

(Reprinted with amendments adopted on May 23, 2019)

FIRST REPRINT

S.B. 410

SENATE BILL NO. 410—SENATORS KIECKHEFER, HANSEN,  
HAMMOND, PICKARD, RATTI; GOICOECHEA, HARDY,  
SEEVERS GANSERT AND SETTELMAYER

MARCH 21, 2019

JOINT SPONSORS: ASSEMBLYMEN BENITEZ-THOMPSON,  
KRAMER; AND NEAL

Referred to Committee on Revenue and  
Economic Development

SUMMARY—Revises provisions relating to incentives for  
economic development. (BDR 32-881)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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; revising provisions governing the  
issuance of transferable tax credits for certain projects that  
will make a capital investment in this State of at least \$1  
billion and satisfy certain other criteria; and providing  
other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Office of Economic Development to approve applications for partial abatements of certain taxes and the issuance of transferable tax credits submitted by the lead participant engaged in a qualified project with other participants which: (1) is for a common purpose or business endeavor; (2) is located within the geographic boundaries of a single project site in this State; and (3) satisfies certain criteria, including, without limitation, a requirement that the participants in the project agree to make a total new capital investment in this State of at least \$1 billion during the 10-year period immediately following approval of the application. (NRS 360.889) Under existing law, the Office is authorized to approve for the project: (1) a maximum of \$7,600,000 of transferable tax credits per fiscal year; and (2) a total amount of transferable tax credits of not more than \$38,000,000. (NRS 360.892) **Section 1.3** of this bill adds an additional requirement for the issuance of these transferable tax credits by requiring approval of the Interim Finance Committee before the tax credits may be issued. **Sections 1, 1.5 and 1.7** of this bill make conforming changes.



\* S B 4 1 0 R 1 \*

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

1     **Section 1.** NRS 360.888 is hereby amended to read as follows:  
2     360.888 “Qualified project” means a project which the Office  
3 of Economic Development determines meets all the requirements  
4 set forth in subsections 2 ~~to~~ , 3, 5 ~~[-inclusive,]~~ and 6 of  
5 NRS 360.889.

6     **Sec. 1.3.** NRS 360.889 is hereby amended to read as follows:  
7     360.889 1. On behalf of a project, the lead participant in the  
8 project may apply to the Office of Economic Development for:

9     (a) A certificate of eligibility for transferable tax credits which  
10 may be applied to:

11         (1) Any tax imposed by chapters 363A and 363B of NRS;

12         (2) The gaming license fees imposed by the provisions of  
13 NRS 463.370;

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

15         (4) Any combination of the fees and taxes described in  
16 subparagraphs (1), (2) and (3).

17     (b) A partial abatement of property taxes, employer excise taxes  
18 or local sales and use taxes, or any combination of any of those  
19 taxes.

20     2. For a project to be eligible for the transferable tax credits  
21 described in paragraph (a) of subsection 1 and the partial abatement  
22 of the taxes described in paragraph (b) of subsection 1, the lead  
23 participant in the project must, on behalf of the project:

24     (a) Submit an application that meets the requirements of  
25 subsection ~~4~~ 5;

26     (b) Provide documentation satisfactory to the Office that  
27 approval of the application would promote the economic  
28 development of this State and aid the implementation of the State  
29 Plan for Economic Development developed by the Executive  
30 Director of the Office pursuant to subsection 2 of NRS 231.053;

31     (c) Provide documentation satisfactory to the Office that the  
32 participants in the project collectively will make a total new capital  
33 investment of at least \$1 billion in this State within the 10-year  
34 period immediately following approval of the application;

35     (d) Provide documentation satisfactory to the Office that the  
36 participants in the project are engaged in a common business  
37 purpose or industry;

38     (e) Provide documentation satisfactory to the Office that the  
39 place of business of each participant is or will be located within the  
40 geographic boundaries of the project site or sites;

41     (f) Provide documentation satisfactory to the Office that each  
42 participant in the project is registered pursuant to the laws of this



1 State or commits to obtaining a valid business license and all other  
2 permits required by the county, city or town in which the project  
3 operates;

4 (g) Provide documentation satisfactory to the Office of the  
5 number of employees engaged in the construction of the project;

6 (h) Provide documentation satisfactory to the Office of the  
7 number of qualified employees employed or anticipated to be  
8 employed at the project by the participants;

9 (i) Provide documentation satisfactory to the Office that each  
10 employer engaged in the construction of the project provides a plan  
11 of health insurance and that each employee engaged in the  
12 construction of the project is offered coverage under the plan of  
13 health insurance provided by his or her employer;

