

SENATE BILL NO. 349—SENATOR KIECKHEFER

MARCH 20, 2017

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to economic development. (BDR 18-1105)

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; creating the Volens et Potens Committee; prescribing the duties of the Committee; requiring the Committee to cause the formation of a nonprofit corporation, the purpose of which is to act as a limited partner of the Volens et Potens Fund; requiring the nonprofit corporation to be governed by the Volens et Potens Infrastructure Board; authorizing the Office of Economic Development to approve applications for tax credits submitted by persons who contribute money to the Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the creation of the Volens et Potens Investment Fund (“volens et potens” is a Latin phrase that means “willing and able”), the purpose of which is to make venture capital investments in business located or seeking to locate in this State. This bill further authorizes the Office of Economic Development to approve tax credits for entities that make contributions of money to the Volens et Potens Infrastructure Board, and requires the Board to use those contributions for certain purposes related to the Fund.

Section 8 of this bill creates the Volens et Potens Committee, consisting of the following members: (1) the Executive Director of the Office of Economic Development; (2) one representative from each of the regional development authorities from the two largest counties in the State (currently Clark and Washoe Counties); and (3) two people, appointed by the Governor, who are experts in the fields of investment or venture capital. **Section 9** of this bill requires the Committee to cause the formation of a nonprofit corporation governed by the Volens et Potens Infrastructure Board described in **section 10** of this bill. The purpose of the nonprofit corporation is to act as a limited partner in a limited partnership that



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17 makes venture capital investments in companies located in this State or seeking to
18 locate in this State. The limited partnership must be known as the Volens et Potens
19 Fund. **Section 9** requires the Committee to solicit and select two entities that would
20 act as general partners of the Fund. **Section 9** requires each general partner to
21 contribute \$1,500,000 to the Fund. **Section 9** further requires the Committee to
22 adopt regulations: (1) establishing an application procedure to be named a general
23 partner of the Fund; (2) providing for the compensation of the general partners of
24 the Fund; (3) creating mentorship programs to promote, aid and encourage small
25 businesses that would be candidates to receive investments from the Fund; and (4)
26 establishing certain investment standards for the Fund.

27 **Section 11** of this bill authorizes the Office of Economic Development to
28 approve applications for tax credits by persons who contribute money to the Volens
29 et Potens Infrastructure Board in an amount equal to the person's contribution to
30 the Board. **Section 11** authorizes such a credit to be applied to the: (1) modified
31 business tax; (2) commerce tax; (3) gaming license fee; or (4) insurance premium
32 tax. **Section 11** also limits the amount of tax credits that can be approved by the
33 Office to \$7,500,000 for Fiscal Year 2017-2018 and \$7,500,000 for Fiscal Year
34 2018-2019. **Section 9** requires the Volens et Potens Infrastructure Board to use the
35 money contributed to the Board by persons in exchange for the tax credit provided
36 for in **section 11** to: (1) pay for the administration or management of the Fund; (2)
37 administer the mentorship programs established by the Committee pursuant to
38 **section 9**; and (3) invest in businesses in this State as a limited partner in the
39 Volens et Potens Fund.

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

1 **Section 1.** Chapter 231 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 11, inclusive, of this
3 act.

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

8 **Sec. 3.** *"Board" means the Volens et Potens Infrastructure*
9 *Board.*

10 **Sec. 4.** *"Committee" means the Volens et Potens Committee*
11 *created by section 8 of this act.*

12 **Sec. 5.** *"Fund" means the limited partnership formed*
13 *pursuant to subsection 1 of section 9 of this act, which is known as*
14 *the Volens et Potens Investment Fund.*

15 **Sec. 6.** *"General partner" means an entity selected by the*
16 *Committee to actively manage the Fund.*

17 **Sec. 7.** *"Limited partner" means an entity which is eligible to*
18 *receive returns on its investment in the Fund without any input in*
19 *the active management of the Fund.*

20 **Sec. 8.** *1. The Volens et Potens Committee is hereby*
21 *created within the Office.*



2. *The Committee consists of the following members:*

(a) *The Executive Director or his or her designee;*

(b) *Two representatives, one from each of the regional development authorities designated for the two largest counties in the State; and*

(c) *Two people appointed by the Governor, one of whom must reside in southern Nevada and one of whom must reside in northern Nevada, who the Governor determines are qualified to provide expertise in the fields of investment or venture capital.*

