

Agenda Item Overview

The GOED Board will appoint and/or re-appoint a total of 4 members to the Nevada Battle Born Growth Escalator Inc. (NBBGEI):

NRS 231.0545 Executive Director of Office of Economic Development: Formation of nonprofit corporation to promote, aid and encourage economic development; regulations.

1. After considering any advice and recommendations of the Board, the Executive Director may:
 - (a) Propose to the Board the formation of a nonprofit corporation that is exempt from federal income taxation, the purpose of which is to promote, aid and encourage economic development in this State or a locality or region of this State; and
 - (b) Upon approval of a proposal by the Board, cause such a corporation to be formed.
2. The Board shall:
 - (a) Review each proposal by the Executive Director pursuant to subsection 1; and
 - (b) As the Board determines to be in the best interests of this State, approve, disapprove or modify the proposal made by the Executive Director.
3. A nonprofit corporation formed pursuant to this section must have a board of directors consisting of:
 - (a) The Executive Director.
 - (b) Four members from the private sector who have at least 10 years of experience in the field of investment, finance, accounting, technology, commercialization or banking, appointed by the Executive Director, with the approval of the Board.
 - (c) One member appointed by the Speaker of the Assembly.
 - (d) One member appointed by the Senate Majority Leader.
4. The Executive Director shall serve as chair of the board of directors of the nonprofit corporation formed pursuant to this section.
5. Except as otherwise provided in this subsection, each member appointed to the board of directors of the nonprofit corporation formed pursuant to this section serves a term of 4 years. Two of the initial members of the board of directors who are appointed pursuant to paragraph (b) of subsection 3 must be appointed to an initial term of 2 years.
6. Each member of the board of directors of the nonprofit corporation formed pursuant to this section continues in office until a successor is appointed. Members of the board of directors may be reappointed for additional terms of 4 years in the same manner as the original appointments.
7. Vacancies in the appointed positions on the board of directors of the nonprofit corporation formed pursuant to this section must be filled by the appointing authority for the unexpired term.
8. The members of the board of directors of the corporation formed pursuant to this section must serve without compensation but are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their duties, including, without limitation, travel expenses.
9. A member of the board of directors of the corporation formed pursuant to this section must not have an equity interest in any:

(a) External asset manager or venture capital or private equity investment firm contracting with the nonprofit corporation; or

(b) Business which receives private equity funding from the nonprofit corporation.

10. The nonprofit corporation shall keep confidential any record or other document of a client which is in its possession to the same extent that the record or other document would be required to be kept confidential pursuant to NRS 231.069.

11. The board of directors of the nonprofit corporation formed pursuant to this section shall, on or before December 1 of each year, provide an annual report to the Governor and the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, if the report is submitted in an even-numbered year or to the Legislative Commission, if the report is submitted in an odd-numbered year. The report must include, without limitation:

(a) An accounting of all money received and expended by the nonprofit corporation, including, without limitation, any matching grant funds, gifts or donations; and

(b) The name and a brief description of all businesses receiving an investment of money from the nonprofit corporation formed pursuant to this section.

12. Under the direction of the Executive Director, the Office shall adopt regulations prescribing:

(a) The means by which the Office will verify that a nonprofit corporation formed pursuant to this section furthers the public interest in economic development and ensure that the nonprofit corporation carries out such a purpose; and

(b) The procedures the Office will follow to ensure that the records and documents that are confidential pursuant to NRS 231.069 will be kept confidential when the records or other documents are used by a nonprofit corporation created pursuant to this section.

(Added to NRS by 2015, 701)

How NBBGEI relates to State Small Business Credit Initiative (SSBCI):

About the SSBCI

*The American Rescue Plan Act reauthorized and funded the State Small Business Credit Initiative (SSBCI). The new version of the SSBCI program provides a combined \$10 billion to states, the District of Columbia, territories, and Tribal governments to empower small businesses to access capital needed to invest in job-creating opportunities as the country emerges from the pandemic. The funds will also support recipient jurisdictions in promoting American entrepreneurship and democratizing access to startup capital across the country, including in underserved communities. **The Governor's Office of Economic Development (GOED) oversees the Nevada SSBCI Program. It is operated by Nevada Battle Born Growth Escalator, Inc. a corporation for public benefit and 501(c)(3) non-profit created by GOED in 2016.***

BY-LAWS
OF
NEVADA BATTLE BORN GROWTH ESCALATOR, INC.
A NONPROFIT CORPORATION FOR PUBLIC BENEFIT

ARTICLE I

PURPOSE AND POWERS

Section 1.01. The name of the nonprofit Corporation for Public Benefit is Nevada Battle Born Growth Escalator, Inc. (the “Corporation”).

