

**PROPOSED REGULATION OF THE EXECUTIVE DIRECTOR OF
THE OFFICE OF ECONOMIC DEVELOPMENT**

LCB File No. R159-16

January 3, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-3, 5, 6, 9, 10 and 32-35, NRS 231.053; §4, NRS 231.053 and 231.069; §7, NRS 231.053 and 231.057; §8, NRS 231.053 and 231.054; §§11-19, NRS 231.053 and 231.1555; §§20-31, NRS 231.053 and 231.1577.

A REGULATION relating to economic development; establishing provisions governing the confidentiality of certain records and documents in the possession of the Office of Economic Development; establishing criteria for the designation of regional development authorities; adopting requirements for certain plans submitted by a regional development authority to the Executive Director of the Office; establishing requirements for certain allocations, grants or loans of money or other incentives for economic development provided by the Office; establishing certain requirements relating to the approval of applications for certain transferable tax credits; establishing certain requirements relating to the application for and disbursement of grants or loans of money from the Catalyst Account in the State General Fund to promote economic development in this State; repealing certain regulations relating to economic development; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a procedure by which a client of the Office of Economic Development may request that the Office keep confidential certain records and documents of the client and requires the Office to keep confidential those records and documents if the Office finds that the records and documents contain proprietary or confidential information. (NRS 231.069) **Section 4** of this regulation sets forth the type of records and documents that the Executive Director of the Office may deem confidential at the request of a client of the Office.

Existing law requires the Executive Director to designate regional development authorities to implement the State Plan for Economic Development. (NRS 231.053) Existing law also requires a regional development authority to submit a plan to the Executive Director regarding the development of its recruiting and marketing effort for the region served by the regional development authority. (NRS 231.054) **Sections 5 and 6** of this regulation authorize the Executive Director to issue a request for proposals from persons or entities qualified to be designated as a regional development authority for a region of this State and set forth the criteria that the Executive Director may consider when reviewing proposals seeking designation as a

regional development authority. **Section 8** of this regulation establishes the information that a regional development authority must include in the recruitment and marketing plan that it submits to the Executive Director.

Existing law requires the Board of Economic Development to review and approve or disapprove: (1) each contract proposed to be entered into by the Office and a regional development authority for more than \$100,000; and (2) each allocation, grant or loan of more than \$100,000 to a regional development authority. (NRS 231.037, 231.057) **Section 7** of this regulation requires the Board to review each such contract, allocation, grant or loan not later than 30 days after the end of each fiscal year.

Section 9 of this regulation establishes general requirements for an agreement entered into between the Office or Executive Director, as applicable, and an entity seeking an allocation, grant or loan of money or another economic development incentive from the Office. **Section 10** of this regulation imposes general limitations and prerequisites on the disbursement by the Office or Executive Director of any money from an allocation, grant or loan of money or other economic development incentive to an approved entity.

Existing law authorizes the Board and the Executive Director to approve and issue transferable tax credits to new or expanding businesses in this State to promote the economic development of this State and aid the implementation of the State Plan for Economic Development. Existing law also provides that a business intending to locate or expand in Nevada may apply to the Office for transferable tax credits in accordance with procedures established by the Executive Director in consultation with the Board. (NRS 231.1555) The Executive Director is authorized to adopt regulations to carry out the provisions of existing law governing these transferable tax credits. (NRS 231.053) **Sections 11-19** of this regulation adopt regulations governing these transferable tax credits. **Section 16** of this regulation sets forth additional requirements for a business that submits an application to the Office for transferable tax credits. **Section 17** of this regulation requires a business approved to receive transferable tax credits to enter into an agreement with the Office that must include, without limitation, performance requirements relating to the number of jobs that the business will create by utilizing the transferable tax credits. **Section 19** of this regulation sets forth the circumstances by which a business may be deemed to default on the agreement entered into between the business and the Office.

Existing law creates the Catalyst Account in the State General Fund and authorizes the Board and the Executive Director to make grants or loans of money from the Catalyst Account to counties and incorporated cities. To obtain a grant or loan from the Catalyst Account, a county or an incorporated city must submit an application in accordance with the procedures established by the Executive Director. The application may be approved if the Board, or the Executive Director under certain circumstances, determines that approval of the application will promote the economic development of this State and aid the implementation of the State Plan for Economic Development. (NRS 231.1573, 231.1577) **Section 26** of this regulation sets forth the requirements for a county or incorporated city to apply for a grant or loan of money from the Catalyst Account. **Section 27** of this regulation requires a county or incorporated city approved to receive a grant or loan of money from the Catalyst Account to enter into an agreement with the Office that includes, without limitation: (1) the length of the agreement; (2) the disbursement