3. *Except as otherwise provided in this subsection, each member appointed to the Committee serves a term of 2 years. Two of the initial members of the Committee who are appointed pursuant to subsection 2 must be appointed to an initial term of 1 year.*

4. *After the initial terms, each member of the Committee serves for a term of 2 years. Each member of the Committee continues in office until his or her successor is appointed. Members of the Committee may be reappointed for additional terms of 2 years in the same manner as the original appointments.*

5. *The members of the Committee must serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

6. *A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Committee.*

7. *A member of the Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Committee and perform any work necessary to carry out the duties of the Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Committee to:*

(a) *Make up the time he or she is absent from work to carry out his or her duties as a member of the Committee; or*

(b) *Take annual leave or compensatory time for the absence.*

8. *The Committee shall:*

(a) *At its first meeting and annually thereafter, elect a Chair from among its members;*

(b) *Meet at the call of the Chair or a majority of its members as necessary; and*

(c) *Adopt rules for its own management and government.*



1 **Sec. 9. 1. The Committee shall cause to be formed a**
2 *nonprofit corporation that is exempt from federal income taxation,*
3 *the purpose of which is to act as a limited partner of a limited*
4 *partnership that makes venture capital investments in businesses*
5 *located or seeking to locate in this State. The limited partnership*
6 *must be known as the Volens et Potens Fund. The Committee*
7 *shall solicit interested entities to be named general partners of the*
8 *Fund.*

9 **2. To be selected as a general partner of the Fund, an entity**
10 *must:*

11 **(a) Submit an application to the Committee.**

12 **(b) Maintain its principal place of business in this State; and**

13 **(c) Have experience in the fields of investment and venture**
14 *capital.*

15 **3. The Committee shall select two entities to act as general**
16 *partners of the Fund, one of which must be located in southern*
17 *Nevada and one of which must be located in northern Nevada,*
18 *each of which must invest \$1,500,000 in the Fund.*

19 **4. The Committee shall adopt regulations:**

20 **(a) Establishing an application process for an interested entity**
21 *to apply to be a general partner of the Fund in accordance with*
22 *subsection 2;*

23 **(b) Establishing the compensation of the general partners of**
24 *the Fund, which must consist of a:*

25 **(1) Salary in an amount not to exceed \$175,000 per year;**
26 *and*

27 **(2) Share of the profits of the Fund in an amount equal to**
28 *20% of those profits or, if those profits exceed 3 times the money*
29 *invested in the Fund, 25% of the profits of the Fund;*

30 **(c) Creating mentorship programs as necessary to promote, aid**
31 *and encourage businesses in this State that would receive*
32 *investments from the Fund;*

33 **(d) Requiring the performance of audits of the Fund and the**
34 *submission of reports to ensure compliance with the provisions of*
35 *sections 2 to 10, inclusive, of this act, and the regulations adopted*
36 *pursuant to this section;*

37 **(e) Providing for the appropriate leveraging of investments by**
38 *the Fund to ensure that the investments consist of money*
39 *contributed to the Board from taxpayers claiming the credit*
40 *against their taxes provided pursuant to section 11 of this act and*
41 *any money invested in the Fund from other private sources; and*

42 **(f) Establishing limits on the amount or percentage of**
43 *investments by the Fund in a single venture capital project.*

44 **5. The Committee shall ensure that businesses receiving**
45 *venture capital investments from the Fund pursuant to sections 2*



1 to 11, inclusive, of this act have a presence in this State as
2 evidenced by:

- 3 (a) Being domiciled in this State;
- 4 (b) Having a headquarters in this State;
- 5 (c) Having at least 50 percent of its employees residing in this
6 State; or
- 7 (d) Being in the process of expanding in this State or
8 relocating to this State.

9 **Sec. 10.** 1. The nonprofit corporation formed pursuant to
10 subsection 1 of section 9 of this act must be governed by a board of
11 directors known as the Volens et Potens Infrastructure Board. The
12 Board must consist of the following members:

- 13 (a) The Executive Director or his or her designee;
- 14 (b) Two persons appointed by the Governor who have
15 experience in the fields of investment and venture capital; and
- 16 (c) One representative from each of the two entities selected as
17 general partners of the Fund by the Committee pursuant to section
18 9 of this act.

