

**ADOPTED REGULATION OF THE
DIRECTOR OF THE OFFICE OF ENERGY**

LCB File No. R127-13

Effective June 23, 2014

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

AUTHORITY: §§1-25, NRS 701A.100 and 701A.110.

A REGULATION relating to energy; providing that energy efficiency standards established by the Green Building Initiative are deemed by the Director of the Office of Energy to be equivalent to the standards established by the Leadership in Energy and Environmental Design Green Building Rating System for the purpose of determining the eligibility of a building or other structure for a partial abatement of certain property taxes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Director of the Office of Energy to adopt a Green Building Rating System and grant a partial abatement of certain property taxes for the construction of a building or other structure that meets certain energy efficiency standards under the Green Building Rating System adopted by the Director. (NRS 701A.100, 701A.110) Existing regulations provide for the manner in which an applicant applies for and receives such an abatement and prescribe the procedures for the local administration of the partial tax abatement. (Chapter 701A of NAC) This regulation generally carries out the amendatory provisions of Assembly Bill Nos. 33 and 239 of the 77th Session of the Nevada Legislature, which, in relevant part: (1) require the Director to include in the Green Building Rating System standards and ratings equivalent to those provided pursuant to the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, or an equivalent rating system; (2) revise provisions relating to the number of points required to obtain certain levels of certification for energy efficiency; (3) establish the duration and amount of the abatement for certain buildings and structures that qualify for an abatement under the LEED “Existing Buildings: Operations and Maintenance” rating system, or its equivalent; and (4) authorize the Director to charge and collect a fee from each applicant in an amount not to exceed the actual cost to the Director of processing the application. (Chapters 502 and 504, Statutes of Nevada 2013, pp. 3185 and 3196, respectively)

Sections 4-6, 8-13 and 15-20 of this regulation provide that certain energy efficiency standards developed by the Green Building Initiative are equivalent to the standards established by the LEED Green Building Rating System for the purpose of determining the eligibility of a building or other structure for a partial abatement of certain property taxes pursuant to NRS 701A.110. **Section 9** formally adopts certain Green Globes standards for use in this State and

prescribes the manner in which new or updated versions of a Green Globes standard are adopted. **Section 8** establishes specific equivalencies under the Green Globes standards in relation to certain energy efficiency standards under the LEED Green Building Rating System. **Section 10** establishes the criteria for obtaining certain ratings under a Green Globes standard.

Section 14 of this regulation increases the number of points which are needed to meet certain energy efficiency standards under the LEED Green Building Rating System.

Section 20 revises provisions governing the duration and percentage of an abatement as it relates to the amount of points obtained under certain energy efficiency standards.

Section 7 of this regulation requires an applicant to pay to the Director a fee for the review and approval of an application for an abatement, requires the Director to review the amount of the fee during each even-numbered year and provides for the deposit and use of the fees by the Director.

Sections 2, 3 and 21-25 of this regulation revise provisions governing the local administration of a partial abatement of taxes granted pursuant to NRS 701A.110 to clarify that the administrative procedures apply for abatements granted to eligible recipients that qualify under a Green Globes standard as well as the LEED Green Building Rating System.

Section 1. Chapter 701A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“Abatement” means the partial abatement of certain property taxes authorized by NRS 701A.110.*

Sec. 3. *“Abatement percentage” means the applicable percentage determined pursuant to paragraph (a) of subsection 5 of NRS 701A.110 for any eligible building or other structure.*

Sec. 4. *“GG-CIEB” means the Green Globes standard for Continual Improvement of Existing Buildings.*

Sec. 5. *“GG-NC” means the Green Globes standard for New Construction.*

Sec. 6. *“Green Globes standard” means a standard for energy efficiency developed by the Green Building Initiative and adopted for use in this State by the Director pursuant to section 9 of this regulation.*

Sec. 7. 1. *An applicant shall pay to the Director a fee in the amount of \$1,750 for the review and approval of an application submitted pursuant to NRS 701A.110. An applicant shall pay the fee concurrently with the submission of his or her application. The Director will not approve an application for which the fee has not been timely paid pursuant to this subsection.*

2. The Director will review each fee prescribed by subsection 1 on or before December 31 of each even-numbered year to ensure that the amount of the fee reflects the actual cost to the Office of Energy in carrying out the duties described in subsection 1.

3. The fees collected pursuant to subsection 1 must be deposited by the Director into an interest-bearing account. The money deposited pursuant to this subsection and any interest earned on such money must be used only to pay the costs incurred by the Office of Energy in carrying out the duties described in subsection 1.

Sec. 8. *For the purposes of determining whether a building or other structure is eligible for a tax abatement pursuant to NRS 701A.110 and NAC 701A.010 to 701A.290, inclusive, and sections 4 to 10, inclusive, of this regulation:*

1. A rating of two globes under a Green Globes standard shall be deemed to be equivalent to the silver level of the LEED Green Building Rating System.

2. A rating of three globes under a Green Globes standard shall be deemed to be equivalent to the gold level of the LEED Green Building Rating System.

3. A rating of four globes under a Green Globes standard shall be deemed to be equivalent to the platinum level of the LEED Green Building Rating System.

Sec. 9. 1. *Except as otherwise provided in this subsection and section 10 of this regulation:*

(a) The Director hereby adopts for use in this State the following Green Globes standards which are in effect on June 23, 2014:

(1) GG-NC; and

(2) GG-CIEB.

(b) If the Green Building Initiative adopts a new or updated Green Globes standard after June 23, 2014, the Director will determine whether the new or updated standard is appropriate for use in this State and, if the Director determines that the new or updated standard:

(1) Is appropriate in this State:

(I) The new or updated standard becomes effective on such a date as may be determined by the Director; and

(II) The Director will post a notice of approval and the effective date thereof at the State Library and Archives and the Office of Energy, and on the Internet website of the Office of Energy; or

(2) Is not appropriate in this State, the Green Globes standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.

2. The Director will review, evaluate and consider any new and updated Green Globes standard at least once each year.

Sec. 10. 1. *In accordance with the provisions of NRS 701A.100, the Green Globes standards adopted pursuant to section 9 of this regulation:*

(a) Do not include any Green Globes standard:

(1) That has not been a Green Globes standard for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the

building or other structure meets the equivalent of a rating of two globes or higher under the Green Globes standard; or

(2) For homes.