schedule from the Catalyst Account to the county or incorporated city; and (3) the maximum amount of the disbursement from the Catalyst Account to the county or incorporated city. **Section 27** also sets forth that an agreement between a county or incorporated city and the Office must require the county or incorporated city to enter into an agreement with a business that will receive money derived from a Catalyst Account disbursement to the county or incorporated city. **Section 28** of this regulation prohibits the Office from making a disbursement from the Catalyst Account until the county or incorporated city enters into an agreement with the Office and provides certain information relating to the businesses with which the county or incorporated city has entered into agreements. **Section 30** of this regulation authorizes a county or incorporated city and the Executive Director to conduct an investigation of a business to verify that the business is acting in compliance with its agreement entered into with the sponsoring municipality. **Section 29** of this regulation establishes the process by which a county or incorporated city must void an agreement with a business if the Executive Director determines the business is in noncompliance with the agreement.

Section 35 of this regulation repeals certain regulations relating to a program for grants to assist projects of economic diversification in certain counties dependent on the mining industry.

Section 1. Chapter 231 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 31, inclusive, of this regulation.

Sec. 2. *“Client” means a person, company or representative of a company with whom the Office is in contact concerning the potential to create a business in, relocate a business to or expand its workforce in Nevada.*

Sec. 3. *“State Plan for Economic Development” means the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.*

Sec. 4. 1. *Pursuant to subsection 1 of NRS 231.069, a client may submit to the Office a written request that any record or other document provided to the Office by the client be kept confidential.*

2. *The Office may grant a request to keep confidential a record or other document if the Office determines that the record or other document contains proprietary or confidential information of the client. A record or other document that may be kept confidential by the*

Office upon the determination of the Office that the record or other document contains proprietary or confidential information of the client, including, without limitation:

- (a) A draft of incentive terms and negotiation materials;*
- (b) Intellectual property owned or being developed by the client;*
- (c) Materials which are copyrighted or patented;*
- (d) Financial or pro forma business plans;*
- (e) Potential configuration of capital equipment at any proposed facility and the cost of such equipment;*
- (f) Product development procedures, prototypes or other samples related to the client's manufacturing process;*
- (g) Proprietary software;*
- (h) Maps, plans, photographs, videos, film or recordings related to any proposed facility;*
- (i) Any contract or letter of intent between the client and a third party;*
- (j) Details relating to transferring tax credits to a third party; and*
- (k) Salaries and other personnel information.*

3. The Office will deny a request to keep confidential a record or other document if the Office determines that the record or other document:

- (a) Does not contain proprietary or confidential information of the client; or*
- (b) Has been published for public distribution or has otherwise been made available to the public.*

Sec. 5. For the purpose of designating a regional development authority for a region of this State pursuant to subsection 4 of NRS 231.053, the Executive Director may issue a request

for proposals from persons or entities qualified to be designated as a regional development authority.

Sec. 6. *When reviewing proposals submitted pursuant to section 5 of this regulation for the designation of regional development authorities pursuant to subsection 4 of NRS 231.053, the Executive Director may consider:*

- 1. The overall quality of the proposal of the applicant;*
- 2. The economy of the region of this State that the applicant proposes to serve;*
- 3. Past performance of other regional development authorities in the region of this State that the applicant proposes to serve;*
- 4. Input from the Board;*
- 5. Input from state and local governmental officials;*
- 6. Input from interested parties and the general public; and*
- 7. Any other criteria as determined by the Executive Director.*

Sec. 7. *Not less than 30 days after the end of each fiscal year, the Board must review each proposed:*

- 1. Contract between the Executive Director and a regional development authority pursuant to which the regional development authority is paid more than \$100,000.*
- 2. Allocation, grant or loan of money of more than \$100,000 that is made by the Executive Director to a regional development authority.*

Sec. 8. *1. A recruitment and marketing plan submitted to the Executive Director by a regional development authority must include:*

(a) Goals for the economic development of the region of this State served by the regional development authority, which must be consistent with the State Plan for Economic Development;

(b) Strategies and initiatives for achieving the goals included in the plan pursuant to paragraph (a);

(c) Objective criteria for evaluating the effectiveness of the regional development authority in achieving the goals included in the plan pursuant to paragraph (a);

(d) Any other information that the regional development authority deems essential to describing the plan; and

(e) Any other information requested by the Executive Director.

2. At the times set forth in any agreement between the Executive Director and a regional development authority, the regional development authority must update the recruitment and marketing plan of the regional development authority which must include:

(a) An evaluation of the effectiveness of the regional development authority in achieving the goals included in the plan pursuant to paragraph (a) of subsection 1;

(b) Any proposed changes to the objective criteria included in the plan pursuant to paragraph (c) of subsection 1;

(c) Any proposed changes or additions to the plan;

(d) Any other information that the regional development authority deems essential to describing the plan; and

(e) Any other information requested by the Executive Director.

