

SENATE BILL NO. 400—SENATORS DENIS,
FORD, KIHUEN; AND SEGERBLOM

MARCH 17, 2015

JOINT SPONSORS: ASSEMBLYMEN DIAZ; BUSTAMANTE ADAMS,
CARLTON, CARRILLO, FLORES AND THOMPSON

Referred to Committee on Government Affairs

SUMMARY—Creates the Nevada Advisory Commission on
Immigration and Migration. (BDR 18-888)

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 immigration; creates the Nevada Advisory Commission on Immigration and Migration; setting forth the composition and duties of the Commission; authorizing the creation of a pilot migrant worker visa program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill creates the Nevada Advisory Commission on Immigration and Migration consisting of 27 members. **Section 9** of this bill provides that the Commission is advisory to the Governor and the Legislative Commission and establishes the various duties of the Commission, which include the creation of a state plan to address: (1) immigration and the use of migrant workers in this State; and (2) the integration of immigrants into the broader community.

Section 10 of this bill authorizes the Governor to establish a pilot migrant worker visa program for the purpose of assisting businesses and agricultural enterprises in this State with obtaining legal foreign migrant workers through the use of nonimmigrant visas. The pilot program would allow the Governor to enter into a memorandum of understanding with a qualified foreign government to provide migrant workers to businesses and agricultural enterprises within this State. For a business or agricultural enterprise to qualify to receive such workers, it must demonstrate that: (1) there are not sufficient workers where the labor is to be performed who are able, willing, qualified and available to perform the work; and (2) the employment of the foreign migrant worker will not adversely affect the wages and working conditions of persons in this State who are similarly employed.



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Section 11 of this bill requires the Commission to: (1) appoint a subcommittee to review the pilot program; and (2) make recommendations regarding the pilot program to the Governor. In addition, **section 11** authorizes the Governor, after receiving the recommendations of the Commission, to expand the pilot program to additional qualified foreign governments.

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

Section 1. Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of 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. *“Commission” means the Nevada Advisory Commission on Immigration and Migration created by section 8 of this act.*

Sec. 4. *“Migrant worker” mean a person who leaves his or her country of origin for employment of a seasonal or temporary nature.*

Sec. 5. *“Pilot program” means the pilot migrant worker visa program authorized by section 10 of this act.*

Sec. 6. *“Qualified foreign governmental entity” means the government of a country or political subdivision of a country, other than the United States or a state, district, commonwealth, territory or insular possession of the United States, that is not:*

1. Designated by the United States Department of State as a state sponsor of terrorism in accordance with 50 U.S.C. app. § 2405(j), 22 U.S.C. §§ 2371 and 2780(d), as amended;

2. The subject of a declaration of war by the United States; or

3. A country against which the United States has imposed sanctions as listed under a sanctions program of the Office of Foreign Assets Control of the United States Department of the Treasury.

Sec. 7. *“United States nonimmigrant visa” means a visa issued by the United States pursuant to 8 U.S.C. § 1184, as amended.*

Sec. 8. 1. *The Nevada Advisory Commission on Immigration and Migration is hereby created. The Commission consists of 27 members as follows:*

(a) The Majority Leader of the Senate;

(b) The Minority Leader of the Senate;

(c) The Speaker of the Assembly;