(b) Shall be deemed to require a building or other structure to obtain:

(1) At least 32 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of two globes;

(2) At least 40 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of three globes; and

(3) At least 56 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of four globes.

2. An applicant for a partial tax abatement:

(a) Must use a third-party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project for the purpose of obtaining certification by the Green Building Initiative.

(b) Shall submit to the Director with his or her application a copy of the report and findings of the assessor as the result of the assessment conducted pursuant to paragraph (a).

3. As used in this section, "home" has the meaning ascribed to it in NRS 701A.100.

Sec. 11. NAC 701A.010 is hereby amended to read as follows:

701A.010 As used in NAC 701A.010 to 701A.290, inclusive, *and sections 4 to 10, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 701A.020 to 701A.190, inclusive, *and sections 4, 5 and 6 of this regulation* have the meanings ascribed to them in those sections.

Sec. 12. NAC 701A.030 is hereby amended to read as follows:

701A.030 “Building or other structure” means an improvement on real property that is being considered for or has been granted certification by the U.S. Green Building Council ~~or~~ *the Green Building Initiative.*

Sec. 13. NAC 701A.190 is hereby amended to read as follows:

701A.190 “Significant change in the scope of the project” means:

1. A change by more than 10 percent in the gross square footage of any building or other structure for which a partial tax abatement is sought;
2. A change in the level of ~~LEED~~ certification *under the applicable LEED standard or Green Globes standard* being sought if the change will affect the amount of the partial tax abatement being sought; or
3. Any other change, including, without limitation, any change in the square footage or estimated costs of any building or other structure for which a partial tax abatement is sought, which will change the amount of the partial tax abatement being sought by more than 10 percent, except that changes resulting from increases in square footage, costs or any other factor affecting the amount of the partial tax abatement relating to the project as represented in the application therefor, including any amendments or disputed claims with a contractor or supplier relating to those costs, will not be considered a significant change in the scope of the project until they are reasonably final and known to the owner.

Sec. 14. NAC 701A.210 is hereby amended to read as follows:

701A.210 1. In accordance with the provisions of NRS 701A.100, the LEED Green Building Rating System adopted by the Director pursuant to NAC 701A.200:

- (a) Does not include any LEED standard:

(1) That has not been included in the LEED Green Building Rating System for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System adopted by the Director; or

(2) For homes.

(b) Shall be deemed to require a building or other structure to obtain:

(1) At least ~~{3}~~ **5** points ~~{for energy conservation under the LEED Green Building Rating System Energy and Atmosphere Credit 1 (Optimize Energy Performance),}~~ *in the Optimize Energy Performance credit* to meet the equivalent of the silver level;

(2) At least ~~{5}~~ **7** points ~~{for energy conservation under the LEED Green Building Rating System Energy and Atmosphere Credit 1 (Optimize Energy Performance),}~~ *in the Optimize Energy Performance credit* to meet the equivalent of the gold level; and

(3) At least ~~{8}~~ **11** points ~~{for energy conservation under the LEED Green Building Rating System Energy and Atmosphere Credit 1 (Optimize Energy Performance),}~~ *in the Optimize Energy Performance credit* to meet the equivalent of the platinum level.

2. An applicant for a partial tax abatement must utilize an independent third-party commissioning firm to facilitate the fundamental building systems commissioning or existing building commissioning, as applicable, required by the LEED Green Building Rating System Energy and Atmosphere Prerequisite 1.

3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.

Sec. 15. NAC 701A.220 is hereby amended to read as follows:

701A.220 1. A person who, with respect to a construction project involving a building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must, if the certification of the building or other structure:

(a) Will be based on LEED-NC, ~~or~~ LEED-CS ~~or~~ *GG-NC*, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after receiving local government approval of the construction project; or

(b) Will ~~not~~ be based on *a LEED standard other than* LEED-NC or LEED-CS ~~or~~ *based on GG-CIEB*, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after registering the project with the U.S. Green Building Council ~~or~~ *the Green Building Initiative, as applicable.*

2. The application must include:

(a) The name, address and telephone number of the applicant;

(b) The name and address of the owner of the affected real property, if the applicant is not the owner;

(c) The address of the real property;

(d) The address of the board of county commissioners of the county in which the real property is located;

(e) If the real property is located in a city, the name and address of the city manager and the address of the city council, if any, of that city;

(f) Any project title associated with the development or modification of the real property;

(g) For each building or other structure included within the construction project:

(1) The estimated gross square footage and number of floors of the building or other structure;

- (2) The proposed use of the building or other structure;
- (3) The estimated cost of the design and construction or retrofit, and maintenance and operation, of the building or other structure;
- (4) The actual or estimated date of the start of the construction or retrofit;
- (5) The expected date of occupancy of the building or other structure;
- (6) If applicable, a copy of each executed preconstruction or construction contract the applicant is relying upon to qualify as a pre-2007 applicant;
- (7) Proof that the building or other structure has been registered with the U.S. Green Building Council ~~†~~ *or the Green Building Initiative, as applicable;*
- (8) The applicable LEED standard *or Green Globes standard* on which the certification of the building or other structure will be based;
- (9) A statement containing the level *or rating* and number of points of the applicable LEED standard *or Green Globes standard* at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific ~~LEED~~ credits *or points* that the project team intends to achieve ~~†~~ *under the applicable LEED standard or Green Globes standard;*
- (10) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;
- (11) A list of all sources of funding for the acquisition, design , ~~†~~ construction *or renovation* of the building or other structure, and associated land, provided by a governmental entity in this State; and

(12) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;

(h) The name and contact information of the ~~LEED-accredited~~ professional *accredited by the U.S. Green Building Council or the Green Building Initiative and* assigned to the design team for the project or other person designated as the contact person on the application;

(i) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;

(j) A list of any improvements in the project that are not expected to be considered for ~~LEED~~ certification ~~+~~ *under the applicable LEED standard or Green Globes standard;*

(k) If the project is registered with the U.S. Green Building Council *or the Green Building Initiative* in a campus or multibuilding setting, a list of the buildings or other structures on the affected real property and the construction phases of each building or other structure;

(l) A copy of the local government approval of the construction project; and

(m) Any other information requested by the Director.