14 (j) Provide documentation satisfactory to the Office that each  
15 participant in the project provides a plan of health insurance and that  
16 each employee employed at the project by each participant is  
17 offered coverage under the plan of health insurance provided by his  
18 or her employer;

19 (k) Provide documentation satisfactory to the Office that at least  
20 50 percent of the employees engaged in construction of the project  
21 and 50 percent of the employees employed at the project are  
22 residents of Nevada, unless waived by the Executive Director of the  
23 Office upon proof satisfactory to the Executive Director of the  
24 Office that there is an insufficient number of Nevada residents  
25 available and qualified for such employment;

26 (l) Agree to provide the Office with a full compliance audit of  
27 the participants in the project at the end of each fiscal year which:

28 (1) Shows the amount of money invested in this State by  
29 each participant in the project;

30 (2) Shows the number of employees engaged in the  
31 construction of the project and the number of those employees who  
32 are residents of Nevada;

33 (3) Shows the number of employees employed at the project  
34 by each participant and the number of those employees who are  
35 residents of Nevada; and

36 (4) Is certified by an independent certified public accountant  
37 in this State who is approved by the Office;

38 (m) Pay the cost of the audit required by paragraph (l);

39 (n) Enter into an agreement with the governing body of the city  
40 or county in which the qualified project is located that:

41 (1) Requires the lead participant to pay the cost of any  
42 engineering or design work necessary to determine the cost of  
43 infrastructure improvements required to be made by the governing  
44 body pursuant to an economic development financing proposal  
45 approved pursuant to NRS 360.990; and



(2) Requires the lead participant to seek reimbursement for any costs paid by the lead participant pursuant to subparagraph (1) from the proceeds of bonds issued pursuant to NRS 360.991; and

(o) Meet any other requirements prescribed by the Office.

3. In addition to meeting the requirements set forth in subsection 2, for a project located on more than one site in this State to be eligible for the partial abatement of the taxes described in paragraph (b) of subsection 1, the lead participant must, on behalf of the project, submit an application that meets the requirements of subsection ~~4~~ 5 on or before June 30, 2019, and provide documentation satisfactory to the Office that:

(a) The initial project will have a total of 500 or more full-time employees employed at the site of the initial project and the average hourly wage that will be paid to employees of the initial project in this State is at least 120 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year;

(b) Each participant in the project must be a subsidiary or affiliate of the lead participant; and

(c) Each participant offers primary jobs and:

(1) Except as otherwise provided in subparagraph (2), satisfies the requirements of paragraph (f) or (g) of subsection 2 of NRS 360.750, regardless of whether the business is a new business or an existing business; and

(2) If a participant owns, operates, manufactures, services, maintains, tests, repairs, overhauls or assembles an aircraft or any component of an aircraft, that the participant satisfies the applicable requirements of paragraph (f) or (g) of subsection 2 of NRS 360.753.

➤ If any participant is a data center, as defined in NRS 360.754, any capital investment by that participant must not be counted in determining whether the participants in the project collectively will make a total new capital investment of at least \$1 billion in this State within the 10-year period immediately following approval of the application, as required by paragraph (c) of subsection 2.

4. *In addition to meeting the requirements set forth in subsection 2, a project is eligible for the transferable tax credits described in paragraph (a) of subsection 1 only if the Interim Finance Committee approves a written request for the issuance of the transferable tax credits. Such a request may only be submitted by the Office and only after the Office has approved the application submitted for the project pursuant to subsection 2. The Interim Finance Committee may approve a request submitted*



*pursuant to this subsection only if the Interim Finance Committee determines that approval of the request:*

*(a) Will not impede the ability of the Legislature to carry out its duty to provide for an annual tax sufficient to defray the estimated expenses of the State for each fiscal year as set forth in Article 9, Section 2 of the Nevada Constitution; and*

*(b) Will promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of NRS 231.053;*

5. An application submitted pursuant to subsection 2 must include:

(a) A detailed description of the project, including a description of the common purpose or business endeavor in which the participants in the project are engaged;

(b) A detailed description of the location of the project, including a precise description of the geographic boundaries of the project site or sites;

(c) The name and business address of each participant in the project, which must be an address in this State;

(d) A detailed description of the plan by which the participants in the project intend to comply with the requirement that the participants collectively make a total new capital investment of at least \$1 billion in this State in the 10-year period immediately following approval of the application;

(e) If the application includes one or more partial abatements, an agreement executed by the Office with the lead participant in the project which:

(1) Complies with the requirements of NRS 360.755;

(2) States the date on which the partial abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) States that the project will, after the date on which a certificate of eligibility for the partial abatement is approved pursuant to NRS 360.893, continue in operation in this State for a period specified by the Office; and

(4) Binds successors in interest of the lead participant for the specified period; and

(f) Any other information required by the Office.

