

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS OF THE
GOVERNOR’S OFFICE OF ECONOMIC DEVELOPMENT
AS REQUIRED BY NRS 233B.066
INFORMATIONAL STATEMENT
LCB FILE R062-22**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 360.800 – 360.865.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation is necessary to update the regulations to comply with past statutory changes. It also specifies how the credits on certain qualified assets are calculated, as well as further defines certain qualified and non-qualified costs and clarifies administrative procedures.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by email to persons who were known to have an interest in the subject of the regulation and administrative charges as well as any persons who had specifically requested such notice. These documents were also made available and posted at the following locations:

Grant Sawyer State Office Building
555 E. Washington Blvd
Las Vegas, Nevada 89101

Governor’s Office of Economic Development
808 West Nye Lane
Carson City, NV 89703

Governor’s Office of Economic Development website:
<https://goed.nv.gov/about/notices-agendas/>

Nevada Public Notice website <https://notice.nv.gov>

Department of Taxation Public Meetings website:
https://tax.nv.gov/Boards/Public_Meetings

Nevada State Legislative Counsel Bureau Administrative Regulation
Notices website: <https://www.leg.state.nv.us/App/Notice/A/>

Staff issued a Notice of Workshop on March 7, 2022 and held the workshop on March 23, 2022, which could be attended remotely. The minutes of the workshop, attached as Exhibit A, contain a summary of the discussion held regarding the proposed amendments.

The drafted regulation was noticed for Public Hearing on August 23, 2022, and requested written comments be filed with the Office by September 27, 2022. The notice indicated that comments could be made in person at the hearing on September 28, 2022.

Staff did not receive any written comments, and a summary of the comments made during the hearing are included in the minutes of the hearing, attached as Exhibit B.

A copy of this summary of the public response to the proposed regulation may be obtained from the Nevada Film Office, 702-486-2711, or email to lvnfo@nevadafilm.com.

- 3. The number persons who:**
 - a. Attended the Workshop: 7
 - b. Asked questions at the Workshop: 1
 - c. Attended the Public Hearing: 13
 - d. Testified at the Public Hearing: 4
 - e. Attended the Adoption Hearing: 101
 - f. Testified at the Adoption Hearing: 0
 - g. Number of Board Members that asked questions or Commented at the Adoption hearing: 1
 - h. Submitted to the agency written comments: 0

- 4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit C.**

The adoption hearing was held as part of the Governor's Office of Economic Development's quarterly board meeting. The adoption of drafted regulations was one of multiple items on the agenda. Attendees are required to sign in for the board meeting, but they are not required to provide contact information. The information provided to the agency for those in attendance is included in Exhibit C.

- 5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public as described in #2. Staff received no written comments

from affected businesses, and a summary of the comments made by affected businesses during the workshop and hearing are contained in the minutes for each meeting and can be obtained from the Nevada Film Office, 702-486-2711, or email to lvnfo@nevadafilm.com.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted to include three changes requested from the public during the hearing held on September 28, 2022.

On Page 9 of the draft, Section 5(4)(d) should remove the words “gratuitously violent.”

On Page 13 of the draft, Section 7(2)(b)(4) items (III) and (VI) are the same. Item (VI) should be updated to read “Extras who are not Nevada residents.”

On Page 21 of the draft, Section 11(1)(b) should be updated to clarify that the amount in excess of \$750,000 does not qualify; any amount up to \$750,000 does qualify.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

The Office does not regulate businesses, but administers the film tax incentive program established by legislation. There are no adverse economic effects estimated on Nevada businesses nor the general public. The regulation does not make changes to the estimated beneficial economic effects of the film tax incentive program, which is a program designed to encourage the use of Nevada businesses in the film industry.

(b) Both immediate and long-term effects.

There are no changes to the immediate and long-term economic effects estimated on businesses and the public based on the updates made to the adopted regulations.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why

the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no state or government agency regulations that the proposed regulation duplicates.

- 10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no federal regulations that apply.

- 11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not provide a new fee or increase an existing fee.