3. Upon receipt of all information required by this section, the Director will:

(a) Notify the applicant in writing acknowledging that the application has been received; and

(b) In accordance with the provisions of NRS 701A.110, forward a copy of the application and the written notification provided to the applicant to the:

(1) Chief of the Budget Division of the Department of Administration;

(2) Department of Taxation;

- (3) County assessor;
- (4) County treasurer;
- (5) Board of county commissioners;
- (6) City manager and city council, if any; and
- (7) ~~Commission on~~ *Office of* Economic Development.

4. The applicant must:

- (a) Identify any information included in the application which the applicant considers to be confidential; and
- (b) Promptly amend the application if there is a significant change in the scope of the project.

5. The Director will not accept an application pursuant to this section for a building or other structure that on the date the application is registered has been issued a certificate of occupancy and has been certified by the U.S. Green Building Council ~~or~~ *or the Green Building Initiative.*

Sec. 16. NAC 701A.230 is hereby amended to read as follows:

701A.230 1. If an application for a partial tax abatement is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the applicant must amend the application to include the change within 60 days after the occurrence of the change. If the applicant fails to amend the application in a timely manner, the Director may, without limitation:

- (a) Allow a partial tax abatement of those portions of the project that were part of the original application, including timely amendments; or
- (b) For good cause shown, extend the time within which to amend the application.

2. Upon receipt of an amendment to an application for a partial tax abatement, the Director will forward a copy of the amendment to the:

- (a) Chief of the Budget Division of the Department of Administration;
- (b) Department of Taxation;
- (c) County assessor;
- (d) County treasurer;
- (e) Board of county commissioners;
- (f) City manager and city council, if any; and
- (g) ~~Commission on~~ *Office of* Economic Development.

Sec. 17. NAC 701A.240 is hereby amended to read as follows:

701A.240 1. Within 48 months after an application for a partial tax abatement is submitted to the Director pursuant to NAC 701A.220, or within such time as the Director, for good cause shown, extends the deadline, the applicant must submit to the Director:

- (a) Proof that the building or other structure ~~meets the equivalent of~~ :

(1) Meets the silver level or higher of the LEED Green Building Rating System adopted by the Director ~~;~~ *pursuant to NAC 701A.200*; or

(2) Obtains a rating of two globes or higher under a Green Globes standard adopted by the Director pursuant to section 9 of this regulation; or

- (b) An application to extend the period for providing such proof.

2. If an applicant has not submitted the proof or an application for extension required by subsection 1, the Director will consider the application abandoned and notify the:

- (a) Applicant;
- (b) Chief of the Budget Division of the Department of Administration;
- (c) Department of Taxation;
- (d) County assessor;

- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and
- (h) ~~Commission on~~ *Office of* Economic Development.

3. If the Director, after reviewing the proof submitted by the applicant pursuant to subsection 1, concludes that the building or other structure is eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that proof, issue a certificate of eligibility for the abatement and provide a copy to the:

- (a) Applicant;
- (b) Chief of the Budget Division of the Department of Administration;
- (c) Department of Taxation;
- (d) County assessor;
- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and
- (h) ~~Commission on~~ *Office of* Economic Development.

4. The certificate of eligibility will include the duration and annual percentage of the partial tax abatement as provided in NAC 701A.280 and subsection ~~4~~ 5 of NRS 701A.110, and identify each building or other structure to which the abatement should be applied. The Director may indicate that the abatement should be applied to an ancillary structure if the ancillary structure was specified in the application. The Director will include as part of the certificate of eligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate.

5. If the Director, after reviewing the proof submitted by the applicant pursuant to subsection 1, concludes that the building or other structure is not eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that proof, issue a certificate of ineligibility for the abatement and provide a copy to the:

- (a) Applicant;
- (b) Chief of the Budget Division of the Department of Administration;
- (c) Department of Taxation;
- (d) County assessor;
- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and
- (h) ~~Commission on~~ *Office of* Economic Development.

↪ The Director will include as part of the certificate of ineligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate of ineligibility.

6. If a certificate of eligibility is issued:

(a) On or after July 1 and on or before March 31 of a fiscal year, the abatement becomes effective on July 1 of the immediately following fiscal year. The Director will not issue a certificate of eligibility on or before March 31 of a fiscal year with respect to an application that is not submitted to the Director on or before February 1 of that fiscal year.

(b) On or after April 1 and on or before June 30 of a fiscal year, the abatement becomes effective on July 1 of the fiscal year next following the immediately following fiscal year.

7. A certificate of eligibility or a certificate of ineligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

Sec. 18. NAC 701A.250 is hereby amended to read as follows:

701A.250 1. Except as otherwise provided in subsection 2, the Director will accept as proof ~~that a building or other structure for which a partial tax abatement is sought meets the equivalent of the silver level or higher of the LEED Green Building Rating System adopted by the Director;~~ *submitted pursuant to paragraph (a) of subsection 1 of NAC 701A.240:*

(a) An original or certified copy of a letter from ~~the~~ :

(1) The U.S. Green Building Council informing the applicant that the building or other structure meets the LEED silver level or higher; or

(2) The Green Building Initiative informing the applicant that the building or other structure qualifies for a rating of two globes or higher under a Green Globes standard;

(b) Official documentation issued by the U.S. Green Building Council *or Green Building Initiative* setting forth the number of ~~LEED~~ points obtained by the building or other structure ~~;~~ *under the applicable LEED standard or Green Globes standard;* or

(c) Any other information acceptable to the Director that, in the judgment of the Director, evidences compliance with the requirements of the LEED Green Building Rating System ~~adopted by the Director;~~ *or a Green Globes standard, as applicable.*

2. In addition to the documentation required by subsection 1, the proof submitted pursuant to this section must include:

(a) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;

(b) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;

(c) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;

(d) An overall project narrative;

(e) The documentation submitted to the U.S. Green Building Council *or Green Building Initiative, as applicable*, to obtain points for water efficiency under the LEED Green Building Rating System ~~†~~ *or a Green Globes standard*;

(f) For pre-2007 applicants:

(1) The documentation submitted to the U.S. Green Building Council to comply with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or

(2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); and

(g) For applicants other than pre-2007 applicants:

(1) The documentation submitted to the U.S. Green Building Council *or Green Building Initiative, as applicable*, to obtain points under the LEED Green Building Rating System ~~† Energy and Atmosphere Credit 1 (Optimize Energy Performance),†~~ *or a Green Globes standard*, including, without limitation, any pertinent information regarding general building energy

model, energy performance, building energy performance baseline, baseline and proposed design input parameters, baseline performance, performance rating, percentage improvement and points achieved; or

(2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System ~~Energy and Atmosphere Credit 1 (Optimize Energy Performance)~~ *or a Green Globes standard, as applicable.*

Sec. 19. NAC 701A.260 is hereby amended to read as follows:

701A.260 1. The Director may require an applicant who has been issued a certificate of eligibility pursuant to NAC 701A.240 or the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates to submit to the Director on an annual or other reasonable basis such information as the Director requires to determine whether the parcel on which the building or other structure is located is receiving another abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS.