Section 1.02. The purpose for which the Corporation is organized is to engage in any lawful activity to promote, aid and encourage economic development in this State, as authorized by Assembly Bill No. 17 of the 78th (2015) Session of the Nevada Legislature codified at Nevada Revised Statutes (“NRS”) 231.0545, by administering resources available to support small and medium-sized businesses in Nevada. The Corporation also may engage in other activities permitted under section 501(c)(3) of the Internal Revenue Code of 1991, as amended, and other applicable laws.

Section 1.03. The Corporation is established under, and complies with, the provisions of Chapter 82 of the Nevada Revised Statutes.

ARTICLE II

BOARD OF DIRECTORS

Section 2.01. The Board of Directors (“Board”) shall consist of (a) the Executive Director of the Nevada Governor’s Office of Economic Development (“GOED”), acting as Chairman; (b) Four persons chosen from the private sector who have at least ten (10) years of experience in the field of investment, finance, accounting, technology, commercialization or banking, who will be appointed by Executive Director and approved by the GOED Board; (c) One member appointed by the Nevada Speaker of the Assembly; and (d) One member appointed by the Nevada Senate Majority Leader.

Section 2.02. Except as otherwise provided in this subsection, each Director appointed to the Board will serve a four (4) year term. Two of the initial Directors who are appointed pursuant under subsection (b) of Section 2.01 will be appointed to an initial term of two (2) years.

Section 2.03. Each Director continues in office until a successor is appointed. Directors may be reappointed for additional terms of four (4) years in the same manner as the original appointments.

Section 2.04. The Directors shall not receive any compensation for their services as Directors but are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their duties, including, without limitation, travel expenses.

Section 2.05. Meetings of the Board may be held at the principal office of the Corporation in the State of Nevada, or elsewhere, at such place or places as the Chairman may from time to time determine. Directors may participate in Board meetings in person, by teleconference, over the internet, or through other electronic means.

Section 2.06. Meetings of the Board shall be held annually, at such time and place as shall be designated by the Chairman, unless the annual meeting requirement is waived by written consent of a majority of the Board. Additional meetings of the Board may be held on the call of the Chairman on at least THREE (3) working days' notice by mail, electronic mail, or hand delivery, or upon written waiver of notice by all Directors.

Section 2.07. Whenever any notice is required, a waiver thereof in writing signed by the persons entitled to such notice shall be deemed equivalent to the giving of such notice.

Section 2.08 A majority of the Directors in office shall constitute a quorum for the transaction of business.

Section 2.09. The Board may prescribe rules for the conduct of its business, provided that such rules are not in conflict with these By-Laws, the Articles of Incorporation of the Corporation, or any applicable laws.

Section 2.10. The regular order of business at meetings of the Board of Directors shall be as follows:

1. Reading and approval of the Minutes of any previous meeting or meetings;
2. Reports of Officers and Committees;
3. Unfinished business;
4. New business;
5. Adjournment.

Section 2.11. A Director may resign from the Board at any time by giving written notice to the Chairman.

Section 2.12. The Board of Directors may remove any Director or officer by majority vote, with the exception of the Chairman.

Section 2.13. All Directors shall deliver to their successors all official material not later than ten (10) days following the election of their successors.

Section 2.14. All vacancies on the Board shall be filled as set forth in NRS 231.0545.

Section 2.15. A Director must not have an equity interest exceeding 10 percent or more on a fully-diluted basis in any: (a) external asset manager or venture capital or private equity investment firm

contracting with the Corporation; (b) business which receives private equity or venture capital funding from the Corporation; or (c) any entity which contracts with the Corporation.

Section 2.16. A Director may not vote on any issue, motion, or resolution which directly or indirectly inures to his benefit except that such individual may be counted in order to qualify a quorum and, except as the Board may otherwise direct, participate in the discussion of such an issue, motion, or resolution, provided he first discloses the nature of his interest.

Section 2.17. The Board shall approve a Conflict of Interest Policy which includes Directors, the Chief Executive Officer and employees of the Corporation.

ARTICLE III

DUTIES OF THE BOARD OF DIRECTORS

Section 3.01. The business of the Corporation shall be managed by the Chief Executive Officer under the oversight of the Board.

Section 3.02. All Directors shall perform the duties prescribed in the Bylaws and such other duties as may be assigned to them from time to time.

Section 3.03. The Board shall appoint a Chief Executive Officer who will oversee the operations of the Corporation; and the Board shall approve annually the Corporation's organizational structure, and statement of roles and responsibilities.

Section 3.04. The Board shall approve the Corporation's Conflict of Interest policy.

Section 3.05. The Board may appoint an Investment Advisory Committee to make investment recommendations regarding company selection and the size and timing of investments and divestments. The Board must not make investment, deposit or divestment decisions.

