

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

LCB File No. R114-16

Nevada Administrative Code
Title 360 - Revenue and Taxation

Note: 2

PARTIAL ABATEMENT OF CERTAIN TAXES.....	3
Abatements for New or Expanded Business.....	3
NAC 360.466 Definitions.....	3
NAC 360.467 “Board” defined.....	3
NAC 360.468 “Office” defined.....	3
NAC 360.469 “Eligible machinery or equipment” defined.....	3
NAC 360.470 “Partial abatement” defined.....	3
NAC 360.471 Board duties: Interpretation of certain statutory terms.....	3
NAC 360.472 Office responsibility to contract.....	3
NAC 360.473 Board Duties: Additional requirements for approval of application for abatement.....	4
NAC 360.474 Board Duties: Additional requirements for approval of application for abatement pursuant to NRS 360.752.....	4
NAC 360.475 Additional abatements prohibited.....	5 [4]
NAC 360.476 Application: Date of submittal; consideration by Board; certificate of eligibility upon approval.....	5
NAC 360.478 Factors considered by Board.....	6 [5]
NAC 360.4781 Property tax: Percentage, duration and commencement of abatement; certificate of eligibility.....	6 [5]
NAC 360.4782 Business tax: Applicability of partial abatement.....	7 [6]
NAC 360.479 Business tax: Date of eligibility; determination of amount of capital investment required; filing of form of compliance with proof of capital investment.....	7 [6]
NAC 360.4755 Local school support tax: Determination of eligibility of machinery or equipment.....	8 [6]
NAC 360.476 Local school support tax: Date of eligibility of machinery or equipment.....	8 [7]
NAC 360.4765 Minimum period of employment of required number of employees.....	8 [7]
NAC 360.4775 Determination of tax owed upon failure to continue to meet requirements; appeal.....	9 [7]
NAC 360.478 Qualified Project Limitations.....	9 [7]
Transferable Tax Credits for Film and Other Productions.....	13 [7]

NAC 360.800 Definitions	13 [8]
NAC 360.805 “Certificate of eligibility” defined	13 [8]
NAC 360.810 “Executive Director” defined	13 [8]
NAC 360.815 “Office” defined	13 [8]
NAC 360.820 “Transferable tax credits” defined	13 [8]
NAC 360.825 “Other visible media productions” interpreted	13 [8]
NAC 360.830 Certificate of eligibility: Application; priorities for approval; reasons for denial	14 [8]
NAC 360.835 Certificate of eligibility: Duties of Office; hearing; order approving application; factors for determining whether qualified production is in economic interest of State	15 [10]
NAC 360.840 Certificate of eligibility: Executive Director may request additional records; certification of audit	16 [11]
NAC 360.845 Issuance of transferable tax credits; notice of transfer	17 [11]
NAC 360.850 Apportionment of transferable tax credits	17 [12]
NAC 360.855 Calculation of amount of transferable tax credits: Qualified expenditures and production costs eligible to serve as basis for calculation	18 [12]
NAC 360.860 Calculation of amount of transferable tax credits: Expenditures for wages and salaries	19 [13]
NAC 360.865 Reduction or withholding of credits under certain circumstances; repayment of amount of credits under certain circumstances; circumstances under which Office will not require forfeiture of credits purchased in good faith	19 [14]

Note:

NAC chapters, subsections and locations are draft and provided only for convenience in providing comments.

The currently published version of NRS does not yet include updated provisions for the following bills which may be referenced in this document:

AB 17 (78th Session, 2015)

AB 161 (78th Session, 2015)

SB 74 (78th Session, 2015)

SB 170 (78th Session, 2015)

SB 507 (78th Session, 2015)

SB 1 (29th Special Session, 2015)

AB 1 (29th Special Session, 2015)

PARTIAL ABATEMENT OF CERTAIN TAXES

ABATEMENTS FOR NEW OR EXPANDED BUSINESS

NAC 360.466 Definitions. (NRS 360.750) As used in NAC 360.466 to 360.4775, inclusive, unless the context otherwise requires, the words and terms defined in NAC 360.468, 360.469 and 360.470 have the meanings ascribed to them in those sections.

NAC 360.467 “Board” defined. (NRS 360.750) “Board” means the Board of Economic Development established pursuant to NRS 231.033.

NAC 360.468 “[~~Commission~~Office” defined. (NRS 360.750) “[~~Commission~~Office” means the [~~Commission on Economic Development~~Office of Economic Development established pursuant to NRS 231.043.

NAC 360.469 “Eligible machinery or equipment” defined. (NRS 360.750) “Eligible machinery or equipment” has the meanings ascribed to it in NRS 374.357, *AB 161, SB 1, and SB 170*.

NAC 360.470 “Partial abatement” defined. (NRS 360.750) “Partial abatement” means the reduction of a portion of the taxes imposed pursuant to chapter 361, *363B, [364A or]* 374 of NRS, *or any other specific statute*, or any combination thereof, which is authorized by NRS 360.750.

NAC 360.4701 “New primary job” defined. “New primary job” for a defined period denotes a primary job created within that period in place for at least 3 consecutive months on the last day of the period, that is in addition to the primary jobs in place on the last day of the prior period.

NAC 360.4702 “Primary job” defined. “Primary job” means a permanent position of employment at a company’s Nevada facility, where the employee works an average of at least 30 hours per week, and for which not less than 50% of the facility revenue is derived from exports to locations outside of the state of Nevada.

NAC 360.4703 “Tax Abatement and Incentive Agreement” defined. “Tax Abatement and Incentive Agreement” means the agreement executed by the applicant and the Office for a partial abatement pursuant to paragraph (b) of subsection 2 of NRS 360.750.

NAC 360.471 Board duties: Interpretation of certain statutory terms. (NRS 360.750) The Board must define certain requirements to consider approval of an application for abatement of taxes. Such requirements may include, but are not limited to definitions of:

- 1. Primary job;*
- 2. Capital investment;*
- 3. County unemployment rate, if more stringent than the rate determined by the Department of Employment, Training and Rehabilitation; and*
- 4. Qualified healthcare benefit.*

NAC 360.472 Office responsibility to contract. (NRS 360.750) Consistent with Board policy and notwithstanding the provisions of NRS Chapter 360 or other law, the Office may add requirements, or further define statutory requirements, or add other contractual provisions including but not limited to:

- 1. Nevada residency;*
- 2. Number of jobs;*
- 3. Wage;*
- 4. Minimum and continued capital investment;*
- 5. Minimum medical insurance plan;*
- 6. Business licensure and registration;*
- 7. Tax registration;*
- 8. Continued operations;*
- 9. Criminal acts prohibitions;*
- 10. Compliance audit;*
- 11. Abatement recapture, including interest provisions;*
- 12. Termination rights and requirements;*
- 13. Confidentiality;*
- 14. Liability limitations;*
- 15. Choice of law and venue; or*
- 16. Contractual language and indemnification provisions all benefitting the State.*

NAC 360.473 Board Duties: Additional requirements for approval of application for abatement. (NRS 360.750) The Board must establish requirements that the Board or the Executive Director must take into account when considering the approval of an application for abatement of taxes.