2. After a certificate of eligibility has been issued pursuant to NAC 701A.240, the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates:

(a) Shall:

(1) Notify the Director if the building or other structure is sold during the term of the partial tax abatement; and

(2) Provide the buyer of the building or other structure with written notice of the certificate of eligibility and a copy of the statutes and regulations regarding the owner's rights and responsibilities relating to the certificate of eligibility;

(b) Must submit to the Director as prescribed in subsection 3:

(1) Documentation of energy performance which indicates the pertinent ENERGY STAR rating or equivalent ENERGY STAR rating, annual energy reduction, annual summer peak demand reduction and, if the applicant for that certificate of eligibility:

(I) Qualified as a pre-2007 applicant, compliance with the requirements for the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or

(II) Did not qualify as a pre-2007 applicant, compliance with the requirements ~~for~~ of the LEED Green Building Rating System ~~Energy and Atmosphere Credit 1 (Optimize Energy Performance);~~ *or a Green Globes standard, as applicable;*

(2) A summary of the annual utility bills, including the amount of cost and usage, for each type of energy used by the building or other structure;

(3) A summary of the annual water bills, including the amount of cost and usage, for the building or other structure; and

(4) Any *other* documentation that, in the judgment of the Director, demonstrates compliance with the LEED Green Building Rating System ~~Energy and Atmosphere Credit 1 (Optimize Energy Performance);~~ *or a Green Globes standard, as applicable;* and

(c) Must submit to the Director as prescribed in subsection 3 written recertification from a third-party commissioning firm *or third-party assessor, as applicable*, stating that the energy systems of the building or other structure are still operating in general compliance with the

original project requirements, with particular focus and emphasis on certifying that the energy conservation measures upon which the original certificate of eligibility was based are still being achieved. The third-party commissioning firm *or third-party assessor, as applicable*, providing the recertification letter should typically be the same firm *or assessor* that provided the original fundamental building systems commissioning *or assessment* or existing building commissioning *or assessment* services on the project.

3. The documentation required by:

(a) Paragraph (b) of subsection 2 must be submitted on or before March 15 of the third and each subsequent year after the certificate of eligibility was issued.

(b) Paragraph (c) of subsection 2 must be submitted within 60 days after the end of the:

(1) Third year after the certificate of eligibility was issued if the duration of the partial tax abatement is 5 or 6 years;

(2) Third and fifth years after the certificate of eligibility was issued if the duration of the partial tax abatement is 7 or 8 years; and

(3) Third, fifth and seventh years after the certificate of eligibility was issued if the duration of the partial tax abatement is 9 or 10 years.

4. Upon determining that the parcel on which the building or other structure is located is receiving another abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS, the Director will notify the owner of the building or other structure and the Department of Taxation in writing that the certificate of eligibility relating to the building or other structure has been suspended, and indicate the term of the suspension.

5. Upon determining that the building or other structure may have ceased to qualify for the level of certification for which the partial tax abatement was issued, or that the owner of the building or other structure may have failed to comply with any conditions imposed by the Director in issuing the partial tax abatement, the Director will notify the owner of the building or other structure of the findings of the Director and provide the owner a reasonable opportunity to cure any noncompliance issues included in the findings. If the owner fails to cure the noncompliance issues within the time or in accordance with the terms provided by the Director, the Director will issue a certificate of termination or reduction of eligibility, including his or her findings of fact, conclusions of law and order, which declares that the building or other structure has ceased to meet the standard upon which the certificate of eligibility was based, specifies the areas of noncompliance, and terminates the partial tax abatement or reduces the partial tax abatement to the level of certification for which the building or other structure qualifies. The Director will provide a copy of the certificate of termination or reduction of eligibility to the:

- (a) Owner of the building or other structure;
- (b) Chief of the Budget Division of the Department of Administration;
- (c) Department of Taxation;
- (d) County assessor;
- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and
- (h) ~~Commission on~~ *Office of* Economic Development.

6. A certificate of termination or reduction of eligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

7. For the purposes of this section:

(a) On or before the date of submission to the Director of proof that a building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System ~~adopted by the Director,~~ *or the rating of two globes or higher under a Green Globes standard*, the applicant for a partial tax abatement shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and

(b) Within 60 days after:

(1) The sale or other transfer of ownership of the building or other structure during the term of the partial tax abatement, the purchaser or other transferee shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and

(2) The designation of any successor tax abatement coordinator for the building or other structure during the term of the partial tax abatement, the successor shall submit his or her name and address to the Director.

