
ASSEMBLY BILL NO. 326—ASSEMBLYMEN MCCURDY, PETERS,
FUMO, WHEELER, ROBERTS; BILBRAY-AXELROD, DALY,
DURAN, FLORES, JAUREGUI, MONROE-MORENO, NEAL,
SWANK, WATTS AND YEAGER

MARCH 18, 2019

JOINT SPONSOR: SENATOR CANCELA

Referred to Committee on Government Affairs

SUMMARY—Establishes a program to provide loans to certain operators of grocery stores located in underserved communities. (BDR 18-318)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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; requiring the State Treasurer to develop and carry out a program to provide loans to persons who operate or wish to operate grocery stores located in underserved communities; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill requires the State Treasurer to develop and carry into effect a program
2 under which a person who operates or wishes to operate a grocery store which is
3 located in or will be located in an underserved community may obtain a loan to
4 finance the establishment or expansion of such a grocery store. **Section 2** of this bill
5 creates the Nevada Fresh Food Financing Initiative Account in the State General
6 Fund as a revolving loan account which must be administered by the State
7 Treasurer and used to fund loans to such persons. **Section 3** of this bill requires the
8 State Treasurer to establish the program and requires the State Treasurer to
9 develop: (1) the criteria a person must satisfy to be eligible for a loan; and (2) the
10 procedures for applying for a loan. Under **section 3**, the State Treasurer is
11 authorized to approve a loan if the person satisfies certain criteria established by the
12 State Treasurer. Under **section 3**, if such a loan is approved: (1) the person
13 receiving the loan must enter into a loan agreement with the State Treasurer; (2) the



14 loan must be funded by the Nevada Fresh Food Financing Initiative Account
15 created by **section 2**; and (3) all payments of principal and interest on the loan must
16 be deposited in the Account.

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

1 **Section 1.** Chapter 226 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *The Nevada Fresh Food Financing Initiative*
4 *Account is hereby created in the State General Fund as a*
5 *revolving loan account. The Account must be administered by the*
6 *State Treasurer.*

7 **2.** *All interest and income earned on the money in the*
8 *Account must be credited to the Account.*

9 **3.** *The money in the Account does not revert to the State*
10 *General Fund at the end of any fiscal year and must be carried*
11 *forward to the next fiscal year.*

12 **4.** *Money in the Account must be used by the State Treasurer*
13 *to develop and carry into effect the program developed by the State*
14 *Treasurer pursuant to section 3 of this act.*

15 **5.** *Claims against the Account must be paid as other claims*
16 *against the State are paid.*

17 **6.** *The State Treasurer may apply for and accept gifts, grants,*
18 *bequests and donations from any source for deposit into the*
19 *Account.*

20 **Sec. 3. 1.** *The State Treasurer shall develop and carry into*
21 *effect a program under which a person who operates or wishes to*
22 *operate a grocery store which is located in or will be located in an*
23 *underserved community in this State may obtain a loan of money*
24 *distributed from the Account to finance the establishment or*
25 *expansion of such a grocery store.*

26 **2.** *The State Treasurer shall establish the criteria which must*
27 *be used by the program to determine whether to make a loan to a*
28 *person described in subsection 1 and the criteria which such a*
29 *person must meet to qualify for a loan under the program. In*
30 *establishing such criteria, the State Treasurer shall consider,*
31 *without limitation, whether the making of the loan will assist the*
32 *State to:*

33 **(a)** *Promote the public health of residents of this State by*
34 *providing access to healthy food options;*

35 **(b)** *Expand employment opportunities or relieve*
36 *unemployment or underemployment in underserved communities;*
37 *and*



1 (c) Encourage economic growth and maintain a stable
2 economy.

3 3. The State Treasurer shall establish procedures for
4 applying for a loan from the program. The procedures must
5 require an applicant to submit an application for a loan that
6 includes, without limitation:

7 (a) A statement of the proposed use of the loan; and

8 (b) Such other information as the State Treasurer deems
9 necessary to determine whether the making of the loan to the
10 applicant satisfies the criteria established by the State Treasurer
11 pursuant to subsection 2 and whether the applicant is qualified for
12 the loan.

13 4. A person who operates or wishes to operate a grocery store
14 which is located in or will be located in an underserved
15 community in this State may submit an application for a loan to
16 the State Treasurer.

17 5. The State Treasurer may approve an application for a loan
18 submitted pursuant to subsection 4 if the State Treasurer finds
19 that:

20 (a) The person operates or wishes to operate a grocery store
21 which is located in or will be located in an underserved
22 community in this State;

23 (b) There is adequate assurance that the loan will be repaid;
24 and

25 (c) The making of the loan satisfies the criteria established by
26 the State Treasurer pursuant to subsection 2.

27 6. If the State Treasurer approves an application for a loan
28 pursuant to this section:

29 (a) The State Treasurer and the applicant must execute a loan
30 agreement that contains such terms as the State Treasurer or
31 person deems necessary; and

32 (b) The State Treasurer must fund the loan from the money in
33 the Account.

34 7. The rate of interest on loans made pursuant to the program
35 must be as low as practicable, but sufficient to pay the cost of the
36 program.

37 8. After deducting the costs directly related to administering
38 the program, payments of principal and interest on loans made to
39 a person who operates or wishes to operate a grocery store which
40 is located in or will be located in an underserved community in
41 this State from money distributed from the Account must be
42 deposited in the State General Fund for credit to the Account.

43 9. As used in this section:

44 (a) "Account" means the Nevada Fresh Food Financing
45 Initiative Account created by section 2 of this act.