- 1. When establishing such requirements, the Board may:*

- a. *Adopt requirements based on population thresholds of:*
 - i. *County population less than 100,000 or city population less than 60,000*
 - ii. *County population more than 100,000 or city population more than 60,000*
 - b. *Establish standards more or less stringent than those required by NRS.*
2. *Such requirements must identify standards pertaining to the:*
- a. *Minimum number of new or expanding primary jobs;*
 - b. *Minimum capital investment;*
 - c. *Minimum qualified health care benefit;*
 - d. *Minimum number of requirements to be met;*
 - e. *Minimum commitment to continuous operation;*
 - f. *Duration of the partial tax abatement; and*
 - g. *Any other information deemed necessary by the Board.*

NAC 360.474 Board Duties: Additional requirements for approval of application for abatement pursuant to NRS 360.752. (NRS 360.752) The Board must establish requirements that the Board or the Executive Director must take into account when considering the approval of an application for abatement of taxes pursuant to NRS 360.752.

1. *When establishing these requirements, the Board may:*
- a. *Adopt requirements based on regional population thresholds of:*
 - i. *County population less than 100,000 or city population less than 60,000*
 - ii. *County population more than 100,000 or city population more than 60,000*
 - b. *Establish standards more or less stringent than required by NRS.*
2. *Such requirements must specify:*
- a. *The definition and minimum level of benefits that a business must provide to its employees to qualify for an abatement.*
3. *The Board may establish requirements that identify standards pertaining to the:*
- a. *Minimum number of new or expanding primary jobs;*
 - b. *Minimum capital investment;*
 - c. *Minimum qualified health care benefit;*
 - d. *Minimum number of requirements to be met;*
 - e. *Minimum commitment to continuous operation;*
 - f. *Duration of the partial tax abatement; and*
 - g. *Any other information deemed necessary by the Board.*

NAC 360.475 Additional abatements may be prohibited. (NRS 360.752)

1. A company applying for incentives or abatements granted pursuant to chapters 361, 363B and 374 of NRS must disclose all planned state and local incentives it may request at the time of application.

2. If a company seeks additional abatements or incentives from a state or local entity after receiving approval from the Executive Director or Board, the previously approved incentives or abatements granted pursuant to chapters 361, 363B and 374 of NRS must be deemed noncompliant. Such noncompliance may be cured by reapplying at the next regularly scheduled meeting of the Board, at which time the Executive Director or Board may approve, deny or modify the application. If the application is denied or modified, the company must repay the taxes abated or incentives granted.

NAC 360.~~472~~476 Application: Date of submittal; consideration by ~~Commission~~ Board; certificate of eligibility upon approval. (NRS 360.750, 361.0687, ~~364A.170,~~ 374.357, 701A.210)

1. To apply for a partial abatement, a person must submit an application to the ~~Commission~~ Board on a form prescribed by the ~~Commission~~ Office ~~[within the period prescribed in subsection 2].~~

~~[2. If the application is for a partial abatement of the taxes imposed pursuant to chapter 361 or 364A of NRS, the application must be submitted not earlier than 18 months before the business is located or expanded in this State. If the application is for a partial abatement of the taxes imposed pursuant to chapter 374 of NRS, the application must be submitted not later than 60 days after the date of acquisition of the eligible machinery or equipment.~~

~~3. Except as otherwise provided in subsection 4, the Commission will consider an application submitted pursuant to subsection 1 if the application is received:~~

~~(a) At least 15 working days before a regularly scheduled meeting of the Commission, at that meeting; or]~~

2. ~~[Less than 15 working days before a regularly scheduled meeting of the Commission, at the next regularly scheduled meeting immediately following that meeting.]~~ *The Board or the Executive Director must not consider any application submitted pursuant to subsection 1 unless the Office has provided at least 30 days notice of the public meeting at which such application will be considered, including the date, time and location of the meeting to:*

(a) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the pertinent business is or will be located;

(b) The governing body of any other political subdivision that could be affected by the abatement; and

(c) The general public.

~~[4.]~~ 3. If the ~~[Commission]~~ *Board or the Executive Director* determines that an application submitted pursuant to subsection 1 requires special or additional review and consideration by the ~~[Commission]~~ *Board or the Executive Director*, the ~~[Commission]~~ *Board or the Executive Director* may postpone consideration of the application until the next regularly scheduled meeting of the ~~[Commission]~~ *Board*.

~~[5.]~~ 4. If the ~~[Commission]~~ *Board or the Executive Director* approves an application for a partial abatement, the ~~[Commission]~~ *Office* will forward to the Department of *Taxation*, with the certificate of eligibility required pursuant to subsection 4 of NRS 360.750, any materials submitted to the ~~[Commission]~~ *Board or the Executive Director* in support of the application submitted pursuant to subsection 1.