Sec. 20. NAC 701A.280 is hereby amended to read as follows:

701A.280 *1.* If the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure that meets the equivalent of the silver level or higher ~~of the~~ *under the* LEED ~~Green Building Rating System adopted by the Director,~~ *standard for LEED-NC or LEED-CS, or that meets the equivalent of the rating of two globes or higher under the Green Globes standard for GG-NC*, the Director will set the duration of the partial tax abatement for the building or other structure ~~;~~ based upon the number of points awarded by the U.S. Green Building Council *or Green Building Initiative, as applicable*, for energy

conservation *in the Optimize Energy Performance credit or Energy Performance section* under the *applicable* LEED ~~{Green Building Rating System Energy and Atmosphere Credit-1 (Optimize Energy Performance)}~~ *standard or Green Globes standard* as provided in the following table:

LEED <i>or</i> Green Globes Certification Level	{1-2 points for Energy Conservation from U.S.G.B.C.}	3-points for Energy Conservation from U.S.G.B.C.} 5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 points in the Energy Performance section (Green Globes)	{4 points for Energy Conservation from U.S.G.B.C.} 7-10 points in the Optimize Energy Performance credit category (LEED) or 40-55 points in the Energy Performance section (Green Globes)	{5 points for Energy Conservation from U.S.G.B.C.} 11-12 points in the Optimize Energy Performance credit category (LEED) or 56-63 points in the Energy Performance section (Green Globes)	{6 points for Energy Conservation from U.S.G.B.C.} 13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)	{7 points for Energy Conservation from U.S.G.B.C.} 15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)	{8-10 points for Energy Conservation from U.S.G.B.C.} 17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)
Silver <i>level or 2 globes</i>	{No abatement}	25 percent abatement for 5 years	25 percent abatement for 5 years	25 percent abatement for 7 years	25 percent abatement for 8 years	25 percent abatement for 9 years	25 percent abatement for 10 years
Gold <i>level or 3 globes</i>	{No abatement}	25 percent abatement for 5 years	{25} 30 percent abatement for 6 years	30 percent abatement for 7 years	30 percent abatement for 8 years	30 percent abatement for 9 years	30 percent abatement for 10 years
Platinum <i>level or 4 globes</i>	{No abatement}	25 percent abatement for 5 years	{25} 30 percent abatement for 6 years	{30} 35 percent abatement for 7 years	{30} 35 percent abatement for 8 years	{30} 35 percent abatement for 9 years	35 percent abatement for 10 years

2. If the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure that meets the equivalent of the silver level or higher under the LEED standard for LEED-EB, or that meets the equivalent of the rating of two globes or higher under the Green Globes standard for GG-CIEB, the Director will set the duration of the partial tax abatement for the building or other structure based upon the number of points awarded by the U.S. Green Building Council or Green Building Initiative, as applicable, for energy conservation in the Optimize Energy Performance credit or Energy Performance

section under the applicable LEED standard or Green Globes standard as provided in the following table:

<i>LEED or Green Globes Certification Level</i>	<i>5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 points in the Energy Performance section (Green Globes)</i>	<i>7-10 points in the Optimize Energy Performance credit category (LEED) or 40-55 points in the Energy Performance section (Green Globes)</i>	<i>11-12 points in the Optimize Energy Performance credit category (LEED) or 56-63 points in the Energy Performance section (Green Globes)</i>	<i>13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)</i>	<i>15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)</i>	<i>17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)</i>
<i>Silver level or 2 globes</i>	<i>25 percent abatement for 5 years</i>	<i>25 percent abatement for 5 years</i>	<i>25 percent abatement for 5 years</i>	<i>25 percent abatement for 5 years</i>	<i>25 percent abatement for 5 years</i>	<i>25 percent abatement for 5 years</i>
<i>Gold level or 3 globes</i>	<i>25 percent abatement for 5 years</i>	<i>30 percent abatement for 5 years</i>	<i>30 percent abatement for 5 years</i>	<i>30 percent abatement for 5 years</i>	<i>30 percent abatement for 5 years</i>	<i>30 percent abatement for 5 years</i>
<i>Platinum level or 4 globes</i>	<i>25 percent abatement for 5 years</i>	<i>30 percent abatement for 5 years</i>	<i>35 percent abatement for 5 years</i>	<i>35 percent abatement for 5 years</i>	<i>35 percent abatement for 5 years</i>	<i>35 percent abatement for 5 years</i>

Sec. 21. NAC 701A.300 is hereby amended to read as follows:

701A.300 As used in NAC 701A.300 to 701A.370, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NRS 701A.110 and NAC 701A.310 to 701A.350, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 22. NAC 701A.320 is hereby amended to read as follows:

701A.320 “Eligible building or other structure” means a building or other structure which the Director determines to be eligible for the ~~LEED~~ abatement.

Sec. 23. NAC 701A.360 is hereby amended to read as follows:

701A.360 1. Upon receiving a certificate of eligibility for the ~~LEED~~ abatement from the Director, a county tax receiver shall, with regard to the pertinent parcel or other taxable unit of property that includes an eligible building or other structure:

(a) Obtain from the county assessor or the Department, as applicable, the following information:

(1) The net taxable value of all the land and of each improvement on the land that comprises the property;

(2) The ~~LEED~~ abatement percentage certified by the Director for each eligible building or other structure; and

(3) The percentage of the net taxable value of each eligible building or other structure which is subject to the ~~LEED~~ abatement.

(b) Calculate the percentage of the total net taxable value of the property attributable to:

(1) Each eligible building or other structure;

(2) Each building or other structure which is not eligible for the ~~LEED~~ abatement; and

(3) The land that comprises the property.

↪ The sum of the percentages determined pursuant to this paragraph must equal 100 percent.

(c) Calculate the weighted ~~LEED~~ abatement percentage for each eligible building or other structure by:

(1) Multiplying the percentage of the total net taxable value of the property attributable to the building or other structure, as determined pursuant to subparagraph (1) of paragraph (b), by the ~~LEED~~ abatement percentage certified for the building or other structure by the Director; and

(2) Multiplying the result determined pursuant to subparagraph (1) by the percentage of the net taxable value of the building or other structure which is subject to the ~~LEED~~ abatement, as indicated pursuant to subparagraph (3) of paragraph (a).

(d) Calculate the weighted average ~~LEED~~ abatement percentage for the property by adding all the weighted ~~LEED~~ abatement percentages determined for the property pursuant to paragraph (c).

(e) Calculate the applicable ~~LEED~~ abatement and net tax due for each category of taxing entity listed on the tax bill for the property, other than any category of taxing entity on behalf of which any taxes imposed for public education are being billed, as follows:

(1) The applicable ~~LEED~~ abatement must be determined by multiplying the weighted average ~~LEED~~ abatement percentage for the property determined pursuant to paragraph (d) by the total amount of tax due to the taxing entity after the application of any partial abatement of taxes required by NRS 361.4722 or 361.4724; and

(2) The net tax due must be determined by subtracting the applicable ~~LEED~~ abatement determined pursuant to subparagraph (1) from the total amount of tax due to the taxing entity after the application of any partial abatement of taxes required by NRS 361.4722 or 361.4724.