- 1 (d) *The Minority Leader of the Assembly;*
- 2 (e) *The Governor, or a designee of the Governor;*
- 3 (f) *The Attorney General, or a designee of the Attorney*
- 4 *General;*
- 5 (g) *The Director of the State Department of Agriculture, or a*
- 6 *designee of the Director;*
- 7 (h) *The Director of the Department of Business and Industry,*
- 8 *or a designee of the Director;*
- 9 (i) *The Director of the Department of Tourism and Cultural*
- 10 *Affairs, or a designee of the Director;*
- 11 (j) *The Director of the Department of Employment, Training*
- 12 *and Rehabilitation, or a designee of the Director;*
- 13 (k) *The Executive Director of the Office of Economic*
- 14 *Development, or a designee of the Executive Director;*
- 15 (l) *Two Legislators who are members of the Assembly,*
- 16 *appointed by the Speaker of the Assembly;*
- 17 (m) *One Legislator who is a member of the Assembly,*
- 18 *appointed by the Minority Leader of the Assembly;*
- 19 (n) *Two Legislators who are members of the Senate, appointed*
- 20 *by the Majority Leader of the Senate;*
- 21 (o) *One Legislator who is a member of the Senate, appointed*
- 22 *by the Minority Leader of the Senate;*
- 23 (p) *Two members of the public, appointed by the Speaker of*
- 24 *the Assembly;*
- 25 (q) *One member of the public, appointed by the Minority*
- 26 *Leader of the Assembly;*
- 27 (r) *Two members of the public, appointed by the Majority*
- 28 *Leader of the Senate;*
- 29 (s) *One member of the public, appointed by the Minority*
- 30 *Leader of the Assembly; and*
- 31 (t) *Four members of the public, appointed by the Governor.*
- 32 2. *In appointing members to the Commission pursuant to*
- 33 *paragraphs (p) to (t), inclusive, of subsection 1, the appointing*
- 34 *authorities shall, to the extent practicable, coordinate the*
- 35 *appointments so that the members of the Commission represent*
- 36 *the geographic and ethnic diversity of this State by including,*
- 37 *without limitation, members who represent:*
- 38 (a) *An immigration or immigrant-serving community-based*
- 39 *organization;*
- 40 (b) *A philanthropic organization;*
- 41 (c) *An immigration-related advocacy group;*
- 42 (d) *A labor organization;*
- 43 (e) *An institution of higher learning; or*
- 44 (f) *A faith-based organization.*



1 3. *The Governor, or the designee of the Governor, shall serve*
2 *as Chair of the Commission.*

3 4. *The members of the Commission who serve pursuant to*
4 *paragraphs (a) to (o), inclusive, of subsection 1 serve ex officio.*
5 *After the initial terms, the term of each member of the*
6 *Commission appointed pursuant to paragraphs (p) to (t), inclusive,*
7 *of subsection 1 is 3 years. A vacancy on the Commission must be*
8 *filled for the remainder of the unexpired term in the same manner*
9 *as the original appointment.*

10 5. *A majority of the members of the Commission constitutes a*
11 *quorum for the transaction of business, and a majority of those*
12 *members present at any meeting is sufficient for any official*
13 *action taken by the Commission.*

14 6. *The Commission shall meet at least once each calendar*
15 *quarter and at other times on the call of the Chair.*

16 7. *The Office of the Attorney General shall provide*
17 *administrative and technical staff and assistance to the*
18 *Commission.*

19 8. *Each member of the Commission:*

20 (a) *Serves without compensation, except that any member of*
21 *the Commission who is an officer or employee of this State or any*
22 *agency thereof must receive his or her regular compensation while*
23 *engaged in the business of the Commission; and*

24 (b) *While engaged in the business of the Commission, is*
25 *entitled to receive the per diem allowance and travel expenses*
26 *provided for state officers and employees generally to the extent*
27 *that money for such expenses is available within the budget of the*
28 *Office of the Attorney General.*

29 **Sec. 9. 1. The Commission shall:**

30 (a) *Conduct a review of the economic, legal, cultural and*
31 *educational impacts of illegal immigration on this State and the*
32 *political subdivisions of this State;*

33 (b) *Conduct a review of federal laws and the laws of this State*
34 *relating to immigration, migration and guest worker programs;*

35 (c) *Develop a comprehensive, coordinated and sustainable*
36 *state plan to address:*

37 (1) *Immigration and the use of migrant workers in this*
38 *State; and*

39 (2) *The integration of immigrants into the broader*
40 *community;*

41 (d) *Advise the Governor and the Legislative Commission on*
42 *proposed federal legislation related to immigration policy for the*
43 *purpose of encouraging a comprehensive, coordinated and*
44 *sustainable response by this State to issues related to immigration*
45 *policy;*



(e) *Consistent with the state plan described in paragraph (c):*

(1) *Work collaboratively with federal, state and local governments to facilitate the integration of immigrants within this State; and*

