
ASSEMBLY BILL NO. 20—COMMITTEE ON REVENUE

(ON BEHALF OF THE OFFICE OF ECONOMIC DEVELOPMENT
IN THE OFFICE OF THE GOVERNOR)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to transferable tax credits for film and other productions. (BDR 32-267)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to taxation; revising the types of film and other productions for which a production company may apply for certain transferrable tax credits; revising provisions governing the eligibility of a production company for certain transferrable tax credits; revising provisions governing the calculation of the amount of transferrable tax credits issued to a qualified production company; expanding the circumstances under which the Office of Economic Development is authorized to withhold transferrable tax credits; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes a program for the issuance of transferable tax credits
2 by the Office of Economic Development to the production company of a motion
3 picture or other qualified production, based upon qualified direct production
4 expenditures made for the purchase of personal property or services from a Nevada
5 business. (NRS 360.758-360.7598)

6 **Section 1** of this bill revises the types of qualified productions for which a
7 production company may apply for transferable tax credits by: (1) removing
8 interstitial television programming and interstitial advertising as qualified
9 productions; (2) removing certain limitations on reality shows; and (3) making an
10 episode of a series a qualified production. (NRS 360.7586)

11 Existing law requires a production company to provide the Office with an audit
12 of the qualified production not later than 90 days after the completion of principal
13 photography or postproduction. (NRS 360.759) **Section 2** of this bill requires the



14 audit to be submitted within 270 days after the completion of principal photography
15 or postproduction, unless the Office agrees to extend the period for submitting the
16 audit by not more than 90 days. **Section 2** also removes a requirement for a
17 business address of the production company to be in this State and authorizes rather
18 than requires the Office to approve an application for transferable tax credits if a
19 production company is found to be eligible.

20 Existing law provides that in order for tangible personal property that is
21 acquired by a Nevada business from a vendor outside this State for immediate
22 resale, rental or lease to a production company to be considered a qualified direct
23 production expenditure, not more than 50 percent of the property purchased, rented
24 or leased by the production company for the qualified production may be acquired
25 and purchased, rented or leased in that manner. (NRS 360.7591) **Section 3** of this
26 bill excludes from consideration as property acquired in this manner tangible
27 personal property that remains an asset of a Nevada business after the production of
28 the qualified production has ended. **Section 3** also: (1) removes the requirement for
29 qualified direct production expenditures to be made on or after the date on which
30 the production company submits an application for transferable tax credits to the
31 Office and, instead, requires qualified direct production expenditures to be made
32 during the period in which the qualified production is produced; and (2) requires
33 the calculation of the costs that constitute a qualified direct production expenditure
34 by a production company to acquire tangible personal property as an asset to be
35 performed according to regulations adopted by the Office.

36 Existing law authorizes the Office to withhold the transferrable tax credits, in
37 whole or in part, until any pending legal action in Nevada against a production
38 company or involving a qualified production is resolved. (NRS 360.7592) **Section**
39 **4** of this bill authorizes the Office to also withhold the transferrable tax credits, in
40 whole or in part, for violations of state or local law or if the production company is
41 found to have submitted any false statement, representation or certification for the
42 purpose of obtaining the tax credits.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 360.7586 is hereby amended to read as
2 follows:

3 360.7586 1. "Qualified production" includes preproduction,
4 production and postproduction and means:

- 5 (a) A theatrical, direct-to-video or other media motion picture.
- 6 (b) A made-for-television motion picture.
- 7 (c) Visual effects or digital animation sequences.
- 8 (d) A television pilot program.
- 9 (e) ~~Interstitial television programming.~~

10 ~~—(f)~~ A television, Internet or other media series, including,
11 without limitation, a comedy, drama, miniseries, soap opera, talk
12 show, game show or telenovela ~~(f)~~, *or an episode of such a series.*

13 ~~[(g)]~~ (f) A reality show . ~~[, if not less than six episodes are~~
14 ~~produced concurrently in this State and the total of the qualified~~
15 ~~direct production expenditures for those episodes is \$500,000 or~~
16 ~~more.~~



1 ~~(h)~~ (g) A national or regional commercial or series of
2 commercials.

3 ~~(i)~~ (h) An infomercial.

4 ~~(j)~~ ~~An interstitial advertisement.~~

5 ~~(k)~~ (i) A music video.

6 ~~(l)~~ (j) A documentary film or series.

7 ~~(m)~~ (k) Other visual media productions, including, without
8 limitation, video games and mobile applications.