Section 3.06 The Board may appoint a Credit Review Committee to make loan or other credit related recommendations under Economic Development Financing Programs run by or contracted to the Corporation. The Credit Review Committee shall consist of senior staff members of the Corporation and GOED staff members. Board members shall not serve on the Credit Review Committee.

Section 3.07. The Board may authorize the Chief Executive Officer to create a Funding Committee which encompasses the duties of the Investment Advisory Committee and the Credit Review Committee. If a Funding Committee is authorized, the Board will approve a Charter for the Funding Committee which outlines the duties and responsibilities of the Committee members along with operational details.

Board members shall not serve on the Funding Committee. Such Funding Committee shall be comprised of:

- a. GOED's SSBCI Program Director, who shall serve as Chair of the Committee;

- b. The Director of GOED's Office of Entrepreneurship;
- c. A representative of the Venture Capital community;
- d. A representative of the Banking community; and
- e. A representative of the Business community.

The SSBCI Program Director and the Director of GOED's Office of Entrepreneurship shall be permanent members of the Committee. The Venture Capital, Banking and Business representatives shall be appointed to three (3) year terms by the Executive Director of GOED after consultation with the Chief Executive Officer.

Section 3.08. The Board shall, on or before December 1 of each year, provide an annual report through the Executive Director of GOED, to the Governor of the State of Nevada, and to the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, if the report is submitted in an even-numbered year or to the Legislative Commission, if the report is submitted in an odd-numbered year. The report must include, without limitation:

- (a) an accounting of all money received and expended by the Corporation, including, without limitation, any matching grant funds, gifts or donations; and
- (b) the name and brief description of all businesses receiving an investment of money from the Corporation.

ARTICLE IV

DIRECTORS, OFFICERS, AND THEIR DUTIES

Section 4.01. The Chairman, Vice Chairman, Treasurer and Secretary offices shall be held as follows:

Section 4.02: The Chairman of the Corporation shall be the Executive Director of GOED. The Chairman shall supervise the Chief Executive Officer and act as the executive officer of the Corporation in the absence of an appointed Chief Executive Officer. The Chairman shall have the supervision and, subject to the review of the Board of Directors, the direction of the Corporation's affairs, with full power to execute all resolutions and orders of the Board of Directors not especially entrusted to some other officer of the Corporation. The Chairman shall be a member of the Executive Committee, and the Chairman thereof, and shall preside at all meetings of the Board of Directors and shall perform such other duties as shall be prescribed by the Board of Directors. The Chairman shall have the powers to appoint any person to be an employee, consultant, or agent of the Corporation with such, and upon such terms as may be deemed fit. The Chairman shall also sign, and have care and custody of all contracts, and other legal documents of the Corporation. The Chairman shall designate the person or entity to serve as the Corporation's registered agent pursuant to NRS 231. The Chairman shall submit any candidate for Chief Executive Officer of the Corporation to the Board of Directors for formal appointment pursuant to Section 3.03.

Section 4.03. The Vice Chair, Treasurer and Secretary shall be elected by the Board of Directors annually as the first order of business at the annual meeting of the Board. Officers shall serve for a one (1) year term, and until the election and qualification of their successors, with the exception that the office of the Chairman shall always be held by the Executive Director of GOED, as required by NRS 231.0545.

Section 4.04. The Vice Chairman shall be vested with all the powers and perform all the duties of the Chairman in the Chairman's absence, consent or inability to act, including the signing of the documents issued by the Corporation, and shall perform such other duties as shall be prescribed by the Board of Directors.

Section 4.05. Subject to the specific direction and control of the Chairman, or as may otherwise be prescribed by the Board of Directors, the Treasurer shall have the custody of all of the funds and securities of the Corporation during the term of office. Upon cessation of the term for any reason, the Treasurer shall immediately relinquish possession of all funds, securities and related instruments or documents, to the Chairman or another officer of the Corporation designated by the Chairman to receive possession of said items. The Treasurer shall delegate the signing of all papers required by law or by the By-Laws or by the Board of Directors to the Chief Executive Officer including to endorse on behalf of the Corporation, checks, notes, and other obligations; shall deposit all moneys to the credit of the Corporation in the state Treasury or in such bank or banks or other depository as the Board of Directors may designate; the Chief Executive Officer shall sign all receipts and vouchers for payment made by the Corporation, except as herein otherwise provided. The Chief Executive Officer shall put in place appropriate control processes including transaction-verification and regular notification of the Treasurer of all transactions described above. The Treasurer shall be responsible for maintaining the Corporation's books of account and shall report on them to the Chairman and the Board upon request, and shall perform such other duties as shall be prescribed by the Board.