NAC 360.~~[474]~~**478** Factors considered by ~~[Commission]~~ *Board*. (NRS 360.750, 361.0687~~;~~
~~364A.170~~, 374.357, 701A.210)

~~[1.]~~ The ~~[Commission]~~ *Board or the Executive Director* will consider an application for a partial abatement if the goals of the applicant are consistent with the goals of the ~~[Commission]~~ *State Plan for Economic Development adopted pursuant to NRS 231.037*. ~~[concerning industrial development and diversification. The goals of the Commission include, without limitation:~~

~~2. Diversification from the industries of gaming and hospitality;~~

~~3. The attraction of basic industries to this State, including, without limitation, manufacturing, warehousing and distribution;~~

~~4. The attraction to this State of business facilities and services, including, without limitation, corporate headquarters, facilities for research and development, and facilities for services such as technical assistance with products of the business or credit services; and~~

~~5.] 1. [The expansion of existing businesses and industries that are consistent with the goals described in paragraphs (a), (b) and (c).~~

~~6.] 2.~~ Before the ~~[Commission]~~ *Board or the Executive Director* approves an application for a partial abatement, the ~~[Commission]~~ *Board or the Executive Director* will consider whether the applicant:

~~(a)~~ Complies with the requirements set forth in NRS 360.750;

~~[(a)] (b) Complies with any additional requirements set forth by Board policy; and~~

~~[(b)]—Commits to continue in operation in this State for:~~

~~(1) At least 5 years; or~~

~~(2) The period specified in the agreement executed by the applicant with the Commission pursuant to paragraph (b) of subsection 2 of NRS 360.750, whichever is later, after the date on which the applicant initially pays taxes to the Department or the county treasurer, as applicable, after the partial abatement has been approved by the Commission;~~

~~(c) Offers primary jobs; and~~

~~(d)~~ (c) If the application concerns a partial abatement of the taxes imposed pursuant to *Chapter* ~~[chapter 364A or]~~ 374 of NRS, registers with the Department on a form provided by the Department.

~~[7. As used in this section, "primary job" means a position of employment offered by an applicant for a partial abatement, the compensation for which is obtained from revenue that is generated outside the economic region in which the business is located.]~~

NAC 360.~~[4743]~~**4781** Property tax: Percentage, duration and commencement of abatement; certificate of eligibility. (NRS 360.750, 361.0685, 361.0687)

1. Except as otherwise provided in NRS ~~[NRS 361.0685 or]~~ 361.0687~~[,] and NRS 701A.210~~ the ~~[Commission]~~ *Board or the Executive Director* may not approve a partial abatement pursuant to ~~[NRS 361.0685 or]~~ 361.0687:

(a) Of greater percentage of the taxes on ~~[real and]~~ personal property payable by the business each year pursuant to chapter 361 of NRS than the lesser of:

(1) Fifty percent; or

(2) A percentage agreed upon in writing by the business receiving the partial abatement and the governing body of the local government whose tax revenue will be affected by the partial abatement; or

(b) Of longer duration than the shorter of:

(1) Ten years; or

(2) A duration agreed upon in writing by the business receiving the partial abatement and the governing body of the local government whose tax revenue will be affected by the partial abatement.

2. If the ~~[Commission]~~ *Board or the Executive Director* grants a partial abatement pursuant to ~~[NRS 361.0685 or]~~ 361.0687 during the period beginning on:

(a) January 1 and ending on June 30 of the same year, the partial abatement begins to apply on the later of:

(1) July 1 of the same year; or

(2) A date agreed upon in writing by the business receiving the partial abatement and the governing body of the local government whose tax revenue will be affected by the partial abatement; or

(b) July 1 and ending on December 31 of the same year, the partial abatement begins to apply on the later of:

(1) The date on which the ~~[Commission]~~ *Board or the Executive Director* grants the partial abatement; or

(2) A date agreed upon in writing by the business receiving the partial abatement and the governing body of the local government whose tax revenue will be affected by the partial abatement.

3. If the ~~[Commission]~~ *Board or the Executive Director* grants a partial abatement pursuant to *NRS 361.0687*, the ~~[Commission]~~ *Office* will immediately forward a certificate of eligibility for the partial abatement that states the percentage and duration of the partial abatement to the county assessor of each county in which real or personal property used in connection with the business will be located.

NAC 360.~~[4745]~~*4782* Business tax: Applicability of partial abatement. (NRS 360.750) ~~[364A.170]~~ A partial abatement of the taxes ~~[imposed pursuant to chapter 364A of NRS]~~ that is approved by the ~~[Commission]~~ *Board or the Executive Director* for an expanded business:

1. Applies only to the taxes due for the additional employees employed by the business as a result of the expansion of the business.

2. Does not apply to the taxes due for the employees ~~[that were]~~ *occupying positions [employed] in place at the business prior to [by the business before]* the expansion.

NAC 360.~~[475]~~ *479* Business tax: Date of eligibility; determination of amount of capital investment required; filing of form of compliance with proof of capital investment. (NRS 360.750~~[364A.170]~~)

~~[1.]~~ For the purposes of NRS 360.225, to determine eligibility for a partial abatement of ~~[the taxes imposed pursuant to chapter 364A of NRS]~~ *taxes*, a proposed or expanded business which qualifies as an employer pursuant to NRS 612.055 ~~[shall]~~ *must* be deemed by the Department to have begun operations in this State *on the effective date of the agreement.* ~~[~~

~~2. If the business is a proposed business, on the date on which the business first pays wages to an employee of the business who performs services for the business in this State.~~

~~3.] 1. [If the business is an expanded business, on the date on which the business first pays wages to an employee of the business who was not employed by the business before the expansion.~~

~~4.] 2. To determine the amount of capital investment required pursuant to paragraph (d), (e) or (f) of subsection 2 of NRS 360.750 for a partial abatement of the taxes [imposed pursuant to chapter 364A of NRS:]~~

(a) A capital investment ~~[shall]~~ *must* be deemed to be any expenditure for ~~[an asset that qualifies as “section 1245 property,” as defined in 26 U.S.C. § 1245, if the asset will be used by the proposed business to establish its operations in this State or by the expanded business to expand its operations in this State]~~ *eligible machinery or equipment*; and

(b) The amount paid for such ~~[an]~~ *eligible machinery or equipment [asset]*, including any capitalized interest, ~~[shall]~~*must* be deemed to be the amount of the capital investment for ~~[that]~~ *the eligible machinery or equipment [asset]*. Any finance charge, tax or interest paid for the *eligible machinery or equipment [asset]* must not be included in the determination of the amount of the capital investment for that *eligible machinery or equipment [asset]*.

3. A business for which the ~~[Commission]~~ *Board or the Executive Director* has approved a partial abatement of the taxes ~~[imposed pursuant to chapter 364A of NRS shall]~~ *must*, not later than 30 days after the end of the ~~[first fourth quarter in which the business has been in operation]~~

~~after the approval of the partial abatement]~~ *second year after the effective date*, file with the Department on a form prescribed by the Department, a statement that the business has complied with the requirements of NRS 360.750. The form must be accompanied by proof that the business has made the capital investment required by the ~~[Commission]~~ *Board* pursuant to NRS 360.750.