(f) Calculate:

(1) The total ~~LEED~~ abatement for the property by adding all the sums determined for the property pursuant to subparagraph (1) of paragraph (e); and

(2) The total net tax due for the property by adding all the sums determined for the property pursuant to subparagraph (2) of paragraph (e).

(g) Allocate the total ~~LEED~~ abatement for the property among the eligible buildings and other structures by:

(1) Dividing the weighted ~~LEED~~ abatement percentage for each eligible building or other structure determined pursuant to paragraph (c) by the weighted average ~~LEED~~ abatement percentage for the property determined pursuant to paragraph (d); and

(2) Multiplying the result determined pursuant to subparagraph (1) by the total ~~LEED~~ abatement for the property determined pursuant to subparagraph (1) of paragraph (f).

↪ The sum of all the amounts allocated pursuant to this paragraph must equal the total ~~LEED~~ abatement for the property determined pursuant to subparagraph (1) of paragraph (f).

2. A county tax receiver may use a worksheet provided by the Department to facilitate the calculations required by this section.

3. For the purposes of this section:

(a) The ~~LEED~~ abatement applies to:

(I) Zero percent of the net taxable value of any land; and

(II) Zero percent of the net taxable value of any building or other structure that is not eligible for the ~~LEED~~ abatement.

(b) The ~~LEED~~ abatement percentage for any land and for any building or other structure that is not eligible for the ~~LEED~~ abatement is zero percent.

(c) The weighted ~~LEED~~ abatement percentage for any land and for any building or other structure that is not eligible for the ~~LEED~~ abatement is zero percent.

Sec. 24. NAC 701A.370 is hereby amended to read as follows:

701A.370 A county tax receiver shall, not later than:

1. June 1 of each year, submit to the Department and each taxing entity a summary report of the total amount of property taxes subject to the ~~LEED~~ abatement which are billed on behalf of each taxing entity for the current tax year for property on the unsecured tax roll. The report must separately state for each taxing entity:

(a) The total number of parcels or other taxable units of property subject to the ~~LEED~~ abatement for which the property taxes were billed;

(b) The total amount of the property taxes that would have been billed if not for the application of the ~~LEED~~ abatement;

(c) The total amount of any reduction in billable property taxes as a result of the application of the ~~LEED~~ abatement; and

(d) The total amount of property taxes actually billed.

2. September 1 of each year, submit to the Department and each taxing entity a summary report of the total amount of property taxes subject to the ~~LEED~~ abatement which are billed on behalf of each taxing entity for the current tax year for property on the secured tax roll. The report must separately state for each taxing entity:

(a) The total number of parcels or other taxable units of property subject to the ~~LEED~~ abatement for which the property taxes were billed;

(b) The total amount of the property taxes that would have been billed if not for the application of the ~~LEED~~ abatement;

(c) The total amount of any reduction in billable property taxes as a result of the application of the ~~LEED~~ abatement; and

(d) The total amount of property taxes actually billed.

Sec. 25. NAC 701A.330 and 701A.340 are hereby repealed.

TEXT OF REPEALED SECTIONS

701A.330 “LEED abatement” defined. (NRS 360.090, 701A.110) “LEED abatement” means the partial abatement of certain property taxes authorized by NRS 701A.110.

701A.340 “LEED abatement percentage” defined. (NRS 360.090, 701A.110) “LEED abatement percentage” means the applicable percentage determined pursuant to paragraph (a) of subsection 4 of NRS 701A.110 for any eligible building or other structure.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R127-13**

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative code (NAC) Chapter 701.

1. The proposed amended regulation is intended to implement the provisions of NRS 701A.100-110, which authorize the Director of the Governor's Office of Energy to grant partial abatement of the taxes imposed pursuant to chapter 361 of NRS.
2. Copies of the proposed regulation, the notice of workshop and notice of intent to act upon the regulation were sent by email or fax to persons who were known to have an interest in the subject of green building tax abatements as well as any person who had specifically requested such notice. These documents were also made available at the website of the Governor's Office of Energy (GOE), www.energy.nv.gov, the website of the Nevada Legislature at <http://leg.state.nv.us/App/Notice/A/>, faxed or emailed to all county libraries in Nevada and posted at the following locations:

Governor's Office of Energy
755 N Roop St., Suite 202
Carson City, Nevada 89701

Grant Sawyer Building
555 E Washington Ave
Las Vegas, Nevada 89101

Nevada State Library and Archives
100 North Stewart Street
Carson City, Nevada 89701

Nevada State Capitol
101 N Carson Street
Carson City, Nevada 89701

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

A workshop was held on January 22, 2014, and the minutes of that workshop are attached hereto. The Governor's Office of Energy took oral comments at the workshop and asked for written comments to be submitted after the workshop if there was a desired language change. Comments were posted to the Governor's Office of Energy website once received. These comments were separate from those solicited prior to the public hearing.

Thereafter, on February 13, 2014, the Director issued a Notice of Hearing and Notice of Intent to Act Upon a Permanent Regulation. The hearing was held in Carson City, at the Office of Energy with teleconference to the Grant Sawyer Building in Las Vegas, on March 19, 2014.

A copy of the minutes which provide comments made at each hearing can be found under the Laws, Regulations and Rulemaking at the link provided above. A recording of the workshop is also provided for review at the Governor's Office of Energy.

3. The number of persons who:
 - a. **Attended each hearing:** January 22, 2014 - 10 (7 in Carson City; 3 in Las Vegas); March 19, 2014 - 7 (3 in Carson City; 4 in Las Vegas)
 - b. **Testified at each hearing:** January 22, 2014- 6 (4 in Carson City; 2 in Las Vegas); March 19, 2014 - 1 (none in Carson City; 1 in Las Vegas)
 - c. **Submitted to the agency written comments:** 3 - prior to the Hearing on March 19, 2014.

