taxes in excess of the amount of the
41 credit; or

42 (4) Any penalties or interest; or

43 (b) The repayment of any tax proceeds misappropriated by that
44 person.



1 4. A tax credit authorized by this section may not be applied
2 in any manner that would result in an overpayment of any taxes or
3 entitle any person to a refund of any taxes.

4 5. As used in this section, "sales and use taxes" means the
5 sales and use taxes imposed by or pursuant to chapters 372, 374,
6 374A and 376A to 377B, inclusive, of NRS, any other provision of
7 NRS and any special or local act of the Legislature.

8 **Sec. 9.** 1. To qualify for a tax credit pursuant to section 8
9 of this act:

10 (a) The investment in a Nevada small business must:

11 (1) Be made in the form of an unsecured loan to or the
12 purchase of equity or unsecured debt securities of the Nevada
13 small business; and

14 (2) Remain in the Nevada small business for not less than 5
15 years; and

16 (b) The operation of the Nevada small business in which the
17 investment is made must be the full-time professional activity of
18 the principal owners of the Nevada small business.

19 2. The aggregate investments in any one Nevada small
20 business that may qualify for tax credits pursuant to section 8 of
21 this act must be not less than \$5,000 and not more than
22 \$1,000,000.

23 3. The investors in any one Nevada small business who are
24 eligible for tax credits pursuant to section 8 of this act must
25 collectively own less than 50 percent of the Nevada small business
26 after their investments are made.

27 4. The following persons are not eligible for a tax credit
28 pursuant to section 8 of this act:

29 (a) Any of the principal owners of the Nevada small business
30 in which the investment is made.

31 (b) The spouse of any of the principal owners of the Nevada
32 small business in which the investment is made.

33 (c) Any person related within the third degree of consanguinity
34 or affinity to a person specified in paragraph (a) or (b).

35 (d) Any corporation, partnership, trust or other entity which is
36 controlled, directly or indirectly, by any person specified in
37 paragraph (a), (b) or (c).

38 **Sec. 10.** If the Department determines, after providing notice
39 and an opportunity for a hearing, that a person who is granted a
40 tax credit pursuant to section 8 of this act:

41 1. Has withdrawn the pertinent investment before the
42 expiration of the minimum 5-year period required by section 9 of
43 this act, the Department shall revoke the tax credit entirely and the
44 person shall repay to the Department the total amount of the tax
45 credit used by that person, together with the amount of any



1 *penalties and interest that would be due if the tax credit had never*
2 *been granted; or*

3 2. *Has otherwise ceased to qualify for the tax credit, the*
4 *Department may revoke the tax credit in full or in part, as*
5 *the Department determines to be just and equitable, and require*
6 *the person to repay to the Department such an amount of the tax*
7 *credit used by that person as the Department determines to be*
8 *appropriate.*

9 **Sec. 11.** 1. *The Nevada Tax Commission shall adopt such*
10 *regulations as it determines to be necessary to carry out the*
11 *provisions of sections 2 to 11, inclusive, of this act.*

12 2. *The Commission on Economic Development:*

13 (a) *Shall establish a procedure for determining, upon the*
14 *request of:*

15 (1) *The Department;*

16 (2) *A Nevada small business; or*

17 (3) *An applicant for a tax credit pursuant to section 8 of*
18 *this act,*

19 *whether an area in which a Nevada small business is located or*
20 *will be located constitutes a blighted area; and*

21 (b) *May adopt such regulations as it determines to be*
22 *necessary for that purpose.*

23 **Sec. 12.** On or before December 31, 2011, the Nevada Tax
24 Commission shall adopt any regulations it determines to be
25 necessary for the full implementation of the provisions of this act on
26 July 1, 2012.

27 **Sec. 13.** This act becomes effective:

28 1. Upon passage and approval for the purpose of adopting
29 regulations and performing any other preparatory administrative
30 tasks that are necessary to carry out the provisions of this act; and

31 2. On July 1, 2012, for all other purposes.