NAC 360.4755 Local school support tax: Determination of eligibility of machinery or equipment.(NRS 360.750, 374.357)

1. The Department shall, pursuant to NRS 360.225, determine if machinery or equipment for which a business claims a partial abatement of the taxes imposed pursuant to chapter 374 of NRS qualifies as eligible machinery or equipment pursuant to NRS 374.357.

2. The Department shall not determine that machinery or equipment which is leased *through an operating lease* by a business qualifies for a partial abatement of the taxes imposed pursuant to chapter 374 of NRS. *To determine whether a new or expanding business in a city or county satisfies the capital investment requirement set forth in paragraph (d), (e) or (f) of subsection 2 of NRS360.750, for a partial abatement of the taxes imposed pursuant to chapter 363B of NRS, the business must retain eligible machinery or equipment deemed to be a capital investment pursuant Board Policy and the Tax Abatement and Incentive Agreement.*

NAC 360.476 Local school support tax: Date of eligibility of machinery or equipment. (NRS 360.750,374.357) If an application is approved by the ~~[Commission]~~ *Board or the Executive Director* for a partial abatement of the taxes imposed pursuant to chapter 374 of NRS, the period of abatement begins on the date on which the applicant takes possession of the first delivery of eligible machinery or equipment at the location designated in the certificate of eligibility issued by the ~~[Commission]~~ *Office, or the effective date of the partial abatement as indicated in the Tax Abatement and Incentive Agreement.* Upon taking possession of such eligible machinery or equipment, the applicant ~~[shall]~~ *must* immediately notify the ~~[Commission]~~ *Office* and the Nevada Tax Commission.

NAC 360.4765 Minimum period of employment of required number of employees. (NRS 360.750, ~~[364A.170,]~~ 374.357) If the ~~[Commission]~~ *Board or the Executive Director* approves an application for a partial abatement of the taxes imposed pursuant to ~~[chapter 364A or]~~ *chapter* 374 of NRS, the applicant must employ the number of employees required by the ~~[Commission]~~ *Board* for approval of the application by the last day of the ~~[first]~~ *eighth* ~~[fourth]~~ quarter that the applicant has been in operation after the partial abatement has been approved by the ~~[Commission]~~ *Board or the Executive Director* and must continue to employ at least that number of employees for *the time period specified by NRS 360.750 and any Board policy.*~~;~~

~~1. At least 5 years; or~~

~~2. The period specified in the agreement executed by the applicant with the Commission pursuant to paragraph (b) of subsection 2 of NRS 360.750, whichever is later, after the last day of that fourth quarter.]~~

~~[NAC 360.477 Refund upon approval of application. (NRS 360.750, 364A.170, 374.357)]~~

~~1. If the Commission approves an application for a partial abatement of the taxes imposed pursuant to chapter 364A of NRS, the applicant is eligible for a refund of any taxes imposed pursuant to chapter 364A of NRS which were paid previously by the applicant and which are subject to the abatement.~~

~~2. If the Commission approves an application for a partial abatement of the taxes imposed pursuant to chapter 374 of NRS, the applicant is eligible for a refund of any taxes imposed pursuant to chapter 374 of NRS which were paid previously by the applicant and which are subject to the abatement, if the Department determines pursuant to NAC 360.4755 that the machinery or equipment qualifies as eligible machinery or equipment and:~~

~~(a) If the machinery or equipment was acquired outside this State from a retailer that is not registered with the Nevada Tax Commission, the application for the partial abatement was made:~~

~~(1) Before the acquisition of the machinery or equipment; or~~

~~(2) After the acquisition of the machinery or equipment and within 60 days after the date on which the taxes on the acquisition imposed pursuant to chapter 374 of NRS were due; or~~

~~(b) If the machinery or equipment was acquired from a retailer that is registered with the Nevada Tax Commission, the application for the partial abatement was made within 60 days after the payment of the taxes on the acquisition imposed pursuant to chapter 374 of NRS.]~~

NAC 360.4775 Determination of tax owed upon failure to continue to meet requirements; appeal. (NRS 360.750, ~~[364A.170,]~~ 374.357)

1. If the Department finds that a business for which the ~~[Commission]~~ **Board or the Executive Director** has approved an application for a partial abatement of the taxes ~~[imposed pursuant to chapter 364A or 374 of NRS]~~ has failed to continue to meet the requirements for the partial abatement imposed by the ~~[Commission]~~ **Board** pursuant to NRS 360.750, the Department ~~[shall]~~ **must** determine **and assess** the amount of tax owed to the Department in the manner prescribed in NRS 360.300 to 360.400, inclusive.

(a) A company's duty to repay any abated taxes as determined by the Board, in consultation with the Department of Taxation, must not begin until the Office serves upon the business a notice of default offering an opportunity to cure, and giving the business the right, but not the obligation, to cure any default.

2. A business against whom the Department has made such a determination may, in the manner prescribed in NRS 360.300 to 360.400, inclusive, **file a petition for redetermination**. ~~[an appeal]~~ with the Nevada Tax Commission for a determination whether the business has substantially complied with the requirements for the partial abatement approved by the ~~[Commission]~~ **Board or the Executive Director** pursuant to NRS 360.750.

~~[2.]~~ **3. The statute of limitations for issuance of a notice of determination by the Department regarding any associated tax assessment must be tolled until three years after the termination date of the abatement agreement.**

NAC 360.478 Qualified Project Limitations. (NRS 360.750, 361.0687, 374.357, 701A.210)

1. A “qualified project” must be limited to the provisions of NRS 360.750 and the industry of the lead participant, including the supply-chain, components, and services of that industry.