3. The Executive Director may accept, modify or deny a recruitment and marketing plan submitted to the Executive Director by a regional development authority or any update to the

plan submitted to the Executive Director by a regional development authority pursuant to subsection 1 or 2, as applicable.

4. The Office will post on its Internet website each recruitment and marketing plan, and each update to a recruitment and marketing plan approved by the Executive Director pursuant to subsection 3.

5. Not later than 30 days after the end of each calendar quarter, a regional development authority must provide to the Executive Director a quarterly report on a form prescribed by the Executive Director. Each quarterly report:

(a) Must include:

(1) Information concerning the business recruitment and retention activities of the regional development authority; and

(2) Any other information requested by the Executive Director.

(b) May include:

(1) Information concerning the progress of the strategies and initiatives included in the recruitment and marketing plan pursuant to paragraph (b) of subsection 1;

(2) Recommendations for legislative or regulatory changes related to the economic development of the region served by the regional development authority;

(3) Recommendations for any changes to the State Plan for Economic Development that the regional development authority believes will improve the State Plan; and

(4) Any other information deemed necessary by the regional development authority.

6. As used in this section, “recruitment and marketing plan” means the plan regarding the development and enhancement of a recruiting and marketing effort to attract professionals and businesses to the region of this State served by a regional development authority, which is

submitted by a regional development authority to the Executive Director pursuant to NRS 231.054.

Sec. 9. Unless a specific statute or regulation applies to a particular allocation, grant or loan of money or other incentive for economic development, if the Office or Executive Director approves an application for an allocation, grant or loan of money or other incentive for economic development, the recipient must enter into an agreement with the Office and the agreement must include, without limitation:

1. The amount of the allocation, grant or loan of money or other incentive for economic development;

2. The proposed use of the allocation, grant or loan of money or other incentive for economic development;

3. The date on which the Office or Executive Director approved the allocation, grant or loan of money or other incentive for economic development;

4. The objective benchmarks of performance by which the Office or Executive Director and the recipient of the allocation, grant or loan of money or other incentive for economic development will measure the progress and completion of the project for which the allocation, grant or loan of money or other incentive for economic development is provided;

5. A requirement that the recipient of the allocation, grant or loan of money or other incentive for economic development report to the Office periodically, and that the report include a statement of:

(a) The progress that the recipient has made toward the completion of the benchmarks of performance established pursuant to subsection 4;

(b) The expected dates by which the recipient will complete the benchmarks of performance established pursuant to subsection 4; and

(c) Any other information deemed necessary by the Executive Director;

6. The right of the Office or Executive Director, or his or her designee, to review any document which the Office or Executive Director determines is necessary for the appropriate fiscal oversight of the project for which the allocation, grant or loan of money or other incentive for economic development is provided;

7. The date on or the circumstances under which the allocation, grant or loan of money or other incentive for economic development will end; and

8. Any additional terms, requirements or information deemed necessary by the Office or Executive Director.

Sec. 10. 1. Unless a specific statute or regulation applies to a particular allocation, grant or loan of money or other incentive for economic development, the Office or the Executive Director, as applicable, may not disburse any money from an allocation, grant or loan of money or other incentive for economic development until:

(a) The recipient of the allocation, grant or loan of money or other incentive for economic development and the Executive Director sign the agreement required by section 9 of this regulation;

(b) The recipient submits a request to draw money from the allocation, grant or loan of money or other incentive for economic development; and

(c) The Executive Director or his or her designee approves the request.

2. The recipient of an allocation, grant or loan of money or other incentive for economic development must make a request to draw money from the allocation, grant, loan or other

incentive for economic development on a form prescribed by the Executive Director. The request must include:

(a) The amount of money the recipient wants to draw from the allocation, grant, loan or other incentive for economic development;

(b) The dates on which the recipient wants to draw money from the allocation, grant, loan or other incentive for economic development;

(c) A statement identifying the progress towards completion of the agreement using the objective benchmarks established pursuant to subsection 4 of section 9 of this regulation where appropriate; and

(d) Any other information deemed necessary by the Executive Director.

3. The Executive Director will review and either approve, modify or deny a request to draw money from the allocation, grant or loan of money or other incentive for economic development within 15 working days after the date on which the Executive Director receives the request.

4. If the Executive Director approves a request to draw money from the allocation, grant or loan of money or other incentive for economic development, the Executive Director will cause payment to be issued to the recipient of the allocation, grant, loan or other incentive for economic development in the amount requested by the recipient or in the modified amount approved by the Executive Director.

