

**ADOPTED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R102-98

Effective November 20, 1998.

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

AUTHORITY: §§2-13, NRS 360.090 and 360.283.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Decennial census ratio” means the fraction or percentage of the total population of a county that is located within a certain incorporated city or unincorporated town within the county which is based on the most recent decennial census.*

Sec. 3. *“Town-county ratio” means the fraction or percentage of the total population of a county that is located within a certain unincorporated town within the county.*

Sec. 4. *1. Except as otherwise provided in this section or NAC 360.373, 360.375 or 360.377, the estimate of the population of an unincorporated town must be determined by using the town-county ratio for the unincorporated town obtained from the relevant housing unit model. The ratio may be adjusted by the department and the demographer employed by the department:*

(a) For annexations not previously included in the ratio.

(b) To increase the estimates by using the number of housing units added since the date of the most recent estimates of population. The number of housing units must be certified by the appropriate local governmental official.

(c) For any error or omission which comes to the attention of the department.

The resulting town-county ratio must be multiplied by the total population of the county calculated pursuant to NAC 360.365 or 360.375.

2. If the department and the demographer employed by the department determine that the data necessary to produce a workable housing unit model is not available, the estimate of the population of the unincorporated town may be determined by using:

(a) A decennial census ratio;

(b) A ratio obtained from the most relevant available information; or

(c) An average on an equal basis of the ratios set forth in paragraphs (a) and (b),

as determined by the department and the demographer employed by the department.

Sec. 5. NAC 360.300 is hereby amended to read as follows:

360.300 As used in NAC 360.305 to 360.390, inclusive, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 360.305 to 360.355, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 360.340 is hereby amended to read as follows:

360.340 “Nevada [**labor force**] regression model” means a method , *as determined by the department and the demographer employed by the department*, by which the population of an area is estimated [**based on the ratio of the number of persons who are employed and the number of persons who are unemployed but are willing and able to work, to the total number of persons**

in the population.] using population as a dependent variable and employment, labor force, school enrollment and any other relevant data as independent variables.

Sec. 7. NAC 360.365 is hereby amended to read as follows:

360.365 1. Except as otherwise provided in this section [,] or NAC 360.373, 360.375 or 360.377, estimates of the population of this state and its counties must be determined by averaging on an equal basis the results of the Nevada [**labor force**] regression model and the relevant housing unit model.

2. The housing unit model must include housing units listed on the county assessors' records as of July 1 of each year. Only units included on the county assessors' records may be used unless the appropriate local governmental official certifies to the department that the unit has been approved for occupancy on or before July 1. Documentation certified by the appropriate local governmental official, subject to the approval of the department and the demographer employed by the department, may be submitted to the department to verify that a housing unit should be included in the calculations.

3. The number of persons per household must be calculated using the last decennial census unless a more recent source is available and has been approved by the department and the demographer employed by the department. The number of persons per household may be adjusted using historical rates of change in persons per household. To the extent possible, the vacancy rate must be determined for all incorporated cities *and unincorporated towns* within a county on a consistent basis by using a postal survey, data from utilities providing services within those cities *and towns* or information from other sources acceptable to the department and the demographer employed by the department.

4. [The] *A county and the* incorporated cities *and unincorporated towns* within [a] *that* county shall coordinate and agree upon the data to be included in the [county's or cities' housing unit model, or both.] *housing unit models for the county and each incorporated city and unincorporated town.* If the *county, incorporated cities and unincorporated towns* cannot agree by August 30, the question of what data may be included must be submitted to the department and the demographer employed by the department for resolution.

5. If the department and the demographer employed by the department determine that data is unavailable to produce a workable housing unit model, the Nevada [labor force] regression model must be used to determine the population of the county.

6. If the department and the demographer employed by the department determine that data is unavailable to produce a workable Nevada regression model, the housing unit model must be used to determine the population of the county.

7. If the department and the demographer employed by the department determine that data is unavailable to produce a workable housing unit model and a workable Nevada regression model, the latest estimates prepared by the Bureau of the Census must be used to determine the population of the county.

Sec. 8. NAC 360.367 is hereby amended to read as follows:

360.367 Estimates of the population of townships must be determined by using any one or more of the following:

1. Population counts prepared by the Bureau of the Census;
2. Estimates of the population of incorporated cities , *unincorporated towns* and counties; or
3. Any other available demographic information,

subject to the approval of the department and the demographer employed by the department.

Sec. 9. NAC 360.370 is hereby amended to read as follows:

360.370 1. Except as otherwise provided in [subsection 2] *this section* or NAC 360.373, 360.375 or 360.377, [estimates of the populations of incorporated cities] *the estimate of the population of an incorporated city* must be determined by [averaging on an equal basis the city-county ratios] *using the city-county ratio for the incorporated city* obtained from the relevant housing unit model . [and the ratios from the most recent estimates of population or population counts received from the Bureau of the Census. The ratios] *The ratio* may be adjusted by the department and the demographer employed by the department:

(a) For annexations not previously included [by the bureau.] *in the ratio.*

(b) To increase the estimates by using the number of housing units added since the date of the most recent estimates of population . [or population counts received from the bureau.] The number of housing units must be certified by the appropriate local governmental official.

(c) For any error or omission which comes to the attention of the department.

The resulting city-county [ratios] *ratio* must be multiplied by the total population of the county calculated pursuant to NAC 360.365 or 360.375.

2. If the department and the demographer employed by the department determine that the data necessary to produce a workable housing unit model is not available, the adjusted Bureau of the Census ratio must be used to determine the estimate of the population of the *incorporated* city.