~~5.1~~ 6. For an employee to be considered a resident of Nevada for the purposes of this section, each participant in the project must maintain the following documents in the personnel file of the employee:

(a) A copy of the:



(1) Current and valid Nevada driver's license of the employee originally issued by the Department of Motor Vehicles more than 60 days before the hiring of the employee or a current and valid identification card for the employee originally issued by the Department of Motor Vehicles more than 60 days before the hiring of the employee; or

(2) If the employee is a veteran of the Armed Forces of the United States, a current and valid Nevada driver's license of the employee or a current and valid identification card for the employee issued by the Department of Motor Vehicles;

(b) If the employee is a registered owner of one or more motor vehicles in Nevada, a copy of the current motor vehicle registration of at least one of those vehicles;

(c) Proof that the employee is employed full-time and scheduled to work for an average minimum of 30 hours per week; and

(d) Proof that the employee is offered coverage under a plan of health insurance provided by his or her employer.

~~6.7.~~ **7.** For the purpose of obtaining from the Executive Director of the Office any waiver of the requirement set forth in paragraph (k) of subsection 2, the lead participant in the project must submit to the Executive Director of the Office written documentation of the efforts to meet the requirement and documented proof that an insufficient number of Nevada residents is available and qualified for employment.

~~7.8.~~ **8.** The Executive Director of the Office shall make available to the public and post on the Internet website of the Office:

(a) Any request for a waiver of the requirements set forth in paragraph (k) of subsection 2; and

(b) Any approval of such a request for a waiver that is granted by the Executive Director of the Office.

~~8.9.~~ **9.** The Executive Director of the Office shall post a request for a waiver of the requirements set forth in paragraph (k) of subsection 2 on the Internet website of the Office within 3 days after receiving the request and shall keep the request posted on the Internet website for not less than 5 days. The Executive Director of the Office shall ensure that the Internet website allows members of the public to post comments regarding the request.

~~9.10.~~ **10.** The Executive Director of the Office shall consider any comments posted on the Internet website concerning any request for a waiver of the requirements set forth in paragraph (k) of subsection 2 before making a decision regarding whether to approve the request. If the Executive Director of the Office approves the request for a waiver, the Executive Director of the Office must post the approval on the Internet website of the Office within 3 days and



1 ensure that the Internet website allows members of the public to post  
2 comments regarding the approval.

3 **Sec. 1.5.** NRS 360.890 is hereby amended to read as follows:

4 360.890 1. If the Office of Economic Development receives  
5 an application pursuant to NRS 360.889, the Office:

6 (a) Shall not consider the application unless the Office has  
7 requested a letter of acknowledgment of the request for a partial  
8 abatement from any county, school district, city or town which the  
9 Office determines may experience a direct economic effect as a  
10 result of the partial abatement.

11 (b) Shall not take any action on the application unless the Office  
12 takes that action at a public meeting conducted for that purpose.

13 (c) Shall, at least 30 days before any public meeting conducted  
14 for the purpose of taking any action on the application, provide  
15 notice of the application and the date, time and location of the public  
16 meeting at which the Office will consider the application to:

17 (1) Each participant in the project;

18 (2) The Department;

19 (3) The Nevada Gaming Control Board;

20 (4) The governing body of the county, the board of trustees  
21 of the school district and the governing body of the city or town, if  
22 any, in which the project will be located;

23 (5) The governing body of any other political subdivision  
24 that the Office determines could experience a direct economic effect  
25 as a result of the abatement; and

26 (6) The general public.

27 2. The date of the public meeting to consider an application  
28 submitted pursuant to NRS 360.889 must be not later than 60 days  
29 after the date on which the Office receives the completed  
30 application.

31 3. The Office shall approve an application submitted pursuant  
32 to NRS 360.889 if the Office finds that the project is a qualified  
33 project. The Office shall issue a decision on the application not later  
34 than 30 days after the conclusion of the public meeting on the  
35 application. *Not later than 30 days after the Office issues a  
36 decision approving an application submitted pursuant to NRS  
37 360.889 in which the lead participant applies for a certificate of  
38 eligibility for the transferable tax credits described in paragraph  
39 (a) of subsection 1 of NRS 360.889, the Office must submit a  
40 written request to the Interim Finance Committee for approval of  
41 the issuance of the transferable tax credits.*

42 4. The lead participant in a qualified project shall submit all  
43 accountings and other required information to the Office and the  
44 Department not later than 30 days after a date specified in the  
45 decision issued by the Office. If the Office or the Department



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determines that information submitted pursuant to this subsection is incomplete, the lead participant shall, not later than 30 days after receiving notice that the information is incomplete, provide to the Office or the Department, as applicable, all additional information required by the Office or the Department.