5. If the Executive Director denies or modifies a request to draw money from the allocation, grant or loan of money or other incentive for economic development, the Executive Director will provide the recipient who made the request with a written statement:

(a) Stating the reason for the denial or modification of the request; and

(b) Describing any actions the recipient must take to receive full approval of the request from the Executive Director.

Sec. 11. As used in sections 11 to 19, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 12 to 15, inclusive, of this regulation have the meanings ascribed to them in those sections.

Sec. 12. “Certified entity” means a person who has been granted a certificate of eligibility for transferable tax credits by the Office.

Sec. 13. “New primary job” means a primary job created within the 3 months immediately preceding a date agreed upon by the Office and a certified entity.

Sec. 14. “Primary job” means a permanent position of employment at a physical location of a certified entity in this State if:

- 1. The employee filling that position works an average of at least 30 hours per week; and*
- 2. Not less than half of the revenue generated at that location is derived from exports to locations outside of this State.*

Sec. 15. “Transferable tax credit” means a transferable tax credit issued pursuant to NRS 231.1555.

Sec. 16. 1. A person who wishes to apply for a certificate of eligibility for transferable tax credits pursuant to NRS 231.1555 must submit an application to the Office on a form prescribed by the Executive Director. The application must include, without limitation:

(a) A summary of the proposed expansion or relocation of the business that will expand or relocate in this State;

(b) Evidence that the business that will expand or relocate in this State has the financial ability to implement its plan to expand or relocate in this State;

(c) A statement of the reasons that the granting of the certificate of eligibility will promote the economic development of this State and aid the implementation of the State Plan for Economic Development;

(d) A projection of the number of primary jobs that will be created as a result of the granting of the certificate of eligibility;

(e) A projection of the amount of the capital investment that will be made in this State as a result of the granting of the certificate of eligibility;

(f) An estimate of the economic impact of the granting of the certificate of eligibility, including, without limitation, an estimate of the tax revenue that will be generated as a result of the granting of the certificate of eligibility; and

(g) Any other information deemed necessary by the Executive Director.

2. The Office may assist a person with the development of the information to be included in an application submitted pursuant to subsection 1.

3. The Executive Director may make recommendations to an applicant for the revision of an application submitted pursuant to subsection 1, and the applicant may revise the application upon receipt of any such recommendations.

4. Upon receipt of a completed application submitted pursuant to subsection 1, the Executive Director will review the application and determine whether granting the application will promote the economic development of this State and aid the implementation of the State Plan for Economic Development.

Sec. 17. *If an application for a certificate of eligibility for transferable tax credits submitted pursuant to section 16 of this regulation is approved, the Office will enter into an agreement with the certified entity. Such an agreement must include, without limitation:*

1. *The number of primary jobs that the certified entity must create to be awarded transferable tax credits;*
2. *The average wage that the certified entity must pay to be awarded transferable tax credits;*
3. *A requirement that the certified entity offer health insurance to the person who holds each primary job created by the entity;*
4. *A schedule for the disbursement of transferable tax credits based on the certified entity meeting targets set forth in the agreement for the creation of primary jobs;*
5. *The consent of the certified entity to the public disclosure of:*
 - (a) *The legal name of the company operating the business of the certified entity for which transferable tax credits may be awarded;*
 - (b) *The amount of transferable tax credits requested by the certified entity;*
 - (c) *The requirements that the certified entity must satisfy to be awarded transferable tax credits; and*
 - (d) *Except as otherwise provided in NRS 231.069, the following information:*
 - (1) *Any plan for the location or expansion in this State of the business of the certified entity;*
 - (2) *A project or program of the certified entity for which the transferable tax credits will be used; and*
 - (3) *Any other information related to the location or expansion in this State of the business of the certified entity;*
6. *A provision providing that if the Executive Director finds that the certified entity is not in compliance with the agreement, the Executive Director:*

(a) Will provide notice to the certified entity of his or her intent to void the agreement and give the certified entity 30 days to cure the issue or issues causing the entity's noncompliance; and

(b) May void the agreement if the certified entity does not cure the issue or issues causing the certified entity's noncompliance within 30 days after the issuance of the notice provided pursuant to paragraph (a);

7. A statement that if the agreement becomes void pursuant to subsection 6, interest must accrue on the amount of the transferable tax credits to be refunded by the certified entity beginning on the date that is 30 days after the issuance of the notice provided pursuant to paragraph (a); and

8. Any additional agreement terms deemed necessary by the Executive Director.

Sec. 18. At the direction of the Executive Director, the Office may conduct an investigation of a certified entity to determine whether the certified entity is creating new primary jobs in accordance with the agreement entered into by the Office and the certified entity pursuant to section 17 of this regulation.