4. The contact information for the persons who testified at each hearing and/or submitted comments to the Governor's Office of Energy are:

Ramon Reynoso
 Ernst & Young
 725 S. Figueroa St., Suite 500
 Los Angeles, CA 90017
 (213) 977-3088
ramon.reynoso@ey.com

Paula Eylar-Lauzon
 Boyd Gaming Corp.
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 Las Vegas, NV 89118
 (702) 696-1108
paulaeylar@boydgaming.com

Eric Dominguez
 Caesars Entertainment
 One Caesars Palace Drive
Las Vegas, NV 89109
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edominguez@caesars.com

Rob Morris
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 (702) 407-6074
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Henry Shields
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 Las Vegas, NV 89109
 (702) 692-2105
hshields@mgmresorts.com

Jennifer Turchin
 Sellen Sustainability
 817 S. Main St., Suite 101
 Las Vegas, NV 89101
 (702) 795-2285
jennifer.turchin@sellen.com

Katarina Tesarova (*testified at March 19, 2014 hearing*)
 Las Vegas Sands Corp.
 3355 Las Vegas Blvd South
 Las Vegas, NV 89109
 (702) 607-4530
katarina.tesarova@venetian.com

Written comments submitted by:

- American Wood Council – Robert Glowinski, President & CEO, and Terry Webber, Manager of Government Affairs
- American Chemistry Council – Tim Shestek – Senior Director, State Affairs

- Nevada Chapter of the U.S. Green Building Council – Daniel Huard, President, and Tom Anderson, Advocacy & Policy Committee
5. The Legislature, through its hearings and deliberations regarding 2007 AB 621 (subsequently codified as NRS 701A.100 through 701A.110) and 2013 AB 33 and 2013 AB 239, received comment regarding the impact that these bills would have upon small business in Nevada. Affected businesses were invited to attend via the methods of notice listed above. The affected businesses, or their representatives, testified at the hearings and workshops. The minutes of each hearing and workshop are available at the website listed above and a recording of each is available at the Governor's Office of Energy.
 6. The permanent regulation was adopted on March 19, 2014.
 7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public:
 - (a) Both adverse and beneficial effects on businesses and the public:
The Legislature concluded that AB 33 and AB 239 would and was intended to have only positive impacts upon small business by encouraging and promoting small businesses to construct and operate renewable energy power generation facilities in Nevada.

The original mechanism chosen by the Legislature in AB 621 to effectuate its intent was to offer businesses partial abatements of property taxes for up to ten years for the construction or upgrade of energy efficient facilities. This was unchanged by AB 33 and AB 239, with the exception of a change in the term length to five years for the upgrading of already-existing facilities.
 - (b) Both immediate and long-term effects on businesses and the public:
The proposed regulations are intended to effectuate the Legislative intent and will not and are intended not to have any negative impact upon small businesses. The proposed regulations are and will have positive effects on small businesses that will be subject to the proposed regulations.
 8. The changes proposed by the Governor's Office of Energy should not incur any new costs for the enforcement of the proposed regulation.
 9. The proposed regulation does not overlap or duplicate any existing state or federal regulation.
 10. The proposed regulation does not include provisions that are more stringent than a federal regulation that regulates the same activity.
 11. The regulation establishes the amount of a new fee pursuant to NRS 701A. 110. The fee was determined using an estimate of hours spent to administer one application to the Green Buildings Tax Abatement program and subsequent annual compliance report filings.

12. The Director has determined that the proposed regulation is not likely to impose a direct or significant economic burden on a small business. The applicants that apply for a partial abatement of taxes are investing a median amount of \$20,000,000. A small business impact study was not conducted because the fee charged by the agency will not place a significant economic burden on those businesses.

**MINUTES
of the workshop of the
GOVERNOR'S OFFICE OF ENERGY**

LCB file number R127-13

January 22, 2014

The Governor's Office of Energy held a public meeting on January 22, 2014, beginning at 2PM. at the following locations:

The Governor's Office of Energy, 755 N. Roop Street, Carson City, Nevada
and video cast to

The Grant Sawyer Building, 555 E. Washington Street, Suite 5400, Las Vegas, Nevada.

1. Call to order: The meeting was called to order at 2:05 PM by Director Paul Thomsen.

2. Director's comment: Director Thomsen explained that the meeting was a workshop relating to proposed regulation R127-13, which related to the green building property tax abatement program. Director Thomsen stated that he would make a slight addendum to the agenda, by allowing a public comment period (which he termed agenda item #1A) after the introduction, after which he would move to item #2, which would consist of a review of the proposed amendments; he would then allow another public comment period at the end of the workshop, after which point the meeting would adjourn.

Members of the public were asked to sign in, and the sign in sheet is attached to the original minutes as *Exhibit A*.

3. Roll call: Present were Harry Ward, Deputy Attorney General; and Kevin Hill and Kevin Johnson of the Nevada Governor's Office of Energy.

4. Public comment and discussion; Agenda item #1A consisted of Director Thomsen requesting public comment on the proposed regulation. No one in Carson City or Las Vegas wished to make a public comment.

5. Director's comment: Agenda item #2 consisted of Director Thomsen discussing Regulation R127-12, in which he stated that it is intended to implement the provisions of AB 33 and AB239, which authorize the Director to a) charge an application fee of \$1,750 for tax abatements under the green buildings tax abatement program; b) establish a second ratings system, the Green Globes rating system, which applicants could use to qualify for a tax abatement; and c) adjust the point thresholds required to qualify for a tax abatement and to determine the terms and lengths of the abatement. Director Thomsen then stated that he would now allow public comment.

6. Public comment and discussion: Ramon Reynoso, Climate Change & Sustainability Services Officer at Ernst & Young, referenced the requirement that a building rating system must be in

use for two years in order for it be adopted for use by the Office; he suggested that this time requirement be eliminated to allow the most current version of LEED to be used, which requires more stringent energy efficiency measures to take place than in the previous version.

Paula Eylar-Lauzon, Sustainability Officer of the Boyd Gaming Corporation, asked for clarification on the alternative green building rating system. Director Thomsen mentioned that there had been discussions in the legislature regarding the use of the Green Globes rating system; also, he mentioned that it was the office's intention to revise the regulation to add specificity to that topic. Ms. Eylar-Lauzon then asked if multiple systems would be allowed, or if rating system would be restricted to the LEED system and only the one additional system. Director Thomsen responded those (two systems) would not be exclusive systems; other systems could still be considered as additional options to these two.