- 12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The Office made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. The Office solicited comments from known small business owners and provided copies of the proposed changes, but no comments were submitted in either written or oral form despite repeated invitations. The Office determined that the proposed regulations are not likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

EXHIBIT A

**STATE OF NEVADA
GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT
& NEVADA FILM OFFICE
WORKSHOP TO SOLICIT COMMENTS
ON PROPOSED REGULATIONS
March 23, 2022**

The Governor's Office of Economic Development & Nevada Film Office Workshop to Solicit Comments on Proposed Regulations was called to order by Nevada Film Office Analyst Kim Spurgeon at 2:00 pm via videoconference. The videoconference link was made available to the public for comment.

STAFF MEMBERS PRESENT:

Mr. Eric Preiss, Director, NFO

Ms. Kim Spurgeon, Film Office Analyst, NFO

Mr. David Newton, Special Counsel to the Colorado River Commission & GOED

Ms. Christine Guerri, Special Counsel to the Colorado River Commission & GOED

GUESTS PRESENT VIA VIDEOCONFERENCE:

Mr. JR Reid, JR Lighting

Ms. Jessica Reid, JR Lighting

Mr. George Hritz, Nevada Taxpayers Association

1. CALL TO ORDER

Ms. Kim Spurgeon welcomed the attendees and provided the purpose of the workshop which is to determine the impact of the proposed regulations on small businesses and to solicit comments on proposed regulations pertaining to Nevada Administrative Code chapter 360. The proposal has been designated as Docket Number 22-03231 by the Office.

2. NAC 360.800 TO 360.865 REVISIONS

Ms. Spurgeon reviewed the proposed changes to NAC sections 360.800 to 360.825 which covered definitions. New definitions proposed to be added include "transferable tax credit certificate," "obscene," and "qualified production period." Ms. Spurgeon asked if there was any input on the proposed definitions. There was no input.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.830 which covered the certificate of eligibility and application process. Terminology throughout this section and other sections was updated to reflect the terminology used in the current version of NRS 360.758 to 360.7598. Language was added to require productions to submit applications prior to the start of principal photography. A section requiring the planned MPAA rating

for the production to be included on the application was removed. The requirement of a detailed budget and detailed estimate of jobs to be included with the application were changed to a summary budget and summary of jobs created. A provision to include a logo provided by the Office in the end screen credits was added. A requirement that funding of the production be placed in an escrow account was removed. A section addressing procedures followed during the audit process was removed from this section and added to section NAC 360.840. A section that referenced a sunset date of the program was removed. Ms. Spurgeon asked if there was any input on the section pertaining to the application process. There was no input.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.835 covering the application approval process. The required posted notice of the hearing was updated from 30 to 10 days prior to the hearing to match NRS 360.7595. A redundant section was removed. Language was updated from “the Office will issue” to “the Office may issue” based on the recent change to NRS 360.759. Ms. Spurgeon asked if there was any input on the section covering the application approval process. There was no input.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.840 regarding the transferable tax credit certificate. The term “certificate of eligibility” has been updated in this section to “transferable tax credit certificate” to clarify these separate certificates and accompanying procedures. The timeframe to complete the required audit was updated to reflect NRS 360.759. A section previously included under NAC 360.830 regarding the certificate of eligibility has been added to this section, as the procedures pertain to the issuance of transferable tax credit certificates. Ms. Spurgeon asked if there was any input on the section covering transferable tax credit certificates. There was no input.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.845 regarding the issuance of tax credit certificates. The time allowed for the Office to approve an audit has been updated to 60 days to match NRS 360.759. Ms. Spurgeon asked if there was any input on the section covering the issuance of transferable tax credits. There was no input.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.847 regarding the issuance of tax credit certificates by the Department of Taxation. The proposed changes to this section were limited to updated terminology to reflect that used in the current NRS. Ms. Spurgeon asked if there was any input on the section from the Department of Taxation. There was no input.