Sec. 19. The Office may find that a certified entity is not in compliance with, and in default on, an agreement entered into with the Office pursuant to section 17 of this regulation if the certified entity:

- 1. Fails to locate, initiate construction or commence operations in this State in accordance with the terms of the agreement;*
- 2. Fails to create the minimum number of primary jobs required by the agreement;*
- 3. Applies for or receives a tax abatement or incentive, other than the transferable tax credits authorized by the agreement, from an agency or political subdivision of this State and*

the tax abatement or incentive was not identified on the application for a certificate of eligibility for transferable tax credits submitted to the Office pursuant to section 16 of this regulation; or

4. Has been convicted of any crime or found guilty of any malfeasance by a court of competent jurisdiction.

Sec. 20. As used in sections 20 to 31, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 21 to 25, inclusive, of this regulation have the meanings ascribed to them in those sections.

Sec. 21. “Catalyst Account” means the Catalyst Account created by NRS 231.1573.

Sec. 22. “Catalyst Account disbursement” means a disbursement of money made to a business from a grant or loan of money made to a sponsoring municipality from the Catalyst Account pursuant to NRS 231.1577.

Sec. 23. “New primary job” means a primary job created within the 3 months immediately preceding a date agreed upon by a sponsoring municipality and a business receiving a Catalyst Account disbursement.

Sec. 24. “Primary job” has the meaning ascribed to it in section 14 of this regulation.

Sec. 25. “Sponsoring municipality” means the county or incorporated city in this State approved by the Office to receive a grant or loan of money from the Catalyst Account.

Sec. 26. 1. A county or incorporated city that wishes to apply for a grant or loan from the Catalyst Account must submit an application to the Office on a form prescribed by the Executive Director. The application must include, without limitation:

(a) The information required by paragraph (a) of subsection 1 of NRS 231.1577;

(b) A summary of the proposed expansion or relocation of any business that will expand or relocate in this State as a result of the grant or loan from the Catalyst Account;

(c) Evidence that any business that will expand or relocate in this State as a result of the grant or loan from the Catalyst Account has the financial ability to implement its plan to expand or relocate in this State;

(d) A statement of the reasons that the proposed use of the grant or loan from the Catalyst Account will promote the economic development of this State and aid the implementation of the State Plan for Economic Development;

(e) A projection of the number of primary jobs that will be created as a result of the grant or loan from the Catalyst Account;

(f) A projection of the amount of the capital investment that will be made in this State as a result of the grant or loan from the Catalyst Account;

(g) An estimate of the economic impact of the grant or loan from the Catalyst Account, including, without limitation, an estimate of the tax revenue that will be generated as a result of the grant or loan from the Catalyst Account; and

(h) Any other information deemed necessary by the Executive Director.

2. The Office may assist a county or incorporated city with the development of the information to be included in an application submitted pursuant to subsection 1.

3. The Executive Director may make recommendations to an applicant for the revision of an application submitted pursuant to subsection 1, and the applicant may revise the application upon receipt of any such recommendations.

4. Upon receipt of a completed application submitted pursuant to subsection 1, the Executive Director will review the application and determine whether the proposed use of the

grant or loan from the Catalyst Account would promote the economic development of this State and aid the implementation of the State Plan for Economic Development.

Sec. 27. If an application submitted pursuant to section 26 of this regulation is approved, the Office will enter into an agreement with the sponsoring municipality. Such an agreement must:

1. Require the sponsoring municipality to:

(a) Enter into a written agreement with each business to which the sponsoring municipality will provide a Catalyst Account disbursement before the Office makes a grant or loan of money from the Catalyst Account to the sponsoring municipality; and

(b) Within 60 days after the end of any period for which the Office is authorized to make a grant or loan of money from the Catalyst Account to the sponsoring municipality, submit a report to the Executive Director, which must include, without limitation:

(1) The number of new primary jobs created during the period as a result of each agreement entered into by the sponsoring municipality and a business to which the sponsoring municipality may provide a Catalyst Account disbursement;

(2) The average annual wage of the new primary jobs identified in the report pursuant to subparagraph (1);

(3) A statement as to whether the number of new primary jobs and average annual wage identified in the report pursuant to subparagraphs (1) and (2) satisfy the requirements of the agreement entered into by the sponsoring municipality and the business to which the sponsoring municipality may provide a Catalyst Account disbursement;

(4) Evidence that a business to which the sponsoring municipality may provide a Catalyst Account disbursement offers health insurance to the person who holds each new primary job;

(5) The amount of capital investment made by the business during the period covered by the report;

(6) A statement of the return on investment for the Catalyst Account disbursement, based on the information provided pursuant to subparagraphs (1), (2) and (5);

(7) A statement, including any supporting documentation, explaining the benefit to the public from the project that utilized a Catalyst Account disbursement; and

(8) Any other information deemed necessary by the Executive Director;