19 2. Each appointed member of the Board serves a term of 2
20 years. Two of the initial members of the Board who are appointed
21 pursuant to subsection 1 must be appointed to an initial term of 1
22 year. Each member of the Board continues in office until his or
23 her successor is appointed. Appointed members of the Board may
24 be reappointed for additional terms of 2 years in the same manner
25 as the original appointments.

26 3. The members of the Board must serve without
27 compensation but are entitled to be reimbursed for actual and
28 necessary expenses incurred in the performance of their duties,
29 including, without limitation, travel expenses.

30 4. A member of the Board who is an officer or employee of
31 this State or a political subdivision of this State must be relieved
32 from his or her duties without loss of regular compensation to
33 prepare for and attend meetings of the Board and perform any
34 work necessary to carry out the duties of the Board in the most
35 timely manner practicable. A state agency or political subdivision
36 of this State shall not require an officer or employee who is a
37 member of the Board to:

- 38 (a) Make up the time he or she is absent from work to carry
39 out his or her duties as a member of the Board; or
- 40 (b) Take annual leave or compensatory time for the absence.

41 5. The Board shall ensure that money invested in the Fund by
42 taxpayers who receive a certificate of tax credit pursuant to section
43 11 of this act in the following manner:

- 44 (a) Not more than one-third to pay for the administration or
45 management of the Fund.



(b) Not more than one-third to pay for any mentorship program established by the regulations adopted by the Committee pursuant to section 9 of this act.

(c) Not more than one-third to invest in the Fund.

Sec. 11. 1. Subject to the requirements of this section, a person who makes a contribution to the Board may receive a tax credit which may be applied to:

(a) Any tax imposed by chapter 363A or 363B of NRS;

(b) The commerce tax imposed by chapter 363C of NRS;

(c) The gaming license fee imposed by NRS 463.370;

(d) Any tax imposed by chapter 680B of NRS; or

(e) Any combination of the fees and taxes described in paragraphs (a) to (d), inclusive.

2. To receive the credit authorized by subsection 1, a person who intends to make a contribution to the Board must, before making such a contribution, apply to the Office for approval of the credit authorized by subsection 1 for the contribution. The Office shall, within 20 days after receiving the application, approve or deny the application and provide to the applicant notice of the decision and, if the application is approved, the amount of the credit authorized. The applicant must, not later than 30 days after receiving the notice that the application has been approved, make the contribution to the Board. If the person does not make the contribution to the Board within 30 days after receiving the notice that the application has been approved, the person forfeits any claim to the credit authorized by subsection 1.

3. The Office shall approve or deny applications for the credit authorized by subsection 1 in the order in which the applications are received. The Office may, for each fiscal year, approve applications for the credit authorized by subsection 1 until the total amount of the credits authorized by subsection 1 and approved by the Office is:

(a) For Fiscal Year 2017-2018, \$7,500,000; and

(b) For Fiscal Year 2018-2019, \$7,500,000.

↪ The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized for any fiscal year.

4. If the Office approves an application for the credit authorized by subsection 1, the Office shall immediately forward a certificate of eligibility tax credit which identifies the amount of the tax credits available pursuant to this section to:

(a) The applicant;

(b) The Department of Taxation; and

(c) The Nevada Gaming Control Board, if applicable.



1 5. *If a person applies to and is approved by the Office for the*
2 *credit authorized by subsection 1, the amount of the credit*
3 *provided by this section is equal to the amount approved by the*
4 *Office pursuant to subsection 2, which must not exceed the*
5 *amount of the donation made by the person to the Board. The total*
6 *amount of the credit applied against the taxes described in*
7 *subsection 1 and otherwise due from a person must not exceed the*
8 *amount of the contribution.*

9 6. *If the amount of any tax or fee described in subsection 1*
10 *and otherwise due from a person is less than the credit to which*
11 *the person is entitled pursuant to this section, the person may,*
12 *after applying the credit to the extent of the tax or fee otherwise*
13 *due, carry the balance of the credit forward for not more than 5*
14 *years after the end of the calendar year in which the contribution*
15 *is made or until the balance of the credit is applied, whichever is*
16 *earlier.*

17 7. *Within 30 days after receiving a certificate of tax credit*
18 *pursuant to this section, the person shall make an irrevocable*
19 *declaration of the amount of transferable tax credits that will be*
20 *applied to each tax or fee set forth in paragraphs (a), (b) and (c) of*
21 *subsection 1, thereby accounting for all of the credits which will*
22 *be issued.*

23 **Sec. 12.** This act becomes effective upon passage and
24 approval.