~~MISCELLANEOUS ABATEMENTS~~

~~NAC 360.478 Abatements for new grocery store within Southern Nevada Enterprise Community. (§ 6 of ch. 198, Stats. 2005, as amended by § 16 of ch. 407, Stats. 2007)~~

~~1. A person who qualifies pursuant to section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784, may apply to the Commission for a partial abatement of any personal property tax imposed pursuant to chapter 361 of NRS and any tax on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment imposed pursuant to chapter 374 of NRS for a new grocery store which the person intends to locate within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597.~~

~~2. The application must be submitted on a form prescribed by the Executive Director of the Commission within the applicable period prescribed in subsection 3. The application must include, without limitation:~~

~~(a) A certificate of endorsement from the governing body of the county, city or town in which the new grocery store will be located, which must:~~

~~(1) Be issued by the governing body of the county, city or town in a manner consistent with the procedures adopted by the governing body for evaluating the benefits of tax abatements for the economic development of the county, city or town; and~~

~~(2) Describe the partial abatement of taxes determined by the governing body of the county, city or town to be beneficial for the economic development of the county, city or town;~~

~~(b) Evidence satisfactory to the Commission that the governing body of the county, city or town provided notice of the hearing at which the governing body considered whether to endorse the application to the board of trustees of the school district in which the grocery store will be located;~~

~~(c) Evidence satisfactory to the Commission that the new grocery store for which the partial abatement of taxes is sought will be located within the Southern Nevada Enterprise Community; and~~

~~(d) Evidence satisfactory to the Commission that the total amount of partial abatements of taxes applied for pursuant to this section, together with the total amount of partial abatements of taxes to which the applicant is entitled pursuant to NRS 361.4722, 361.4723 and 361.4724, does not exceed 82 percent of the total amount of personal property taxes otherwise due on all property for which the applicant is seeking a partial abatement pursuant to this section.~~

~~3. If the application is for a partial abatement of any personal property tax imposed pursuant to chapter 361 of NRS, the application must be submitted not earlier than 18 months before the new grocery store is located within the Southern Nevada Enterprise Community. If the application is for a partial abatement of the taxes imposed pursuant to chapter 374 of NRS, the application must be submitted not later than 60 days after the date of acquisition of the eligible machinery or equipment.~~

~~4. Except as otherwise provided in subsection 5:~~

~~(a) If an application submitted to the Commission pursuant to this section is received at least 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at that meeting; or~~

~~(b) If an application submitted to the Commission pursuant to this section is received less than 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at the next regularly scheduled meeting immediately following that meeting.~~

~~5. If the Commission determines that an application submitted pursuant to this section requires special or additional review and consideration by the Commission, the Commission may postpone consideration of the application until the next regularly scheduled meeting of the Commission.~~

~~6. The Commission will approve an application for a partial abatement if the applicant satisfies all requirements of this section and subsection 3 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784.~~

~~7. If the Commission approves an application for a partial abatement, the Commission will forward to the Department, with the certificate of eligibility required pursuant to subsection 4 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784, any materials submitted to the Commission in support of the application submitted pursuant to this section.~~

~~8. If the Commission approves an application for a partial abatement from the tax imposed pursuant to chapter 374 of NRS, the taxpayer is eligible for an abatement from the tax for not more than 2 years for eligible machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.~~

~~9. If a person whose partial abatement has been approved pursuant to this section and is in effect:~~

~~(a) Ceases to meet the requirements set forth in this section or section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784; or~~

~~(b) Ceases operation of the grocery store before the expiration of the period specified in the agreement the applicant executed with the Commission pursuant to subsection 3 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784,~~

~~10.—the person shall pay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, an amount equal to the amount of the tax abatement that was allowed pursuant to this section before the failure of the person to comply with the agreement fully, unless the Nevada Tax Commission determines that the person has substantially complied with the requirements of the agreement and section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784. Except as otherwise provided in NRS 360.232 and 360.320, the person shall, in addition to the amount required to be paid pursuant to this subsection, pay interest on that amount at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment of the tax would have been due had the partial abatement not been approved until the date of payment of the tax.~~

~~11.—As used in this section, unless the context otherwise requires:~~

~~(a)“Commission” means the Commission on Economic Development.~~

~~(b)“Eligible machinery or equipment” has the meaning ascribed to it in subsection 3 of NRS 374.357.~~

~~(c)“Grocery store” has the meaning ascribed to it in subsection 7 of section 6 of chapter 198, Statutes of Nevada 2005, at page 643, as amended by section 16 of chapter 407, Statutes of Nevada 2007, at page 1784.~~

~~(Added to NAC by Comm’n on Econ. Development by R168-07, eff. 4-17-2008)~~

~~NAC 360.4785 Abatements for expansion of grocery store within Southern Nevada Enterprise Community. (§ 7 of ch. 198, Stats. 2005, as amended by § 17 of ch. 407, Stats. 2007)~~

~~1. A person who qualifies pursuant to section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785, may apply to the Commission for a partial abatement of any tax on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment imposed pursuant to chapter 374 of NRS for the expansion of a grocery store which is located within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597.~~

~~2. The application must be submitted on a form prescribed by the Executive Director of the Commission within the applicable period prescribed in subsection 3. The application must include, without limitation:~~

~~(a)A certificate of endorsement from the governing body of the county, city or town in which the grocery store is located, which must:~~

~~(1)Be issued by the governing body of the county, city or town in a manner consistent with the procedures adopted by the governing body for evaluating the benefits of tax abatements for the economic development of the county, city or town; and~~

~~(2)Describe the partial abatement of taxes determined by the governing body of the county, city or town to be beneficial for the economic development of the county, city or town;~~

~~(b)Evidence satisfactory to the Commission that the governing body of the county, city or town provided notice of the hearing at which the governing body considered whether to~~

~~endorse the application to the board of trustees of the school district in which the grocery store is located;~~

~~(c) Evidence satisfactory to the Commission that the grocery store for which the partial abatement of taxes is sought is located within the Southern Nevada Enterprise Community; and~~

~~(d) Evidence satisfactory to the Commission that the total amount of any partial abatement of taxes applied for pursuant to this section, together with the total amount of partial abatements of taxes to which the applicant is entitled pursuant to NRS 361.4722, 361.4723 and 361.4724, does not exceed 82 percent of the total amount of personal property tax otherwise due on all property for which the applicant is seeking a partial abatement pursuant to this section.~~

~~3. The application must be submitted not later than 60 days after the date of acquisition of the eligible machinery or equipment.~~

~~4. Except as otherwise provided in subsection 5:~~

~~(a) If an application submitted to the Commission pursuant to this section is received at least 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at that meeting; or~~

~~(b) If an application submitted to the Commission pursuant to this section is received less than 15 business days before a regularly scheduled meeting of the Commission, the Commission will consider the application at the next regularly scheduled meeting immediately following that meeting.~~

~~5. If the Commission determines that an application submitted pursuant to this section requires special or additional review and consideration by the Commission, the Commission may postpone consideration of the application until the next regularly scheduled meeting of the Commission.~~

~~6. The Commission will approve an application for a partial abatement if the applicant satisfies all requirements of this section and subsection 3 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785.~~