2. Set forth the length and terms of the agreement;

3. Set forth the maximum amount of each Catalyst Account disbursement and a schedule for distributing each Catalyst Account disbursement over the entire length of the project undertaken by a business receiving a Catalyst Account disbursement from the sponsoring municipality;

4. Provide that the sponsoring municipality may make a Catalyst Account disbursement only if a business receiving the Catalyst Account disbursement satisfies the terms of the agreement entered into by the sponsoring municipality and the business pursuant to paragraph (a) of subsection 1; and

5. Contain a provision stating that if the sponsoring municipality withholds a Catalyst Account disbursement because the business receiving the Catalyst Account disbursement is unable to satisfy the requirements of an agreement entered into by the sponsoring municipality and the business pursuant to paragraph (a) of subsection 1, the amount of the

Catalyst Account disbursement reverts back to the Catalyst Account and the sponsoring municipality has no right to the amount of the Catalyst Account disbursement.

Sec. 28. *The Office will not make a grant or loan of money from the Catalyst Account to a sponsoring municipality until the sponsoring municipality has:*

- 1. Entered into an agreement with the Office pursuant to section 27 of this regulation;*
- 2. Submitted the report required pursuant to paragraph (b) of subsection 1 of section 27 of this regulation for the period for which the Office will make the grant or loan of money from the Catalyst Account;*
- 3. Provided confirmation to the Office that a business receiving a Catalyst Account disbursement is not in default, breach or noncompliance with the agreement entered into by the sponsoring municipality and the business pursuant to paragraph (a) of subsection 1 of section 27 of this regulation; and*
- 4. Provided confirmation to the Office that the sponsoring municipality has no knowledge of any circumstances that indicate a business receiving money derived from the Catalyst Account disbursement is in danger of being unable to satisfy the requirements of the agreement entered into by the sponsoring municipality and the business pursuant to paragraph (a) of subsection 1 of section 27 of this regulation.*

Sec. 29. *1. An agreement entered into by a sponsoring municipality and a business receiving a Catalyst Account disbursement pursuant to paragraph (a) of subsection 1 of section 27 of this regulation must provide that:*

(a) If the Executive Director determines that a business is not in compliance with that agreement, the sponsoring municipality must provide:

- (1) Notice to the business of its intention to void the agreement; and*

(2) Thirty days to cure such noncompliance.

(b) If the business does not cure its noncompliance within 30 days after receipt of the notice of the sponsoring municipality's intent to void the agreement, the agreement must become void.

2. If an agreement entered into by a sponsoring municipality and a business becomes void pursuant to this section, interest must accrue on the amount of the Catalyst Account disbursement to be refunded by the business as of the date on which the period to cure noncompliance with the agreement ends.

Sec. 30. *1. At the direction of the Executive Director, a sponsoring municipality may conduct an investigation of a business receiving a Catalyst Account disbursement to determine whether the business is creating new primary jobs in accordance with an agreement entered into by the Office and the sponsoring municipality pursuant to section 27 of this regulation.*

2. After conducting an investigation pursuant to subsection 1, if a sponsoring municipality determines that a business receiving a Catalyst Account disbursement has provided false information or failed to create new primary jobs in accordance with the terms of the agreement entered into by the Office and the sponsoring municipality pursuant to section 27 of this regulation, the sponsoring municipality must immediately notify the Executive Director.

Sec. 31. *1. The Executive Director may find that a sponsoring municipality has not complied with the agreement entered into by the Office and the sponsoring municipality pursuant to section 27 of this regulation and refuse to make a grant or loan of money from the Catalyst Account to a sponsoring municipality if the Executive Director:*

(a) Receives information from an investigation conducted by a sponsoring municipality pursuant to section 30 of this regulation, or otherwise has good cause to believe, that the business receiving a Catalyst Account disbursement has provided false information or has failed to create the number of new primary jobs required by the agreement entered into by the Office and the sponsoring municipality pursuant to section 27 of this regulation;

(b) Finds that the business has applied for or received a tax abatement or incentive, other than money derived from the Catalyst Account disbursement, from an agency or political subdivision of this State and that the tax abatement or incentive was not identified on the application for a Catalyst Account disbursement submitted to the Office by the sponsoring municipality pursuant to section 26 of this regulation; or

(c) Finds that the business receiving a Catalyst Account disbursement has been convicted of a crime in this State or any jurisdiction.

2. If, pursuant to subsection 1, the Executive Director finds that the sponsoring municipality is not in compliance with the agreement entered into by the Office and the sponsoring municipality pursuant to section 27 of this regulation and refuses to make the grant or loan of money from the Catalyst Account, the Executive Director will provide written notice of noncompliance to the sponsoring municipality. The written notice must:

(a) Specify the reasons that the sponsoring municipality is not in compliance with the agreement; and

(b) Provide the sponsoring municipality a period of not less than 30 days to cure the areas of noncompliance.