(2) *Work collaboratively with businesses and community organizations within this State to maintain public input into the process for the integration of immigrants within this State;*

(f) *Evaluate the structure and organization of the State Government, including, without limitation, state agencies, independent boards and commissions, political subdivisions and school districts, and advise the Governor and the Legislative Commission regarding methods to achieve the integration of immigrants within this State and provide services and programs to the immigrant community in an efficient and cost-effective manner;*

(g) *Identify policies that this State may enact to bring enhanced economy, efficiency and accountability to governmental operations in this State with respect to the integration of immigrants; and*

(h) *Submit a report to the Governor and Legislative Commission not later than February 1 of each year. The report must contain:*

(1) *A review of the activities of the Commission for the immediately preceding year;*

(2) *Recommendations for proposed legislation to implement the state plan described in paragraph (c);*

(3) *Recommendations regarding the pilot migrant worker visa program; and*

(4) *Any other information or recommendations related to the work of the Commission.*

2. *The Commission may:*

(a) *Request any information from a state agency that the Commission considers necessary to performing the functions required by this section. A state agency that receives such a request shall cooperate, to the extent practicable, with the request.*

(b) *Invite testimony from state officials, Legislators, knowledgeable experts and members of the public on issues related to the business of the Commission.*

(c) *Hold one or more public hearings to provide interested persons the opportunity to appear and present testimony on issues related to the business of the Commission.*

(d) *Form subcommittees from among the members of the Commission to consider specific issues related to the business of the Commission.*



1 **Sec. 10. 1. The Governor is hereby authorized to establish**
2 *a pilot migrant worker visa program in this State for the purpose*
3 *of assisting businesses and agricultural enterprises in this State in*
4 *obtaining legal migrant workers through the use of United States*
5 *nonimmigrant visas.*

6 **2. The Commission shall recommend to the Governor and the**
7 *Legislative Commission policies and programs that will*
8 *encourage, support and facilitate the operations of businesses and*
9 *agricultural enterprises in this State that have a need for*
10 *nonimmigrant temporary workers to participate in the pilot*
11 *program.*

12 **3. The Governor may enter into a memorandum of**
13 *understanding with a qualified foreign governmental entity to*
14 *work with officials of the governmental entity to encourage,*
15 *facilitate and support the migration of legal workers to this State*
16 *for the purpose of filling jobs at a business or agricultural*
17 *enterprise in this State that is in need of such workers.*

18 **4. A memorandum of understanding entered into pursuant to**
19 *subsection 3 must:*

20 **(a) Be in conformance with the Federal Immigration and**
21 *Nationality Act, 8 U.S.C. §§ 1101 et seq., and all federal policies,*
22 *procedures and requirements for issuing United States*
23 *nonimmigrant visas to foreign nationals qualified to participate in*
24 *the pilot program;*

25 **(b) Require that the qualified foreign governmental entity**
26 *provide migrant workers who:*

27 **(1) Are eligible for a United States nonimmigrant visa;**

28 **(2) Have successfully completed a criminal background**
29 *check;*

30 **(3) Have successfully completed a test to determine whether**
31 *the migrant worker possesses the requisite level of education or*
32 *skill required for the job to be filled; and*

33 **(4) Have been issued a tamper-proof identification that**
34 *includes, without limitation, a personal photograph, the personal*
35 *information of the migrant worker, a fingerprint of the migrant*
36 *worker, the visa number of the migrant worker and an expiration*
37 *date;*

38 **(c) Contain a provision requiring the qualified foreign**
39 *governmental entity to notify the Governor before the expiration*
40 *date of the United States nonimmigrant visa of any migrant*
41 *worker participating in the pilot program; and*

42 **(d) Contain a provision requiring the qualified foreign**
43 *governmental entity to notify the business or agricultural*
44 *enterprise employing the migrant worker and the United States*
45 *Immigration and Customs Enforcement if a migrant worker fails*



1 *to return to his or her home country before expiration of his or*
2 *her United States nonimmigrant visa.*

3 *5. A business or agricultural enterprise participating in the*
4 *pilot program shall:*