9 2. The term does not include:

10 (a) A news, weather or current events program.

11 (b) A production that is primarily produced for industrial,
12 corporate or institutional use.

13 (c) A telethon or any production that solicits money, other than a
14 production which is produced for national distribution.

15 (d) A political advertisement.

16 (e) A sporting event ~~(j)~~, *including, without limitation, a*
17 *sportscast, preshow, postshow or sports newscast related to a*
18 *sporting event.*

19 (f) A gala, *pageant* or awards show.

20 (g) Any other type of production that is excluded by regulations
21 adopted by the Office of Economic Development pursuant to
22 NRS 360.759.

23 **Sec. 2.** NRS 360.759 is hereby amended to read as follows:

24 360.759 1. A production company that produces a qualified
25 production in this State in whole or in part may apply to the Office
26 of Economic Development for a certificate of eligibility for
27 transferable tax credits for any qualified direct production
28 expenditures. The transferable tax credits may be applied to:

29 (a) Any tax imposed by chapters 363A and 363B of NRS;

30 (b) The gaming license fees imposed by the provisions of
31 NRS 463.370;

32 (c) Any tax imposed pursuant to chapter 680B of NRS; or

33 (d) Any combination of the fees and taxes described in
34 paragraphs (a), (b) and (c).

35 2. The Office ~~shall~~ *may* approve an application for a
36 certificate of eligibility for transferable tax credits if the Office finds
37 that the production company producing the qualified production
38 qualifies for the transferable tax credits pursuant to subsection 3 .
39 ~~and~~ *If the Office approves the application, the Office* shall
40 calculate the estimated amount of the transferable tax credits
41 pursuant to NRS 360.7592, 360.7593 and 360.7594.

42 3. To be eligible for transferable tax credits pursuant to this
43 section, a production company must:

44 (a) Submit an application that meets the requirements of
45 subsection 4;



1 (b) Provide proof satisfactory to the Office that the qualified
2 production is in the economic interest of the State;

3 (c) Provide proof satisfactory to the Office that 70 percent or
4 more of the funding for the qualified production has been obtained;

5 (d) Provide proof satisfactory to the Office that at least 60
6 percent of the direct production expenditures for:

7 (1) Preproduction;

8 (2) Production; and

9 (3) If any direct production expenditures for postproduction
10 will be incurred in this State, postproduction,

11 **↳** of the qualified production will be incurred in this State as
12 qualified direct production expenditures;

13 (e) Not later than ~~90~~ 270 days after the completion of principal
14 photography of the qualified production or, if any direct production
15 expenditures for postproduction will be incurred in this State, not
16 later than ~~90~~ 270 days after the completion of postproduction,
17 *unless the Office agrees to extend this period by not more than 90*
18 *days*, provide the Office with an audit of the qualified production
19 that includes an itemized report of qualified direct production
20 expenditures which:

21 (1) Shows that the qualified production incurred qualified
22 direct production expenditures of \$500,000 or more; and

23 (2) Is certified by an independent certified public accountant
24 in this State who is approved by the Office;

25 (f) Pay the cost of the audit required by paragraph (e); and

26 (g) Meet any other requirements prescribed by regulation
27 pursuant to this section.

28 4. An application submitted pursuant to subsection 3 must
29 contain:

30 (a) A script, storyboard or synopsis of the qualified production;

31 (b) The names of the production company, producer, director
32 and proposed cast;

33 (c) An estimated timeline to complete the qualified production;

34 (d) A summary of the budgeted expenditures for the entire
35 production, including projected expenditures to be incurred outside
36 of Nevada;

37 (e) Details regarding the financing of the project, including,
38 without limitation, any information relating to a binding financing
39 commitment, loan application, commitment letter or investment
40 letter;

41 (f) An insurance certificate, binder or quote for general liability
42 insurance of \$1,000,000 or more;

43 (g) The business address of the production company ; ~~{, which~~
44 ~~must be an address in this State;}~~



1 (h) Proof that the qualified production meets any applicable
2 requirements relating to workers' compensation insurance;

3 (i) Proof that the production company has secured all licenses
4 and registrations required to do business in each location in this
5 State at which the qualified production will be produced; and

6 (j) Any other information required by regulations adopted by the
7 Office pursuant to subsection 8.