3. If a sponsoring municipality does not cure the areas of noncompliance within the period of time described in the written notice sent to the sponsoring municipality pursuant to

subsection 3, the Executive Director may void the agreement entered into by the Office and the sponsoring municipality pursuant to section 27 of this regulation.

Sec. 32. NAC 231.001 is hereby amended to read as follows:

231.001 As used in NAC 231.001 to 231.240, inclusive, *and sections 2 to 31, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 231.011 ~~{}~~ and 231.015 ~~{and 231.021}~~ *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 33. NAC 231.011 is hereby amended to read as follows:

231.011 “Economic development” means the ~~{process of furthering the development of regional economies in the State of Nevada through the use, singularly or in combination, of the methods that practitioners of economic development generally accept.}~~ *business activities and governmental policies that improve the economic status of this State or a region of this State.* These ~~{methods}~~ *activities and policies* include, without limitation, the diversification of the economy ~~{}~~ *of this State*, the development and support of entrepreneurs, the development and support of business leaders, *the development and support of global trade and investment and the education and training of the workforce* ~~{and the establishment of programs for the development of a community.}~~ *in this State.*

Sec. 34. NAC 231.053 is hereby amended to read as follows:

231.053 ~~{For the purposes of NRS 231.139,}~~ *The Executive Director, the Office or the Board, as applicable, will determine that* a business is ~~{“consistent”}~~ *consistent* with the State Plan for Economic ~~{Development”}~~ *Development* if:

1. The business ~~{being considered for the benefits provided pursuant to NRS 704.223}~~ is ~~{the type}~~ *part* of ~~{business}~~ *an industry* that is consistent with the ~~{current goals of the Office~~

~~concerning industrial development and diversification, as evidenced by the Office's certification of the business;}~~ *State Plan for Economic Development;*

2. The average hourly wage paid by the business to its employees in this State ~~is at least equal to the average statewide industrial hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year;}~~ :

(a) Meets the standards set forth in NRS 360.750 or the statute or regulation governing the particular allocation, grant or loan of money or other incentive for economic development for which the business is applying; or

(b) Is determined by the Board to promote the economic development of this State and aid the implementation of the State Plan for Economic Development.

3. The business provides a health insurance plan for all employees that includes, without limitation, an option for health insurance coverage for dependents of employees;

4. The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and any other permit required by the state, county, city or town in which the business operates ~~is}~~ *or will operate;*

5. ~~The business has:~~

~~—(a) Obtained a statement from the governing body of the affected county, school district and city, if applicable, that is signed and dated, indicating that the county, school district or city acknowledges the possibility of the business obtaining the benefits provided pursuant to NRS 704.223 if the Office certifies the business; and~~

~~—(b) Provided a copy of the statement described in paragraph (a) to the Office;~~

~~6.~~ If the business is applying for an abatement pursuant to paragraph (a) of subsection 1 of NRS 701A.210, the business agrees to provide the Office, at its request, with proof that the business is in compliance with the provisions of that paragraph; and

~~7.—The~~

6. If the business is being considered for the benefits provided pursuant to NRS 704.223, the business has executed an agreement with the Office that grants the Office the right to review any document which the Office determines is necessary to verify the eligibility of the business for the benefits provided pursuant to ~~NRS 704.223.~~ that section.

Sec. 35. NAC 231.021, 231.100, 231.105, 231.110, 231.115, 231.120, 231.125, 231.130 and 231.135 are hereby repealed.

TEXT OF REPEALED SECTIONS

231.021 “Nonprofit private entity” defined. (NRS 231.155) “Nonprofit private entity” means an entity which:

1. Has registered with the Office of the Secretary of State as a nonprofit corporation pursuant to chapter 82 of NRS; and

2. Is exempt from federal income tax pursuant to 26 U.S.C. § 501.

231.100 Definitions. (NRS 231.065) As used in NAC 231.100 to 231.135, inclusive, unless the context otherwise requires, the words and terms defined in NAC 231.105 and 231.110 have the meanings ascribed to them in those sections.

231.105 “County with an economy subject to dramatic fluctuations because of a dependence on mining” defined. (NRS 231.065) “County with an economy subject to dramatic fluctuations because of a dependence on mining” means a county where data from the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce indicate that the mining industry is one of the top two employers in the county.

231.110 “Project of economic diversification” defined. (NRS 231.065) “Project of economic diversification” includes, without limitation, any project that analyzes industrial property, conducts feasibility studies, constructs industrial park infrastructure or purchases publicly owned industrial property.