5 *(a) Demonstrate and certify that there are not sufficient*
6 *workers in the area where the labor is to be performed who are*
7 *able, willing, qualified and available to fill the job for which a*
8 *migrant worker is sought; and*

9 *(b) Demonstrate that the employment of migrant workers will*
10 *not adversely affect the wages and working conditions of persons*
11 *in this State who are similarly employed.*

12 **Sec. 11.** *1. Within 1 year after the establishment of the pilot*
13 *program pursuant to section 10 of this act, the Commission shall*
14 *appoint a subcommittee in accordance with paragraph (d) of*
15 *subsection 2 of section 9 of this act to:*

16 *(a) Study the process and results of the pilot program;*

17 *(b) Study the impact of existing federal law on:*

18 *(1) Migrant workers; and*

19 *(2) The ability to meet the workforce needs of businesses*
20 *and agricultural enterprises in this State;*

21 *(c) Study the application process for United States*
22 *nonimmigrant visas from the perspective of both the employee and*
23 *employer to understand:*

24 *(1) The strengths and weaknesses of the existing law; and*

25 *(2) The United States nonimmigrant visa process and the*
26 *implications to regional employment and security;*

27 *(d) Document the state and regional impacts and security*
28 *implications of existing law and processes; and*

29 *(e) Report the findings of the subcommittee to the*
30 *Commission.*

31 *2. The Commission shall use the information provided by the*
32 *subcommittee to make recommendations about the pilot program*
33 *to the Governor. The recommendations of the Commission shall*
34 *include, without limitation, recommendations:*

35 *(a) For proposed legislation regarding the pilot program;*

36 *(b) Concerning whether the current limits on the number of*
37 *United States nonimmigrant visas should be raised;*

38 *(c) Regarding whether the wait time for receiving a United*
39 *States nonimmigrant visa should be shortened; and*

40 *(d) Regarding whether the pilot program should be continued*
41 *or expanded.*

42 *3. The Governor may forward the recommendations of the*
43 *Commission pursuant to subsection 2 to the President of*
44 *the United States, the United States Attorney General and the*
45 *Congress of the United States.*



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1 **4. After receiving the recommendations of the Commission**
2 **pursuant to subsection 2, the Governor, in consultation with the**
3 **Commission, may enter into additional memorandums of**
4 **understanding with other qualified foreign governmental entities**
5 **that meet the requirements of section 10 of this act.**

6 **Sec. 12.** On or before July 1, 2015, the members of the
7 Nevada Advisory Commission on Immigration and Migration
8 designated in paragraphs (p) to (t), inclusive, of subsection 1 of
9 section 8 of this act must be appointed to initial terms commencing
10 on July 1, 2015, as follows:

11 1. One of the members described in paragraph (p) of
12 subsection 1 of that section to an initial term of 3 years;

13 2. One of the members described in paragraph (p) of
14 subsection 1 of that section to an initial term of 2 years;

15 3. The member described in paragraph (q) of subsection 1 of
16 that section to an initial term of 1 year;

17 4. One of the members described in paragraph (r) of subsection
18 1 of that section to an initial term of 3 years;

19 5. One of the members described in paragraph (r) of subsection
20 1 of that section to an initial term of 2 years;

21 6. The member described in paragraph (s) of subsection 1 of
22 that section to an initial term of 1 year;

23 7. Two of the members described in paragraph (t) of subsection
24 1 of that section to an initial term of 3 years;

25 8. One of the members described in paragraph (t) of subsection
26 1 of that section to an initial term of 2 years; and

27 9. One of the members described in paragraph (t) of subsection
28 1 of that section to an initial term of 1 year.

29 **Sec. 13.** The provisions of subsection 1 of NRS 218D.380 do
30 not apply to any provision of this act which adds or revises a
31 requirement to submit a report to the Legislature.

32 **Sec. 14.** This act becomes effective:

33 1. Upon passage and approval for the purpose of adopting any
34 regulations or performing any preparatory administrative tasks that
35 are necessary to carry out the provisions of this act; and

36 2. On July 1, 2015, for all other purposes.