~~7. If the Commission approves an application for a partial abatement, the Commission will forward to the Department, with the certificate of eligibility required pursuant to subsection 4 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785, any materials submitted to the Commission in support of the application submitted pursuant to this section.~~

~~8. If the Commission approves an application for a partial abatement, the taxpayer is eligible for an abatement from the tax for not more than 2 years for eligible machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.~~

~~9. If a person whose partial abatement has been approved pursuant to this section and is in effect:~~

~~(a) Ceases to meet the requirements set forth in this section or section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785; or~~

~~(b) Ceases operation of the grocery store before the expiration of the period specified in the agreement the applicant executed with the Commission pursuant to subsection 3 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785,~~

~~10. the person shall pay to the Department an amount equal to the amount of the tax abatement that was allowed pursuant to this section before the failure of the person to comply with the agreement fully, unless the Nevada Tax Commission determines that the person has substantially complied with the requirements of the agreement and section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785. Except as otherwise provided in NRS 360.232 and 360.320, the person shall, in addition to the amount required to be paid pursuant to this subsection, pay interest on that amount at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment of the tax would have been due had the partial abatement not been approved until the date of payment of the tax.~~

~~11. As used in this section, unless the context otherwise requires:~~

~~(a) "Commission" means the Commission on Economic Development.~~

~~(b) "Eligible machinery or equipment" has the meaning ascribed to it in subsection 3 of NRS 374.357.~~

~~(c) "Grocery store" has the meaning ascribed to it in subsection 7 of section 7 of chapter 198, Statutes of Nevada 2005, at page 644, as amended by section 17 of chapter 407, Statutes of Nevada 2007, at page 1785.~~

~~(Added to NAC by Comm'n on Econ. Development by R168-07, eff. 4-17-2008)}~~

TRANSFERABLE TAX CREDITS FOR FILM AND OTHER PRODUCTIONS

NAC 360.800 Definitions. (NRS 360.759) As used in NAC 360.800 to 360.865, inclusive, unless the context otherwise requires, the words and terms defined in NRS 360.7581 to 360.7586, inclusive, and NAC 360.805 to 360.820, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.805 "Certificate of eligibility" defined. (NRS 360.759) "Certificate of eligibility" means a certificate of eligibility for transferable tax credits.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.810 “Executive Director” defined. (NRS 360.759) “Executive Director” means the Executive Director of the Office.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.815 “Office” defined. (NRS 360.759) “Office” means the Office of Economic Development.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.820 “Transferable tax credits” defined. (NRS 360.759) “Transferable tax credits” means transferable tax credits issued by the Office pursuant to NRS 360.759.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.825 “Other visible media productions” interpreted. (NRS 360.759) For the purposes of determining whether a production is a qualified production pursuant to NRS 360.7586, the Office interprets the term “other visual media productions,” as used in paragraph (l) of subsection 1 of NRS 360.7586, to mean video games, mobile applications and other visual media productions determined to be visual media productions by the Office.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.830 Certificate of eligibility: Application; priorities for approval; reasons for denial. (NRS 360.759)

1. Transferable tax credits may not be applied to any of the fees and taxes specified in NRS 360.759 unless the Office has issued a certificate of eligibility.

2. To obtain a certificate of eligibility, a producer must:

(a) Submit to the Office an application for a certificate of eligibility. The application must be on a form prescribed by the Office and, in addition to the information required by NRS 360.759, contain the following information:

(1) The name of the qualified production;

(2) A description of the qualified production;

(3) The planned rating for the qualified production from a nationally recognized rating association or board, including, without limitation, a rating from the Motion Picture Association of America, or its successor organization, or the Entertainment Software Rating Board, or its successor organization, if applicable;

(4) A detailed budget for the entire qualified production, including, without limitation, separate in-state and out-of-state subtotals for:

(I) Wages and salaries, including fringe benefits, for above-the-line personnel;

(II) Wages and salaries, including fringe benefits, for below-the-line personnel;

(III) Qualified expenditures and costs, as determined in accordance with NRS 360.7591 and NAC 360.855 and 360.860; and

(IV) Unless otherwise included in the information provided pursuant to sub-paragraphs (I), (II) and (III), the maximum compensation payable to any employee or independent contractor paid a wage, salary or fee as compensation for providing labor or services on the production of the qualified production and included as a basis for calculating the amount of transferable tax credit pursuant to NRS 360.7591 to 360.7594, inclusive, and NAC 360.855 and 360.860;

(5) A job summary for the qualified production, including, without limitation:

(I) An estimate of the number of jobs that will be created in this State by the qualified production;

(II) The anticipated term of employment of each such job;

(III) The anticipated wage to be paid for each such job; and

(IV) The fringe benefits provided to employees for each such job;

(6) The capital investment in this State proposed to be made in connection with the qualified production;

(7) The anticipated location of real property and equipment and other tangible personal property in this State;

(8) An acknowledgment of audit procedures on a form prescribed by the Office; and

(9) Any other information required by the application form prescribed by the Office.

(b) Provide with the application for a certificate of eligibility proof satisfactory to the Office that:

(1) The qualified production is in the economic interest of this State, as determined pursuant to subsection 5 of NAC 360.835;

(2) Fifty percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production, or that the producer has a corporate credit rating of "lower medium grade" or higher from a credit rating agency found suitable by the Office; and

(3) At least 60 percent of the total qualified expenditures and production costs for the production, including preproduction and postproduction, will be incurred in this State.

(c) Not later than 30 days after the completion of the qualified production, provide the Office with:

(1) A declaration of residency on a form prescribed by the Office for any above-the-line personnel and below-the-line personnel whom the producer of the qualified production claims to be Nevada residents; and

(2) An audit of the qualified production, in a form approved by the Office, which includes an itemized report of qualified expenditures and production costs and which:

(I) Shows that the qualified production incurred qualified expenditures and production costs in this State of \$500,000 or more; and

(II) Is certified by an independent certified public accountant in this State who is approved by the Office.

3. In considering applications for certificates of eligibility, the Office will give priority to qualified productions that will:

(a) Be in the economic interest of this State, as determined pursuant to subsection 5 of NAC 360.835.

(b) Promote tourism in this State.

4. The Office will deny an application for a certificate of eligibility if:

(a) The application is received by the Office on or after January 1, 2018.

(b) The applicant does not commence principal photography or principal development of the qualified production, whichever is applicable, within 90 days after submitting the application to the Office.