8 5. If the Office approves an application for a certificate of
9 eligibility for transferable tax credits pursuant to this section, the
10 Office shall immediately forward a copy of the certificate of
11 eligibility which identifies the estimated amount of the tax credits
12 available pursuant to NRS 360.7592 to:

13 (a) The applicant;

14 (b) The Department; and

15 (c) The Nevada Gaming Control Board.

16 6. Within 60 business days after receipt of an audit provided by
17 a production company pursuant to paragraph (e) of subsection 3 and
18 any other accountings or other information required by the Office,
19 the Office shall determine whether to certify the audit and make a
20 final determination of whether a certificate of transferable tax
21 credits will be issued. If the Office certifies the audit, ~~and~~
22 determines that all other requirements for the transferable tax credits
23 have been met ~~and~~ *and determines that a certificate of transferable*
24 *tax credits will be issued*, the Office shall notify the production
25 company that the transferable tax credits will be issued. Within 30
26 days after the receipt of the notice, the production company shall
27 make an irrevocable declaration of the amount of transferable tax
28 credits that will be applied to each fee or tax set forth in subsection
29 1, thereby accounting for all of the credits which will be issued.
30 Upon receipt of the declaration, the Office shall issue to the
31 production company a certificate of transferable tax credits in
32 the amount approved by the Office for the fees or taxes included in
33 the declaration of the production company. The production company
34 shall notify the Office upon transferring any of the transferable tax
35 credits. The Office shall notify the Department and the Nevada
36 Gaming Control Board of all transferable tax credits issued,
37 segregated by each fee or tax set forth in subsection 1, and the
38 amount of any transferable tax credits transferred.

39 7. An applicant for transferable tax credits pursuant to this
40 section shall, upon the request of the Executive Director of the
41 Office, furnish the Executive Director with copies of all records
42 necessary to verify that the applicant meets the requirements of
43 subsection 3.

44 8. The Office:

45 (a) Shall adopt regulations prescribing:



1 (1) Any additional requirements to receive transferable tax
2 credits;

3 (2) Any additional qualified expenditures or production costs
4 that may serve as the basis for transferable tax credits pursuant to
5 NRS 360.7591;

6 (3) Any additional information that must be included with an
7 application pursuant to subsection 4;

8 (4) The application review process;

9 (5) Any type of qualified production which, due to obscene
10 or sexually explicit material, is not eligible for transferable tax
11 credits; and

12 (6) The requirements for notice pursuant to NRS 360.7595;
13 and

14 (b) May adopt any other regulations that are necessary to carry
15 out the provisions of NRS 360.758 to 360.7598, inclusive.

16 9. The Nevada Tax Commission and the Nevada Gaming
17 Commission:

18 (a) Shall adopt regulations prescribing the manner in which
19 transferable tax credits will be administered.

20 (b) May adopt any other regulations that are necessary to carry
21 out the provisions of NRS 360.758 to 360.7598, inclusive.

22 **Sec. 3.** NRS 360.7591 is hereby amended to read as follows:

23 360.7591 1. Qualified direct production expenditures must be
24 for purchases, rentals or leases of tangible personal property or
25 services from a Nevada business ~~[on or after the date on which an~~
26 ~~applicant submits an application for the transferable tax credits,]~~
27 *during the period in which a qualified production is produced,*
28 must be customary and reasonable and must relate to:

29 (a) Set construction and operation;

30 (b) Wardrobe and makeup;

31 (c) Photography, sound and lighting;

32 (d) Filming, film processing and film editing;

33 (e) The rental or leasing of facilities, equipment and vehicles;

34 (f) Food and lodging;

35 (g) Editing, sound mixing, special effects, visual effects and
36 other postproduction services;

37 (h) The payroll for Nevada residents or other personnel who
38 provided services in this State;

39 (i) Payment for goods or services provided by a Nevada
40 business;

41 (j) The design, construction, improvement or repair of property,
42 infrastructure, equipment or a production or postproduction facility;

43 (k) State and local government taxes to the extent not included
44 as part of another cost reported pursuant to this section;

45 (l) Fees paid to a producer who is a Nevada resident; and



1 (m) Any other transaction, service or activity authorized in
2 regulations adopted by the Office of Economic Development
3 pursuant to NRS 360.759.