Ms. Spurgeon noted no changes were proposed to NAC section 360.850 regarding the apportionment of transferable tax credits.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.855 regarding the calculation of tax credits. The time period in which qualified expenditures can be made has been redefined as during the qualified production period. Rentals have been clarified as qualified cost and the vendor must meet the definition of a Nevada business as specified in NRS 360.7583. A section of qualified expenses was removed to avoid

redundancy with NRS 360.7591. Per diems were added as a qualified cost. Further specifications were added on how commercial airfare can qualify. Bonds were removed as qualified costs. The paragraph regarding costs that are not qualified was redrafted and specified that pass through benefits, certain airline fees, box rentals paid to a non-Nevada resident, penalties or fines for law infractions, publicity costs and bank fees are all not qualified. A paragraph was added that addressed how the credit for tangible personal property acquired as an asset by the production company would be calculated. Ms. Spurgeon asked if there was any input on the section that addressed qualified costs. There was no input.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.860 regarding the calculation of credits on qualified wages and salaries. The language was simplified in the paragraph covering the \$750,000 salary cap. Fringe benefits are further defined to include payroll handling fees as qualified only if the payroll company is a Nevada business. A paragraph was added to clarify which producers were subject to the producer salary cap. Ms. Spurgeon asked if there was any input on the section that addressed qualified wages and salaries. Mr. Reid asked to clarify whether the salary cap on Nevada producers applied all Nevada producers or each individual producer. Ms. Spurgeon confirmed the cap applies to the cumulative wage total of all Nevada producers.

Ms. Spurgeon reviewed the proposed changes to NAC section 360.865 regarding the reduction or withholding of credits under certain circumstances. This section was updated to reflect the changes that had been made to the NRS and further defined situations in which the State could reduce or withhold credits. Ms. Spurgeon asked if there was any input on the section that addressed reducing or withholding credits. There was no input.

3. SMALL BUSINESS IMPACT

Ms. Spurgeon concluded the portion of the workshop that addressed each section of NAC changes and opened it up to further public comment. Ms. Spurgeon specifically solicited comments from small business owners who may be affected by the proposed changes. There was no public comment.

4. ADJOURNMENT

A motion was made by Ms. Spurgeon to adjourn the workshop. The workshop was adjourned at 3:30 pm.

EXHIBIT B

**STATE OF NEVADA
GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT
& NEVADA FILM OFFICE
PUBLIC HEARING ON PROPOSED REGULATIONS
September 28, 2022**

The Governor's Office of Economic Development & Nevada Film Office Hearing on Intent to Adopt Proposed Regulations was called to order by Nevada Film Office Incentive Program Manager Kim Spurgeon at 3:00 pm via videoconference. The videoconference link was made available to the public for comment.

STAFF MEMBERS PRESENT:

Ms. Kim Spurgeon, Incentive Program Manager, NFO
Mr. Kristopher Sanchez, Deputy Director, GOED
Mr. James Humm, Director of Public Policy & Government Affairs, GOED
Mr. David Newton, Special Counsel to the Colorado River Commission & GOED
Ms. Danette Tull, Production & Communications Manager, NFO

GUESTS PRESENT VIA VIDEOCONFERENCE:

Ms. Andi Isaacs, UNLV
Mr. JR Reid, JR Lighting
Ms. Jessica Reid, JR Lighting
Mr. George Hritz, Nevada Taxpayers Association
Mr. Warren Cobb, UNLV
Ms. Heather Addison, UNLV
Mr. Joseph Guild, MPA
Mr. Joshua Cohen, Cohencidence Productions

1. CALL TO ORDER

Ms. Kim Spurgeon welcomed the attendees and provided the purpose of the hearing which is to gather public comment on proposed regulations pertaining to Nevada Administrative Code chapter 360. The proposal has been designated as Docket Number 22-03231 by the Office.

2. PUBLIC COMMENTS

Ms. Spurgeon opened the hearing for public comments. There were no public comments at this time.

3. DISCUSSION ITEM: NAC 360.800 TO 360.865 REVISIONS

Ms. Spurgeon introduced the proposed regulations as drafted by the Legislative Council Bureau and provided a summary of the changes. Certain changes were made to reflect updates made to NRS 360.758-360.7598 during previous legislative sessions. Section 3 of the proposed regulations outlines how the credits are to be calculated on tangible personal property purchased as assets by the production company. This section also addresses how the credit is to be calculated on items of a purchase price of \$10,000 or more, as well as if the item is donated, sold, given away or kept. The purpose of this section is to establish a limit on certain items from qualifying for the incentive.

Ms. Spurgeon identified section 10 of the proposed regulations to specify certain expenses that are not qualified expenditures for the incentive. This section also adds protection for the state if a production submits false statements or violates local or federal laws that would allow the credit to be withheld.