(c) Approval of the application would cause the total amount of transferable tax credits to exceed:

(1) The amount of transferable tax credits available for approval during the current fiscal year, as determined pursuant to NRS 360.7594.

(2) The portion of the amount of transferable tax credits available for approval during the current fiscal year that has been apportioned by the Office to the current period of that fiscal year pursuant to NAC 360.850.

(d) Production of the qualified production is not completed within 1 year after the date of the commencement of principal photography or principal development of the qualified production, whichever is applicable.

(e) The qualified production is not eligible for transferable tax credits pursuant to this section and NRS 360.759.

5. As used in this section:

(a) “Principal development” means the phase of a production that constitutes a qualified production pursuant to NAC 360.825 in which sound, video, images, text or animation is integrated into a digital product.

(b) “Principal photography” means the phase of a film, television, video or other qualified production in which the production is filmed, videotaped or otherwise recorded using production equipment with actors on set or location.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.835 Certificate of eligibility: Duties of Office; hearing; order approving application; factors for determining whether qualified production is in economic interest of State. (NRS 360.759)

1. Upon receipt of a completed application for a certificate of eligibility submitted pursuant to paragraph (a) of subsection 2 of NAC 360.830 and the information required by paragraph (b) of subsection 2 of NAC 360.830, the staff of the Office ~~shall~~ *must*:

(a) Evaluate the application and supporting information; and

(b) Prepare a proposed order containing a recommendation of whether to grant or deny approval of the application and an estimate of the amount of transferable tax credits available to the applicant if a certificate of eligibility is issued.

2. A hearing on an application for a certificate of eligibility must be conducted by the Executive Director or his or her designee not later than 60 days after the Office receives the application. Not later than 30 days before the date of the hearing, the Office will provide notice of the date, time and location of the hearing and a copy of the proposed order prepared pursuant to subsection 1 to:

(a) The applicant;

(b) The Department; and

(c) The State Gaming Control Board.

3. Not later than 30 days after the conclusion of the hearing on the application for a certificate of eligibility, the Executive Director or his or her designee will determine whether to approve the application for a certificate of eligibility. If, after the conclusion of the hearing, the Executive Director or his or her designee finds that:

(a) The qualified production is in the economic interest of this State, as determined pursuant to subsection 5;

(b) Fifty percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production, or that the producer has a corporate credit rating of “lower medium grade” or higher from a credit rating agency found suitable by the Office; and

(c) At least 60 percent of the total qualified expenditures and production costs for the qualified production, including preproduction and postproduction, will be incurred in this State,

4. the Office will issue a final order approving the application for a certificate of eligibility and determining an estimate of the amount of transferable tax credits available if a certificate of eligibility is issued. The Office will provide notice of its determination and, if the application is approved, a copy of the final order to the applicant, the Department and the State Gaming Control Board.

5. If the Office approves an application for a certificate of eligibility, the Office will execute a memorandum of understanding with the producer of the qualified production on a form prescribed by the Office and include a copy of the memorandum of understanding with the copy of the final order approving the application which is provided to the applicant, the Department and the State Gaming Control Board pursuant to subsection 3.

6. For the purpose of determining whether a qualified production is in the economic interest of this State, the Executive Director ~~[shall]~~ **must** consider:

(a) The economic factors set forth in subsection 2 of NRS 231.053;

(b) The number of high-quality jobs created for residents of this State, and the duration of those jobs, as a result of the qualified production;

(c) The quality of the capital investment in this State as a result of the qualified production; and

(d) Any other factors deemed relevant by the Executive Director.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.840 Certificate of eligibility: Executive Director may request additional records; certification of audit. (NRS 360.759)

1. The Executive Director may request that an applicant for a certificate of eligibility furnish him or her with copies of any records necessary to verify that the applicant meets the requirements for a certificate of eligibility which are set forth in NRS 360.759 and NAC 360.830, including, without limitation, information concerning the progress of the qualified production. The Office may deny an application for a certificate of eligibility if the applicant fails to provide any records in compliance with this subsection.

2. Not later than 30 days after completion of a qualified production, an applicant for a certificate of eligibility ~~[shall]~~ **must** submit to the Office the audit required by paragraph (c) of subsection 2 of NAC 360.830 and any financial data, accountings and other information required by the Office or the Department for the purpose of determining whether the applicant satisfies the requirements for a certificate of eligibility which are set forth in NRS 360.759 and NAC 360.830. If the Office determines that any information submitted pursuant to this subsection is incomplete, the Office will notify the applicant of its determination and, not later than 30 days after receiving the notice, the applicant must provide to the Office any additional information required by the Office. The Office may deny certification of the audit if the applicant fails to provide any financial data, accountings or other information in compliance with this subsection.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.845 Issuance of transferable tax credits; notice of transfer. (NRS 360.759)

1. Within 14 business days after receipt of the audit of the qualified production required by paragraph (c) of subsection 2 of NAC 360.830 and any other financial data, accountings or other information required by the Office, the Office will determine whether to certify the audit and will make a final determination of whether to issue a certificate of transferable tax credits. If the Office determines that it will certify the audit, the Office will notify the producer of the qualified production of the certification of the audit and the Office's intent to issue transferable tax credits.

2. Not later than 30 days after receipt of notice of the Office's intent to issue transferable tax credits, the producer of the qualified production must submit to the Office an irrevocable declaration of the amount of transferable tax credits that will be applied to each tax or fee set forth in subsection 1 of NRS 360.759.

3. Upon receipt of the declaration required by subsection 2, the Office will issue a certificate of transferable tax credits in the amount approved by the Office for the fees and taxes set forth in the declaration. The Office will notify the Department and the State Gaming Control Board of all transferable tax credits issued by the Office, as set forth in subsection 6 of NRS 360.759.