3. *If the department and the demographer employed by the department determine that the data necessary to produce a workable housing unit model and a workable adjusted Bureau of the Census ratio is not available, the estimate of the population of the incorporated city may be determined by using:*

- (a) *A decennial census ratio;*
- (b) *A ratio obtained from the most relevant available information; or*
- (c) *An average on an equal basis of the ratios set forth in paragraphs (a) and (b), as determined by the department and the demographer employed by the department.*

4. *As used in this section, “adjusted Bureau of the Census ratio” means the fraction or percentage of the total population of a county that is located within a certain incorporated city or unincorporated town within the county which is based upon the most recent estimates prepared by the Bureau of the Census and is adjusted by the department and the demographer employed by the department for annexations, changes in housing units, any errors or omissions, and any other relevant information that comes to the attention of the department and the demographer employed by the department.*

Sec. 10. NAC 360.373 is hereby amended to read as follows:

360.373 1. When the Bureau of the Census conducts a decennial census in this state, the population count from the [postcensus local review] *decennial census* may replace the estimates of populations calculated pursuant to NAC 360.365 and 360.370 [.] *and section 4 of this regulation.*

2. An appropriate local government official may apply to the department for approval to use the population count from the [postcensus local review.] *decennial census*. The department shall approve the request if the department and the demographer employed by the department determine that the population count is reasonable and [:

(a) *In a county in which not more than one incorporated city is located, the city, if any, and county agree to use the population count.*

(b) In a county in which more than one city is incorporated, all of the incorporated cities agree to use the population count.

3. If, in a county in which:

(a) Not more than one incorporated city is located, the county and city, if applicable, cannot agree on a method to estimate population on or before December 1; or

(b) More than one city is incorporated and the population of the county is less than 400,000, the incorporated cities cannot agree on a method to estimate population on or before December 1,

the question of what method will be used to estimate population must be submitted to the department and the demographer employed by the department for resolution.

4. If, in a county in which more than one city is incorporated and the population of the county is 400,000 or more, the incorporated cities] *the county and all of the incorporated cities and unincorporated towns within the county agree to use the population count.*

3. *If the county, incorporated cities and unincorporated towns cannot agree on a method to estimate population on or before December 1, the estimates of the populations of the county and all of the incorporated cities and unincorporated towns in that county must be determined pursuant to NAC 360.365 and 360.370 [.*

5.] and section 4 of this regulation.

4. If the population count from the [postcensus local review] *decennial census* is used to estimate the population of [an] *a county, incorporated city [,] or unincorporated town,* the population count must be adjusted, if necessary, by the department and the demographer employed by the department for the change in housing units between the effective date of the population count and July 1.

Sec. 11. NAC 360.375 is hereby amended to read as follows:

360.375 1. An on-site count of persons in an incorporated city , *unincorporated town* or county may replace estimates of populations calculated pursuant to NAC 360.365 and 360.370 *and section 4 of this regulation* if the count is conducted in the manner specified by the department and the demographer employed by the department and is approved by the department and the demographer employed by the department before it is conducted.

2. The department will, within 5 state working days, notify all counties , **[and]** incorporated cities *and unincorporated towns* of any entity electing to conduct an on-site count of its population.

Sec. 12. NAC 360.377 is hereby amended to read as follows:

360.377 1. If the Bureau of the Census conducts a special census in this state, the population count from the special census may replace the estimates of populations calculated pursuant to NAC 360.365 and 360.370 **[.]** *and section 4 of this regulation*.

2. If the population count from a special census is used to estimate the population of **[an]** *a county*, incorporated city **[.]** *or unincorporated town*, the population count must be adjusted, if necessary, by the department and the demographer employed by the department for the change in housing units between the effective date of the population count and July 1.

Sec. 13. NAC 360.390 is hereby amended to read as follows:

360.390 1. A petition to appeal the estimates of the population of a county , **[or]** incorporated city *or unincorporated town* must be submitted in writing to the department as soon as possible after the distribution of the estimates. Upon review of the petition, revised estimates may be issued.

2. Upon filing a petition to appeal, the petitioner shall give notice of the appeal to [all other cities within the county or to the county if the petitioner is the only incorporated city within the county.] *the county and all incorporated cities and unincorporated towns within the county.*

3. The department [will,] *shall* within 5 state working days after receiving a petition to appeal, notify all counties [and] , incorporated cities *and unincorporated towns* in the state of the receipt of the petition.

4. An appeal must be filed on or before December 14 and will be heard and ruled upon by a hearing officer of the department. The appeal is subject to the applicable provisions of chapter 360 of NRS and chapter 360 of NAC relating to practice and procedures before the commission.

5. An appeal must be based on at least one of the following grounds:

(a) An error was made in the application of the methodology used to determine the estimates.

(b) An incorrect assumption was made in developing the proposed estimates.

(c) Additional information has become available which was not available or not used when the proposed estimates were being developed and the application of the additional information, if accepted by the department and the demographer employed by the department, would cause the proposed estimates to change materially.

6. The department [will mail] *shall mail or transmit by facsimile machine* to the petitioner and all counties [and] , incorporated cities *and unincorporated towns* a notice of the date for the hearing during which oral arguments will be heard. The notice [will] *must* be mailed *or transmitted by facsimile machine* not later than 5 state working days before the date of the hearing. Unless extended by the department, an oral argument will be limited to 20 minutes.

7. A decision of the hearing officer may be appealed to the commission. A decision of the commission is a final decision for the purposes of judicial review.