4. PUBLIC COMMENTS

Ms. Spurgeon opened the second period of the hearing for public comment.

Ms. Andi Issacs, Professor, UNLV, commented on Section 3 regarding the limitation of certain assets and whether the purchase of vehicle shells to be destroyed on a production would be allowed for incentive purposes. Ms. Spurgeon confirmed that assets purchased for the purpose of being destroyed as part of the production, including vehicle shells, would be allowed for incentive purposes at the full purchase amount if the production can prove that the asset was destroyed on screen.

Mr. George Hritz, Nevada Taxpayers Association, commented on a redundancy on page 13 under subsection 4, items VI and III regarding extras who are Nevada residents. Identical language is used for each item.

Ms. Spurgeon reviewed the items and confirmed the text was redundant.

Mr. Hritz had a question on page 7, under subsection 3, regarding how the requirement that at least sixty percent of total qualified expenditures and production costs relates to section 10(d)(1) on page 18 regarding qualified expenditures be purchases or rentals from Nevada businesses.

Ms. Spurgeon clarified that expenditures must be made from Nevada businesses in order to qualify for the tax credit, and that at least sixty percent of the production's total expenditures must be qualified expenditures in order for their application to be approved to participate in the program.

Mr. Hritz further commented on the section regarding qualified expenditures being purchases or rentals. He identified NRS 372.060 as defining sales to include leases.

Mr. Hritz asked if during the audit, the Nevada Film Office works with Nevada Department of Taxation to verify if the qualified assets have been taxed.

Ms. Spurgeon clarified that the involvement of Taxation is limited to the redemption of tax credit certificates and the department currently does not perform this task.

Mr. Joshua Cohen, Cohencidence Productions, commented that most changes seem to be steps in the right direction. However, subsection (d) on page 9 regarding the definition of obscenity including the phrase “gratuitously violent” could give bureaucrats detailed control over art and may infringe upon first amendment rights. Mr. Cohen advocated for more specific language to be included in the definition of obscenity.

Mr. Cohen also commented on page 20 regarding bank fees no longer being a qualified cost, as well as referring to NRS 360.791(2)(a)(5), regarding the cost of the CPA audit being ineligible. Mr. Cohen believes both of these costs should be qualified.

Mr. Cohen further commented on page 21 the section regarding wages and salaries not to exceed \$750,000. Mr. Cohen argued this section could be interpreted as if a salary exceeded \$750,000, then no amount would qualify. He suggested that it should be changed to read any excess payment above the \$750,000 cap is disqualified.

Mr. Cohen recommended amending NRS 360.7592(4)(b)(1) to also include debts, referrals and obligations owed to Nevada residents and businesses as reported to the film office. He also recommended requiring productions to set up an escrow account, which could collect revenue from the sale of the tax credit and distribute the proceeds to outstanding expenses and claims.

Ms. Spurgeon thanked Mr. Cohen for his input.

Mr. JR Reid, JR Lighting, commented that some Nevada vendors and crew have not been treated fairly, which is not the intent of the incentive program and should be corrected. Mr. Reid stated that productions should sign off with the film office that they have paid local vendors and crew in full, as some productions have tried to walk away without honoring their debts.

Ms. Spurgeon thanked Mr. Reid for his comment and asked if there were any further comments. No further comments were provided.

Ms. Spurgeon thanked the attendees for their participation and noted all input would be considered.

5. ADJOURNMENT

A motion was made by Ms. Spurgeon to adjourn the hearing. The hearing was adjourned at 3:20 pm.