4. Before transferring tax credits for which a certificate of transferable tax credits has been issued, the producer, or any subsequent purchaser of the transferable tax credits, must provide to the Office written notice of the proposed transfer on a form prescribed by the Office. The notice must include, without limitation:

(a) Contact information for the current holder of the transferable tax credits represented by the certificate of eligibility and the person to whom the transferable tax credits will be transferred;

(b) The current state of residence of the current holder of the transferable tax credits represented by the certificate of eligibility and the person to whom the transferable tax credits will be transferred;

(c) Whether the transfer is occurring through a broker and, if so, the name of the broker and any fees paid in connection with the transfer;

(d) The dollar amount of the transferable tax credits to be transferred;

(e) The amount of compensation received by the seller of the transferable tax credits from the purchaser of the transferable tax credits; and

(f) The proposed date of the transfer.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.850 Apportionment of transferable tax credits. (NRS 360.759) The Office may apportion the amount of transferable tax credits available in a fiscal year, as determined pursuant to NRS 360.7594, to periods within that fiscal year as the Office deems advisable.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.855 Calculation of amount of transferable tax credits: Qualified expenditures and production costs eligible to serve as basis for calculation. (NRS 360.759)

1. For the purpose of calculating the amount of transferable tax credits available to an eligible producer pursuant to NRS 360.7591 to 360.7594, inclusive, except as otherwise provided in subsection 3, qualified expenditures and production costs that may serve as a basis for transferable tax credits must:

(a) Be expenditures made on or after the date on which the eligible producer submits an application for a certificate of eligibility pursuant to paragraph (a) of subsection 2 of NAC 360.830;

(b) Be customary and reasonable;

(c) Relate to a category of qualified expenditures and costs listed in subsection 2; and

(d) Be:

(1) Purchases of tangible personal property or services from a Nevada business.

(2) The payroll for Nevada residents or other personnel who provided services in this State, as calculated pursuant to NAC 360.860 and included in the calculation of the amount of transferable tax credits in accordance with NRS 360.7591 to 360.7594, inclusive.

(3) Fees paid to a producer, as included in the calculation of the amount of transferable tax credits in accordance with subsection 3 of NRS 360.7594.

2. Except as otherwise provided in this section and NRS 360.7591, expenditures or costs may serve as a basis for calculating the amount of transferable tax credits issued pursuant to NRS 360.759 only if the expenditure or cost relates to:

- (a) Set construction and operation.
- (b) Wardrobe and makeup.
- (c) Photography, sound and lighting.
- (d) Filming, film processing and film editing.
- (e) The rental or leasing of facilities, equipment and vehicles.
- (f) Food and lodging.
- (g) Editing, sound mixing, special effects, visual effects and other postproduction services.
- (h) The design, construction, improvement or repair of property, infrastructure, equipment or a production or postproduction facility.
- (i) State and local government taxes to the extent not included as part of another cost or expenditure included in the calculation of the amount of transferable tax credits pursuant to this section and NRS 360.7591 to 360.7594, inclusive.
- (j) Commercial airfare if purchased through a Nevada travel agency or travel company for travel that is directly attributable to the qualified production.
- (k) Insurance coverage and bonding if purchased through a Nevada insurance agency, broker or bonding agent.
- (l) The design and development of art assets for interactive entertainment, including, without limitation, concept art, background art, character models and sprites.
- (m) The programming of software related to interactive entertainment, including, without limitation, codebases, netcode, development and modification of source code, development and adaptation of game engine software and game development tools.
- (n) Quality assurance for interactive entertainment, including, without limitation, testing and tracking software bugs.
- (o) Motion capture for interactive entertainment, including, without limitation, costs for motion capture software, performers and participants and motion capture facilities and costs related to incorporating motion capture data into an interactive entertainment product.
- (p) Any other direct costs of producing a qualified production, including preproduction and postproduction, in accordance with generally accepted industry practice.

3. Expenditures and costs must not be included in the calculation of the amount of transferable tax credits pursuant to this section and NRS 360.7591 to 360.7594, inclusive, if,

pursuant to NRS 360.7591 to 360.7594, inclusive, and NAC 360.800 to 360.865, inclusive, the expenditure or cost is not eligible to serve as a basis for transferable tax credits issued pursuant to NRS 360.759. Pursuant to paragraph (c) of subsection 2 of NRS 360.7591, an expenditure or cost is ineligible to serve as a basis for transferable tax credits if the Office determines that the expenditure or cost provides a pass-through benefit to a person who is not a Nevada resident.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.860 Calculation of amount of transferable tax credits: Expenditures for wages and salaries.(NRS 360.759)

1. For the purpose of calculating the amount of transferable tax credits available to an eligible producer pursuant to NRS 360.7591 to 360.7594, inclusive, expenditures for wages and salaries, including fringe benefits, paid to Nevada residents or other personnel who provided services in this State may be included in the calculation:

(a) Only if the expenditures are qualified expenditures and production costs that may serve as a basis for transferable tax credits in accordance with NRS 360.7591 to 360.7594, inclusive, and NAC 360.855.

(b) In the case of an employee who is a Nevada resident, in the amount stated as wages, tips and other compensation on the Form W-2 received by the employee, plus the amount paid by the employer for the fringe benefits of the employee, except that the amount included in the calculation for compensation payable to an employee for providing labor services on the production of the qualified production must not exceed \$750,000.

(c) In the case of an employee who is not a Nevada resident, in the amount determined in accordance with NRS 360.7593 and subsection 3 of NRS 360.7594.

2. As used in this section, “fringe benefits” has the meaning ascribed to it in NRS 360.7593 and includes, without limitation, payments by an employer for unemployment insurance, FICA, pension and welfare benefits, health insurance premiums and meal and hotel per diems incurred in this State.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)

NAC 360.865 Reduction or withholding of credits under certain circumstances; repayment of amount of credits under certain circumstances; circumstances under which Office will not require forfeiture of credits purchased in good faith. (NRS 360.759)

1. In calculating the amount of transferable tax credits available to an eligible producer pursuant to NRS 360.7591 to 360.7594, inclusive, the Office may:

(a) Reduce the cumulative amount of transferable tax credits that are calculated pursuant to NRS 360.7591 to 360.7594, inclusive, and NAC 360.855 and 360.860 by an amount equal to any damages incurred by the State or any political subdivision of this State as a result of a qualified production that is produced in this State.

(b) Withhold transferable tax credits, in whole or in part, until any pending legal action in this State against a producer or involving a qualified production is resolved.

2. If the Office finds that a producer is ineligible for transferable tax credits because the producer has submitted any false statement, representation or certification in any document submitted for the purpose of obtaining transferable tax credits or if the Office finds that a producer has otherwise become ineligible for transferable tax credits after receiving a certificate of eligibility, the Office will require the producer to repay to the Department or the State Gaming Control Board, as applicable, any portion of the transferable tax credits to which the producer is not entitled.

3. The Office will not require a person who purchases transferable tax credits in good faith to forfeit the transferable tax credits unless the person submitted fraudulent information in connection with the purchase.

(Added to NAC by Office of Economic Dev. by R120-13, eff. 12-23-2013)