231.115 Applications for grant. (NRS 231.065)

1. To receive a grant to assist a project of economic diversification in a county with an economy subject to dramatic fluctuations because of a dependence on mining, an entity must:

(a) Be a political subdivision of the State or a local or regional organization for economic development; and

(b) Submit an application to the Office on a form prescribed by the Executive Director.

2. If an applicant is a nonprofit private entity, the applicant must include with the application:

(a) The most recent audit of the books and records of the applicant; and

(b) A letter from the board of county commissioners of the county in which the project is located. This letter must state that:

(1) The board of county commissioners approves of and supports the project that the applicant will fund with money from the grant; and

(2) The resources of the county will be available to provide for the financial administration of the grant money if the applicant, the Office or the board of county commissioners requests that the county provide for the financial administration of the grant money.

3. The Office will accept applications at any time, except the Office will not accept an application submitted on a date in a fiscal year after which the Office has spent or committed for expenditure the entire amount of money appropriated by the Legislature for that fiscal year for grants to assist projects of economic diversification in counties with economies subject to dramatic fluctuations because of a dependence on mining.

231.120 Eligibility for grant. (NRS 231.065) A political subdivision of the State or a local or regional organization for economic development is eligible for a grant to assist a project of economic diversification in a county with an economy subject to dramatic fluctuations because of a dependence on mining if the political subdivision or organization:

1. Submits the application required by NAC 231.115;
2. Seeks the grant for the purpose of funding a project of economic diversification in a county with an economy subject to dramatic fluctuations because of a dependence on mining;
3. Has matched or will match funds for the project in the form of cash only and in an amount equal to at least four times the amount of the grant the political subdivision or organization is requesting; and
4. Will not use the grant to fund a project of economic diversification in a county that qualifies for funding from the Economic Development Administration of the United States Department of Commerce.

231.125 Agreement with Office. (NRS 231.065)

1. If the Office approves an application for a grant to assist a project of economic diversification in a county with an economy subject to dramatic fluctuations because of a dependence on mining, the entity receiving the grant must enter into an agreement with the Office. The agreement must specify:

- (a) The amount of the grant;
- (b) The proper use of the money obtained from the grant;
- (c) The date on which the Office approved the grant;
- (d) The specific benchmarks of performance by which the Office and the recipient of the grant will measure the progress of the project;
- (e) A requirement that the recipient of the grant report to the Office on a quarterly basis and that the report include a statement of:

- (1) The specific benchmarks of performance mentioned in paragraph (d);
- (2) The progress that the recipient of the grant has made toward the completion of the specific benchmarks of performance;

- (3) The expected dates by which the recipient of the grant will complete the specific benchmarks of performance; and

- (4) The amount of money the recipient expects to draw from the grant and the dates on which the recipient of the grant expects to draw money from the grant;

- (f) The right of the Office or its designee to review any document which the Office or its designee determines is necessary for the appropriate fiscal oversight of the project; and

- (g) The date on which the grant will end.

2. The Executive Director and the Office of the Attorney General shall review the form of the agreement entered into by the Office and the recipient of the grant pursuant to subsection 1.

No agreement will take effect unless the Executive Director and the Office of the Attorney General approve the form of the agreement.

231.130 Disbursement of money from grant. (NRS 231.065)

1. The Executive Director may not disburse any money from the grant until:
 - (a) The recipient of the grant and a representative of the Office have signed the agreement required by NAC 231.125; and
 - (b) The Executive Director has received a request to draw money from the grant from the recipient of the grant.
2. The recipient of the grant must make a request to draw money from the grant on a form prescribed by the Executive Director. The request must include:
 - (a) A statement of the amount of money the recipient wants to draw from the grant;
 - (b) A statement of the dates on which the recipient of the grant wants to draw money from the grant;
 - (c) A statement of the amount of money the recipient of the grant wants to draw from the grant on each date that the recipient of the grant wants to draw money from the grant; and
 - (d) Evidence of the expenses incurred by the recipient of the grant during the course of the project. This evidence includes, without limitation, copies of contracts, receipts or invoices.
3. The Executive Director shall review and either approve or deny a request to draw money from the grant within 10 working days after the date on which the Executive Director receives the request.
4. If the Executive Director approves a request to draw money from the grant, the Executive Director shall cause a check to be issued to the recipient of the grant in the amount requested by the recipient.

5. If the Executive Director denies a request to draw money from the grant, the Executive Director shall provide the recipient who made the request with a written statement:

(a) Stating the reason for the denial of the request; and

(b) Describing any actions the recipient must take to receive approval of the request from the Executive Director.

231.135 Failure to comply with agreement. (NRS 231.065) If the Office finds that the recipient of the grant is not using money from the grant in accordance with the provisions of the agreement set forth in NAC 231.125, the Office will immediately cease providing the recipient with money from the grant and the Office may, in its sole discretion, determine that the agreement is void.