1 (b) “Grocery store” means a store which is principally devoted
2 to the sale of food for human consumption off the premises or
3 which derives a substantial amount of its gross revenue from the
4 sale of food for human consumption off the premises, regardless
5 of whether the store is also devoted to or derives gross revenue
6 from the sale of nonfood items. The term does not include:

7 (1) A convenience store, as defined in NRS 597.225.

8 (2) A store at which the sale of food for human
9 consumption off the premises is incidental to the principal purpose
10 of the store.

11 (c) “Underserved community” means a census tract
12 determined to be an area with low supermarket access by either
13 the United States Department of Agriculture as identified in the
14 Food Access Research Atlas or through a methodology that has
15 been adopted for use by another governmental or philanthropic
16 healthy food initiative.

17 **Sec. 4.** There is hereby appropriated from the State General
18 Fund to the Nevada Fresh Food Financing Initiative Account created
19 by section 2 of this act the sum of \$10,000,000 for the purposes
20 described in section 3 of this act.

21 **Sec. 5.** 1. The Legislature hereby finds and declares that:

22 (a) Section 9 of Article 8 of the Nevada Constitution contains a
23 provision commonly known as a “gift clause” which restricts the
24 State under certain circumstances from donating or loaning the
25 State’s money or credit to any company, association or corporation,
26 except corporations formed for educational or charitable purposes.

27 (b) In *Employers Insurance Company of Nevada v. State Board*
28 *of Examiners*, 117 Nev. 249, 258 (2001), the Nevada Supreme Court
29 held that the State loans its credit in violation of Section 9 of Article
30 8 of the Nevada Constitution only when the State acts as a surety or
31 guarantor for the debts of a company, corporation or association.

32 (c) In *State ex rel. Brennan v. Bowman*, 89 Nev. 330, 333
33 (1973), the Nevada Supreme Court held that the State does not loan
34 its credit in violation of Section 9 of Article 8 of the Nevada
35 Constitution when the State issues revenue bonds which are not
36 backed or guaranteed by the State’s general credit or taxing powers
37 but are payable solely from revenues derived from the projects or
38 programs financed by the revenue bonds.

39 (d) In *Lawrence v. Clark County*, 127 Nev. 390, 405 (2011), the
40 Nevada Supreme Court held that the State does not donate, loan or
41 “gift” its money in violation of Section 9 of Article 8 of the Nevada
42 Constitution when the State dispenses state funds for a public
43 purpose and the State receives a valuable benefit or fair
44 consideration in exchange for the dispensation of the state funds.



1 (e) In *McLaughlin v. Housing Authority of the City of Las*
2 *Vegas*, 68 Nev. 84, 93 (1951), and *Lawrence v. Clark County*, 127
3 Nev. 390, 399, 406 (2011), the Nevada Supreme Court held that
4 when the Legislature authorizes a state agency to dispense state
5 funds:

6 (1) The courts will carefully examine whether the Legislature
7 made an informed and appropriate finding that dispensation of the
8 state funds serves a public purpose and the State receives a valuable
9 benefit or fair consideration in exchange for the dispensation;

10 (2) The courts will give great weight and due deference to
11 the Legislature’s finding, and the courts will uphold the
12 Legislature’s finding unless it clearly appears to be erroneous and
13 without reasonable foundation; and

14 (3) The courts will closely examine whether the dispensing
15 state agency reviews all facts, figures and necessary information
16 when making the dispensation, and when the state agency has done
17 so, it will not be second-guessed by the courts.

18 2. The Legislature hereby further finds and declares that:

19 (a) In *State ex rel. Brennan v. Bowman*, 89 Nev. 330, 333
20 (1973), the Nevada Supreme Court held that legislation which
21 promotes economic development and seeks to create, protect or
22 enhance job opportunities “inures to the public benefit” and serves
23 an important public purpose because it assists in “relieving
24 unemployment and maintaining a stable economy.”

25 (b) To promote, develop and maintain a stable economy in this
26 State, it is necessary and essential for the State to incentivize the
27 establishment and expansion of grocery stores which are located in
28 underserved communities because:

29 (1) Such grocery stores are more likely to employ persons
30 who reside in the underserved communities in which the grocery
31 stores are located, including persons who are socially or
32 economically disadvantaged, and therefore relieve unemployment in
33 many segments of the population of this State that traditionally have
34 experienced high rates of unemployment and underemployment; and

35 (2) Such grocery stores promote the public health of the
36 residents of this State by providing access to healthy food options,
37 thereby leading to a healthier population and more productive
38 workforce.

39 3. The Legislature hereby further finds and declares that:

40 (a) The purpose of this act is to develop and carry into effect a
41 state program under which persons who operate or wish to operate
42 grocery stores which are located in or will be located in underserved
43 communities in this State may obtain loans from the program to
44 finance the establishment or expansion of such grocery stores.



1 (b) The provisions of this act are intended to serve an important
2 public purpose and ensure that the State receives valuable benefits
3 and fair consideration in exchange for each loan from the program
4 because:

5 (1) The program requires the dispensing state agency to
6 review all facts, figures and necessary information when making
7 each loan from the program; and

8 (2) The loans from the program will increase employment
9 opportunities for residents of this State who reside in underserved
10 communities and will increase the overall public health of the
11 people of this State by providing access to healthy food options,
12 relieving unemployment, encouraging economic growth and
13 maintaining a stable economy.

14 **Sec. 6.** This act becomes effective on July 1, 2019.