Director Thomsen then asked to be apprised of the situation regarding smoking and LEED. He asked the participants if smoking is an immediate disqualification, and whether it was a new requirement. Mr. Reynoso responded that one of LEED's prerequisites was that there should be no smoking on the property per LEED's *Indoor Environmental Quality Prerequisite 2* provision. He mentioned that it used to be the case that smoking could be allowed in a building provided that smoking sessions were separated from non-smoking sections, but that the newest version required that no smoking be allowed even with barriers. Director Thomsen asked when the provision changed, and Mr. Reynoso stated that he believed that in its original version, LEED v2.0 did allow smoking. Eric Dominguez mentioned that businesses can still qualify for an abatement from the Office of Energy for a building with smoking provided it met all the USGBC certification requirements other than the non-smoking requirement. A participant commented that the Orleans hotel/casino in Reno can achieve certification even though the certified portion is connected to a non-certified portion that allows smoking. Mr. Reynoso said that it can be allowed provided that a physical barrier exists between the two sections. The previous commenter mentioned that a significant walkway, for example, would be a sufficient barrier. Rob Morris of Caesar's Entertainment mentioned that there must be a separate air/ventilation system between the LEED certified portion and the non-certified portion. Mr. Reynoso mentioned that the current version of Green Globes allowed smoking, but the new version being introduced does not allow smoking.

Director Thomsen asked if there were any other prerequisites that would immediately disallow a property from being LEED certified. Mr. Reynoso responded that an insufficient energy efficiency level can disqualify a property; a property must have an ENERGY STAR score of 69 to be LEED certified. Director Thomsen asked if there were any other immediate disqualifiers. Mr. Dominguez mentioned that there are other prerequisites such as minimum water efficiency standards which must be met. Director Thomsen stated that it was his understanding that there was not another "binary" issue (as opposed to issues involving a minimum score threshold) besides smoking, in which a property either can, or cannot, be LEED certified. This statement was confirmed by individuals in the group. Mr. Reynoso clarified the smoking issue further by stating that smoking was allowed in hotels provided that the smoking rooms were segregated from the non-smoking rooms. He stated that (in regard to all buildings) that smoking could not be allowed within 25 feet of the entrance of a LEED-certified building. He also stated that there were specific structural separation rules regarding LEED-certification of a building, a portion of

which allowed smoking (and could not be certified) and another portion of which did not (which could be certified). A participant mentioned that there had to be air system separation. Henry Shields from MGM Resorts wanted to clarify that gaming casino properties could still avail themselves of a tax abatement provided they met the point thresholds needed, regardless of the smoking issue. It was pointed out that NAC 701A.250 allows an abatement to be issued if a property meets the “equivalent” of the silver level or higher; Director Thomsen said that it was his belief that a property meeting the various point thresholds expressed in state regulations could still receive an abatement, even if the property allowed smoking (and did not receive actual LEED-certification). He mentioned that his predecessor had allowed such a property to receive an abatement.

Mr. Morris referenced the five points now needed to qualify for a tax abatement, and asked if that was unnecessary, since the regulation already mentioned the need for silver-level equivalency. Mr. Johnson mentioned that to achieve a tax abatement, a property needed not only the LEED rating of silver, but also needed a minimum number of points in the EAc1 credit, which would allow it to meet the office’s definition of silver equivalency. Mr. Reynoso mentioned that a LEED rating of silver can be met by an ENERGY STAR score of 69; the previous requirement by the office to achieve a minimum of 3 points in the EAc1 credit meant that a property had to achieve an ENERGY STAR score of 74, and the new 5-point requirement means that a score of 76 now needs to be achieved.

Mr. Shields requested that the sections which were stricken regarding pre-2007 applicants be retained, at least until the abatements which the pre-2007 abatements received had concluded. Mr. Johnson mentioned that since there still existed some pre-2007 properties which had received registration status, the office was considering re-instating that stricken language.

Mr. Reynoso asked which standard (re: the table in NAC 701A.280) would be applied for projects that were registered a few years ago but only now apply for the actual abatement. Mr. Johnson responded that the project would be held to the standard in effect at the time the property was registered. Mr. Hill asked if an application was submitted with the proper documentation, and we deem it complete, whether the property would, at that point, be considered registered. Mr. Johnson responded in the affirmative. He clarified that the four-year time limit on completion of the project begins on the day that the letter acknowledging the registration is issued.

Mr. Reynoso mentioned that a portion of the application form requests the applicant to provide the current cost of construction. He suggested that this question be expanded, to acknowledge the fact that some applicants would be pursuing an abatement for an existing building, rather than new construction; in his view, the question would be better phrased if it requested that either the cost of construction, or the cost of the improvements (on an existing building), whichever is applicable, be provided.

Jennifer Turchin from Sellen Sustainability asked for clarification on the table in NAC 701A.280 in regard to existing buildings, and mentioned that the language in that section seemed to suggest that existing buildings were only eligible for a maximum five-year abatement. Mr. Johnson

confirmed that that was the case. Mr. Reynoso asked if the \$100,000 per year cap on abatements for existing buildings was still in place; Mr. Johnson responded in the affirmative.

Mr. Reynoso suggested the legislation restricting the tax abatements to five years be revisited in the next session, because of the inhibitive effect that the law has on those pursuing tax abatements for existing buildings. Immediately prior to this comment, some of the participants had mentioned that the five –year restriction for existing buildings provides no incentive for such applicants to pursue energy efficiency measures other than the minimum needed to qualify, with regard to EAc1 points. However, it was pointed out that there still exists an incentive for existing building applicants to attain a higher level ranking, e.g., a gold-rating rather than a silver-rating, since that influences the percentage of the abatement rather than the length of the abatement. Director Thomsen mentioned that he would consider Mr. Reynoso’s suggestion.

7. Director's closing comment: Director Thomsen stated that he would consider all public comment today. He mentioned that we would incorporate language providing more specificity to the Green Globes alternative rating system. He asked if there were any additional public comment; there was none. He said that a regulation hearing would be held regarding the final version of the regulation before its submittal to LCB.

Director Thomsen stated that there were no more discussion items under Agenda Item #2. He then moved to Agenda Item #3 allowing additional public comment and discussion on any item on the agenda. There were no additional public comments.

8. Adjournment: 2:59 P.M.