5. Until the Office of Economic Development provides notice of the application and the public meeting pursuant to paragraph (c) of subsection 1, the information contained in the application provided to the Office of Economic Development:

- (a) Is confidential proprietary information of the business;
- (b) Is not a public record; and
- (c) Must not be disclosed to any person who is not an officer or employee of the Office of Economic Development unless the lead participant consents to the disclosure.

6. After the Office provides notice of the application and the public meeting pursuant to paragraph (c) of subsection 1:

- (a) The application is a public record; and
- (b) Upon request by any person, the Executive Director of the Office shall disclose the application to the person who made the request, except for any information in the application that is protected from disclosure pursuant to subsection 7.

7. Before the Executive Director of the Office discloses the application to the public, the lead participant may submit a request to the Executive Director of the Office to protect from disclosure any information in the application which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director of the Office shall determine whether to protect the information from disclosure. The decision of the Executive Director of the Office is final and is not subject to judicial review. If the Executive Director of the Office determines to protect the information from disclosure, the protected information:

- (a) Is confidential proprietary information of the business;
- (b) Is not a public record;
- (c) Must be redacted by the Executive Director of the Office from any copy of the application that is disclosed to the public; and
- (d) Must not be disclosed to any person who is not an officer or employee of the Office of Economic Development unless the lead participant consents to the disclosure.

**Sec. 1.7.** NRS 360.891 is hereby amended to read as follows:  
360.891 1. If the Office of Economic Development approves an application for a certificate of eligibility for transferable tax credits submitted pursuant to paragraph (a) of subsection 1 of NRS 360.889 **and the Interim Finance Committee approves a written**





*request for the issuance of transferable tax credits pursuant to subsection 4 of NRS 360.889*, the Office shall immediately forward a copy of the certificate of eligibility which identifies the estimated amount of the tax credits available pursuant to this section to:

- (a) The lead participant in the qualified project;
- (b) The Department; and
- (c) The Nevada Gaming Control Board.

2. Within 14 business days after receipt of an audit provided by the lead participant in the qualified project pursuant to paragraph (1) of subsection 2 of NRS 360.889 and any other accountings or other information required by the Office, the Office shall determine whether to certify the audit and make a final determination of whether a certificate of transferable tax credits will be issued. If the Office certifies the audit and determines that all other requirements for the transferable tax credits have been met, the Office shall notify the lead participant in the qualified project that the transferable tax credits will be issued. Within 30 days after the receipt of the notice, the lead participant in the qualified project shall make an irrevocable declaration of the amount of transferable tax credits that will be applied to each fee or tax set forth in subparagraphs (1), (2) and (3) of paragraph (a) of subsection 1 of NRS 360.889, thereby accounting for all of the credits which will be issued. Upon receipt of the declaration, the Office shall issue to the lead participant a certificate of transferable tax credits in the amount approved by the Office for the fees or taxes included in the declaration. The lead participant shall notify the Department upon transferring any of the transferable tax credits. The Office shall notify the Department and the Nevada Gaming Control Board of all transferable tax credits issued, segregated by each fee or tax set forth in subparagraphs (1), (2) and (3) of paragraph (a) of subsection 1 of NRS 360.889. The Department shall notify the Office and the Nevada Gaming Control Board of the amount of any transferable tax credits transferred.

3. A qualified project may be approved for a certificate of eligibility for transferable tax credits in the amount of \$9,500 for each qualified employee, up to a maximum of 4,000 qualified employees.

4. For the purpose of computing the amount of transferable tax credits for which a qualified project is eligible pursuant to subsection 3:

- (a) Each qualified employee must be:

- (1) Employed by a participant at the site of the qualified project.
- (2) Employed full-time and scheduled to work for an average minimum of 30 hours per week.



(3) Employed for at least the last 3 consecutive months of the fiscal year.

(4) Offered coverage under a plan of health insurance provided by his or her employer.

(b) The wages for federal income tax purposes reported or required to be reported on Form W-2 of the qualified employees of the qualified project must be paid at an average rate of \$22 per hour.

(c) An employee engaged solely in the construction of the qualified project is deemed not to be a qualified employee.

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** 1. This act becomes effective upon passage and approval.

2. Sections 1, 1.5 and 1.7 of this act expire by limitation on June 30, 2032.