EXHIBIT C

Name	Telephone Number	Email Address	Business Name	Business Address	Business Telephone Number
Kim Spurgeon	702-486-2706	kspurgeon@nevadafilm.com	Nevada Film Office	3300 W. Sahara Ave, Suite 106, Las Vegas, NV 89102	702-486-2711
Eric Preiss	702-486-2714	epreiss@nevadafilm.com	Nevada Film Office	3300 W. Sahara Ave, Suite 106, Las Vegas, NV 89102	702-486-2711
David Newton	702-486-2673	dwnewton@crc.nv.gov	Colorado River Commission/GOED	555 E. Washington Ave, Suite 3100, Las Vegas, NV 89101	702-486-3505
Christine Guerci	702-486-3505	cguerci@crc.nv.gov	Colorado River Commission/GOED	555 E. Washington Ave, Suite 3100, Las Vegas, NV 89101	702-486-3505
JR Reid	702-649-5555	jreid@jrlighting.com	JR Lighting	5636 S. Edmond St, Las Vegas, NV 89118	702-649-5555
Jessica Reid Fox	702-649-5555	jessica@jrlighting.com	JR Lighting	5636 S. Edmond St, Las Vegas, NV 89118	702-649-5555
George Hritz	775-354-895	hritzg@yahoo.com	Nevada Taxpayers Association	116 E. 7th St, Suite 202, Carson City, NV 89701	775-882-2697
Kristopher Sanchez	702-486-2709	ksanchez@goed.nv.gov	Governor's Office of Economic Development	555 E. Washington Ave, Suite 5400, Las Vegas, NV 89101	702-486-2700
James Humm	702-486-2729	j.humm@goed.nv.gov	Governor's Office of Economic Development	555 E. Washington Ave, Suite 5400, Las Vegas, NV 89101	702-486-2700
Danette Tull	702-486-2713	dtull@nevadafilm.com	Nevada Film Office	3300 W. Sahara Ave, Suite 106, Las Vegas, NV 89102	702-486-2711
Andi Isaacs	702-895-3547	andi.isaacs@unlv.edu	UNLV	4505 S. Maryland Pkwy, FDH 425, Las Vegas, NV 89154	702-895-3547
Warren Cobb	702-895-4220	warren.cobb@unlv.edu	UNLV	4505 S. Maryland Pkwy, FDH 449, Las Vegas, NV 89154	702-895-4220
Heather Addison	702-895-3547	heather.addison@unlv.edu	UNLV	4505 S. Maryland Pkwy, FDH 430A, Las Vegas, NV 89154	702-895-3547
Joseph Guild		josephguild@yahoo.com	MPA		
Joshua Cohen	702-785-7654	josh@coherence.com	Cohencidence Productions	Las Vegas, NV	702-785-7654

December 1, 2022 GOED Board Meeting Webex Participants

Name	Attendee Email
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Alex Tanchek	alex@sgr.us
Austin Osborne, Storey County Manager	aosborne@storeycounty.org
Bob Ryser	bryser@storeycounty.org
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Cecilia Heston	ceciliaheston@gov.nv.gov
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Victoria Salas	vsalas@tax.state.nv.us

Las Vegas Sign In Sheet

Name	Organization
Amber Stishan	LVGEA
Nancy McCormick	EDAWN
Alexis Georgeson	Redwood
Bill Arent	LVGEA
Michael Walsh	LVGEA
Darrin Wilen	Wilen
Frank Damico	Wilen
Bill Regenhardt	LVGEA
Britney Wesley	Akers Enterprises
Marco Arambula	Kodiak Trucking
Manual Gonzalez	Kodiak Trucking
Martin Arambula	Kodiak Trucking
Brittany West	City of North Las Vegas
Carolyn Kresser	LVGEA
Usiel Teran	LVGEA
Brandon	Akers Enterprises
Katie Gilbertson	GOWINN
James Humm	GOED
Danette Tull	GOED
Kim Spurgeon	GOED

Carson City Sign In Sheet

Name	Organization
Don Taires	Redwood
Jan Morrison	WCS NV
Heidi Lusby-Angwick	NV95-80 RDA
Raisa Runse	WCS NV
Wayne Thompson	NVIE
Rhey Gustafson	NVIE
Bob Potts	GOED
Chelsea Walburg	GOED
Amy Barnes	NNDA
Randy Looney	AVK
Janel Walsh	Atlanta
Tatjana Vukovic	NNDA
Jeff Sutich	NNDA
Michelle Lynn	GOED
Jennifer Baker	Public
Hayley Owens	GOED

GOED Board Members

Name
Governor Steve Sisolak
Lieutenant Governor Lisa Cano Burkhead
Secretary of State Barbara Cegavske
<u>Dr. Weidon Havins</u>
<u>Mr. Josh Reid</u>
<u>Mr. Raymond Specht</u>
<u>Ms. Elisa Cafferata</u>
<u>Mr. Terry Reynolds</u>

* Underlined Names were speakers on the agenda