4 2. Expenditures and costs:

5 (a) Related to:

6 (1) The acquisition, transfer or use of transferable tax credits;

7 (2) Marketing and distribution;

8 (3) Financing, depreciation and amortization;

9 (4) The payment of any profits as a result of the qualified
10 production;

11 (5) The payment for the cost of the audit required by NRS
12 360.759; and

13 (6) The payment for any goods or services that are not
14 directly attributable to the qualified production;

15 (b) For which reimbursement is received, or for which
16 reimbursement is reasonably expected to be received;

17 (c) Which are paid to a joint venturer or a parent, subsidiary or
18 other affiliate of the production company, unless the amount paid
19 represents the fair market value of the purchase, rental or lease of
20 the property or services for which payment is made;

21 (d) Which provide a pass-through benefit to a person who is not
22 a Nevada resident; or

23 (e) Which have been previously claimed as a basis for
24 transferable tax credits,

25 ↪ are not qualified direct production expenditures and are not
26 eligible to serve as a basis for transferable tax credits issued
27 pursuant to NRS 360.759.

28 3. If any tangible personal property is acquired by a Nevada
29 business from a vendor outside this State for immediate resale,
30 rental or lease to a production company that produces a qualified
31 production, expenditures incurred by the production company for
32 the purchase, rental or lease of the property are qualified direct
33 production expenditures if:

34 (a) The Nevada business regularly deals in property of that kind;

35 (b) The expenditures are otherwise qualified direct production
36 expenditures under the provisions of this section; and

37 (c) Not more than 50 percent of the property purchased, rented
38 or leased by the production company for the qualified production is
39 acquired and purchased, rented or leased in the manner described in
40 this subsection. *In making the calculation required by this*
41 *paragraph, the cost of any property that remains an asset of the*
42 *Nevada business after production of the qualified production has*
43 *ended must not be included in the calculation as property*
44 *purchased, rented or leased in the manner described in this*
45 *subsection.*



1 ***4. If any tangible personal property is acquired by the***
2 ***production company as an asset, the calculation of the costs of the***
3 ***tangible personal property that constitute a qualified direct***
4 ***production expenditure must be performed in the manner***
5 ***prescribed by the Office of Economic Development by regulation.***

6 **Sec. 4.** NRS 360.7592 is hereby amended to read as follows:

7 360.7592 1. Except as otherwise provided in subsection 4
8 and NRS 360.7593 and 360.7594, the base amount of transferable
9 tax credits issued to an eligible production company pursuant to
10 NRS 360.759 must equal 15 percent of the qualified direct
11 production expenditures.

12 2. Except as otherwise provided in subsections 3 and 4 and
13 NRS 360.7594, in addition to the base amount calculated pursuant
14 to subsection 1, transferable tax credits issued to an eligible
15 production company pursuant to NRS 360.759 must include credits
16 in an amount equal to:

17 (a) An additional 5 percent of the qualified direct production
18 expenditures if more than 50 percent of the below-the-line personnel
19 of the qualified production are Nevada residents; and

20 (b) An additional 5 percent of the qualified direct production
21 expenditures if more than 50 percent of the filming days of the
22 qualified production occurred in a county in this State in which, in
23 each of the 2 years immediately preceding the date of application,
24 qualified productions incurred less than \$10,000,000 of qualified
25 direct production expenditures.

26 3. For the purposes of paragraph (a) of subsection 2:

27 (a) Except as otherwise provided in paragraph (b) of this
28 subsection, the percentage of the below-the-line personnel who are
29 Nevada residents must be determined by dividing the number of
30 workdays worked by Nevada residents by the number of workdays
31 worked by all below-the-line personnel.

32 (b) Any work performed by an extra must not be considered in
33 determining the percentage of the below-the-line personnel who are
34 Nevada residents.

35 4. The Office may:

36 (a) Reduce the cumulative amount of transferable tax credits that
37 are calculated pursuant to this section by an amount equal to any
38 damages incurred by the State or any political subdivision of the
39 State as a result of a qualified production that is produced in this
40 State; or

41 (b) Withhold the transferable tax credits, in whole or in part ~~u~~
42 ~~ntil~~ :

43 ***(1) Until*** any pending legal action in this State against a
44 production company or involving a qualified production is resolved.

45 ***(2) If a production company violates any state or local law.***



1 ***(3) If a production company is found to have submitted any***
2 ***false statement, representation or certification in any document***
3 ***submitted for the purpose of obtaining transferable tax credits.***

4 **Sec. 5.** The amendatory provisions of section 3 of this act
5 apply only to the calculation of transferrable tax credits conducted
6 on or after July 1, 2021.

7 **Sec. 6.** This act becomes effective on July 1, 2021.