Section 4.06. The Secretary shall keep the Minutes of all meetings of the Board of Directors and the Minutes of all meetings of the Executive Committee in books provided for that purpose. The Secretary shall attend to the giving and serving of all notices of the Corporation, and shall, in general, perform all duties incident to the office of Secretary, and shall perform such other duties as shall be prescribed by the Board of Directors.

ARTICLE V

OFFICES AND BOOKS

Section 5.01. The Principal Office of the Corporation shall be in Carson City, Nevada at the Nevada Governor's Office of Economic Development, and the Corporation may have a principal office in any other location designated by the Chief Executive Officer and approved by the Chairman.

Section 5.02. A copy of the By-Laws and Articles of Incorporation of the Corporation shall be kept at this principal office in the Carson City, State of Nevada, for the inspection of all who have the right to see them. All other books of the Corporation shall be kept at such places as may be prescribed by the Chief Executive Officer and approved by the Chairman.

ARTICLE VI

INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, CONSULTANTS AND AGENTS; INSURANCE

Section 6.01. No person acting as a director, officer, employee, committee member or consultant of the Corporation shall be liable for his/her official acts performed in the course of their duties on behalf of the Corporation, unless such acts were due to willful misconduct, gross negligence, or resulted in criminal charges. Any such person made a party to any legal action, suit or proceeding whether civil, administrative or investigative, shall be indemnified by the Corporation for judgments, fines, amounts paid in settlement and reasonable expenses (including fees of an attorney retained with the approval of the Board), to the extent permitted by law.

Section 6.02. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action brought by or on behalf of this Corporation, by reason of the fact that the person is or was a director, officer, employee, committee member or consultant of the Corporation, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that the individual seeking indemnification must be found by the Board of Directors to have acted in good faith, in a manner the individual believed to be in the best interest of the Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances.

Section 6.03. Expenses incurred in defending any proceeding may be advanced by the Corporation before the final disposition of the proceeding, on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

Section 6.04. The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation against any liability other than for violating provisions against self-dealing asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not this Corporation would have the power to indemnify the agent against liability under the provisions of this Section.

ARTICLE VII

CONTRACTS, LOANS, CHECKS, DEPOSITS AND GIFTS

Section 7.01. The Board may authorize the Chief Executive Officer to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation with the approval of the Chairman.

Section 7.02. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in the state Treasury or in such banks, trust companies or other depositories as the Chief Executive Officer may select.

Section 7.03. The Chief Executive Officer and the Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any specific purpose of the Corporation. The Board may vary the use to which a specific contribution, gift, bequest or devise can be put in the event the use for which it was intended becomes impossible, impractical or contrary to the best interests of the Corporation.

Section 7.04. The Corporation shall comply with all applicable laws, including but not limited to those administered by the United States Securities and Exchange Commission and the United States Department of the Treasury.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. The Board shall have power to reserve over and above the paid in capital, such an amount in its discretion as it may deem advisable to fix as a reserve fund. No dividends will be declared from the accumulated profits of the Corporation, if any, except as a donation to a fund of the State of Nevada.

Section 8.02. The fiscal year of the Corporation shall be from July 1 to June 30.

Section 8.03. No loans shall be made by the Corporation to its Officers, Directors, employees, or consultants.

Section 8.04. Notwithstanding any of provision of these Bylaws, the Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c)(3) of the Internal Revenue Code of 1991 or corresponding provisions of any subsequent federal tax laws. No part of the net income of the Corporation shall inure to the benefit or be distributable to its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of its purposes, to the extent such payments are allowed under NRS 231.0545 and other applicable laws.

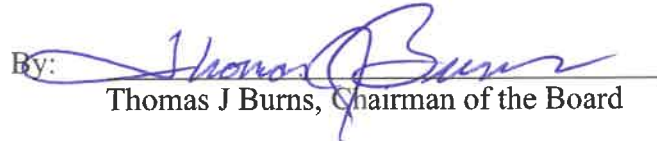
Section 8.05. Upon dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed to one or more organizations that are themselves exempt from federal income tax under Section 501(c)(3) of the Internal Revenue code of 1991, as amended, or corresponding provisions of any subsequent federal tax laws. Any assets that are not so distributed shall be disposed of by a court of competent jurisdiction of the county in which the main office of the Corporation is then located, to such organization or organizations as such court shall determine are organized and operated exclusively for such purposes.

Section 8.06. These By-Laws may be amended by a majority vote of the Board of Directors.

Adopted this 1st day of November, 2023.

The undersigned hereby certifies that the foregoing are the Bylaws of the Nevada Battle Born Growth Escalator, Inc. as adopted by the Corporation's Board of Directors on the date hereof.

Dated: 11/13/2023

By: 
Thomas J Burns, Chairman of the Board