
ASSEMBLY BILL NO. 506—COMMITTEE ON TAXATION

MARCH 28, 2011

Referred to Committee on Taxation

SUMMARY—Provides for transferable tax credits to attract filmmakers to Nevada. (BDR 32-682)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; authorizing the Commission on Economic Development to approve and the Nevada Tax Commission to issue a transferable tax credit for a film producer that produces a film production in this State under certain circumstances; providing for the calculation of the transferable tax credit; requiring a producer that receives a transferable tax credit to consent to an audit by the Department of Taxation and to the disclosure of the audit report to the Commission on Economic Development and to the public with certain limited exceptions; requiring the Commission on Economic Development to provide notice of certain hearings; requiring a producer to return any portion of a transferable tax credit to which he or she is not entitled; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 9** of this bill requires the Commission on Economic Development to
2 approve a transferable tax credit for a film producer that produces a film production
3 in this State if, in addition to certain other requirements, the film production is in
4 the economic interest of this State, at least 60 percent of the film production is
5 filmed, shot, taped or recorded in this State and the production costs of the film
6 production exceed a certain amount. Upon approval of a transferable tax credit and
7 a determination of the amount of the tax credit by the Commission on Economic
8 Development, **section 9** requires the Nevada Tax Commission to issue to the
9 producer the transferable tax credit. **Section 10** of this bill sets forth the types of
10 qualified expenditures and production costs that may serve as a basis for the
11 transferable tax credit, and **section 11** of this bill provides for the calculation of the
12 transferable tax credit. **Section 12** of this bill requires that, as a condition of



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13 approval, a producer must consent to: (1) an audit by the Department of Taxation to
14 determine whether the producer is in compliance with the requirements to receive a
15 transferable tax credit; and (2) the disclosure of the audit report to the Commission
16 on Economic Development and to the public with certain limited exceptions.
17 **Section 13** of this bill requires the Commission on Economic Development to meet
18 certain notice requirements before holding a meeting to approve or disapprove a
19 transferable tax credit. **Section 14** of this bill requires a producer to repay any
20 portion of a transferable tax credit to which the producer is not entitled if the
21 producer becomes ineligible for the tax credit after receiving the tax credit.

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

1 **Section 1.** Chapter 360 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 14, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 14, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 8, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3.** *“Commercial project” means:*

- 9 1. *A national or regional commercial or series of*
10 *commercials;*
11 2. *An infomercial;*
12 3. *An interstitial advertisement;*
13 4. *A music video;*
14 5. *An educational or instructional video; or*
15 6. *A documentary film.*

16 **Sec. 4.** *“Film or television project” means:*

- 17 1. *A theatrical or direct-to-video motion picture;*
18 2. *A made-for-television motion picture;*
19 3. *Visual effects or digital animation sequences produced in*
20 *conjunction with a motion picture;*
21 4. *A television pilot program;*
22 5. *Interstitial television programming; or*
23 6. *A television series, including, without limitation, a drama,*
24 *a reality show, a talk show, a comedy, a soap opera, a telenovela, a*
25 *game show, an awards show or a miniseries.*

26 **Sec. 5.** 1. *“Film production” means:*

- 27 (a) *A film or television project; or*
28 (b) *A commercial project.*
29 2. *The term does not include:*
30 (a) *A news, weather or current events program;*
31 (b) *A production that is primarily produced for industrial,*
32 *corporate or institutional use;*



1 (c) *A telethon or any production that solicits money other than*
2 *a production which is produced for national distribution;*

3 (d) *A political advertisement;*

4 (e) *A sporting event;*

5 (f) *A gala; or*

6 (g) *Any other type of production that is excluded by*
7 *regulations adopted by the Commission on Economic*
8 *Development pursuant to section 9 of this act.*

9 **Sec. 6.** *“Local government” means any county, city, district,*
10 *agency or other political subdivision of this State that receives any*
11 *portion of the proceeds of a tax.*

12 **Sec. 7.** *“Nevada business” means a proprietorship,*
13 *corporation, partnership, company, association, trust,*
14 *unincorporated organization or other enterprise that is licensed to*
15 *transact business in this State.*

16 **Sec. 8.** *“Producer” means a person or business that*
17 *finances, arranges to finance or supervises the production of a*
18 *film production.*

19 **Sec. 9. 1.** *A producer of a film production that is produced*
20 *in this State in whole or in part may apply to the Commission on*
21 *Economic Development for a transferable tax credit for any*
22 *qualified expenditures or production costs identified in section 10*
23 *of this act.*

24 **2.** *The Commission on Economic Development shall approve*
25 *an application for a transferable tax credit if the Commission*
26 *finds that the producer of the film production qualifies for the*
27 *transferable tax credit pursuant to subsection 3 and shall calculate*
28 *the amount of the transferable tax credit pursuant to section 11 of*
29 *this act.*

30 **3.** *To be eligible for a transferable tax credit pursuant to this*
31 *section, a producer must:*

32 (a) *Submit an application that meets the requirements of*
33 *subsection 4;*

34 (b) *Provide proof satisfactory to the Commission on Economic*
35 *Development that the film production is in the economic interest*
36 *of the State;*

37 (c) *Film, shoot, tape or record at least 60 percent of the film*
38 *production in this State;*

39 (d) *Incur qualified expenditures and production costs in this*
40 *State of:*

41 (1) *If the film production is a film or television project,*
42 *\$250,000 or more; or*

43 (2) *If the film production is a commercial project, \$100,000*
44 *or more;*



1 (e) *At the completion of the film production, provide the*
2 *Commission with an itemized report of qualified expenditures and*
3 *production costs that is certified by an independent certified public*
4 *accountant who is approved by the Commission;*

5 (f) *Meet the consent requirements pursuant to subsection 1 of*
6 *section 12 of this act; and*

7 (g) *Meet any other requirements prescribed by regulation*
8 *pursuant to this section.*

9 4. *An application submitted pursuant to subsection 3 must*
10 *contain:*

11 (a) *A script or synopsis of the film production;*

12 (b) *The names of the producer, director and proposed cast;*

13 (c) *An estimated timeline to complete the film production; and*

14 (d) *Any other information required by regulations adopted by*
15 *the Commission on Economic Development pursuant to*
16 *subsection 8.*

17 5. *Except as otherwise provided by subsection 3 of section 11*
18 *of this act, if the Commission on Economic Development approves*
19 *an application for a transferable tax credit pursuant to this*
20 *section, the Commission shall immediately forward a certificate of*
21 *eligibility which identifies the amount of the tax credit available*
22 *pursuant to section 11 of this act to:*

23 (a) *The applicant;*

24 (b) *The Department;*

25 (c) *The Nevada Tax Commission; and*

26 (d) *If the credit is for a tax imposed by a local government, to*
27 *the appropriate governing body.*

28 6. *Upon receipt of a certificate of eligibility pursuant to*
29 *subsection 5, the Nevada Tax Commission shall issue to the*
30 *eligible producer a transferable tax credit in the amount approved*
31 *by the Commission on Economic Development.*

32 7. *An applicant for a transferable tax credit pursuant to this*
33 *section shall, upon the request of the Executive Director of the*
34 *Commission on Economic Development, furnish the Executive*
35 *Director with copies of all records necessary to verify that the*
36 *applicant meets the requirements of subsection 3.*

37 8. *The Commission on Economic Development:*

38 (a) *Shall adopt regulations prescribing:*

39 (1) *Any additional requirements to receive a transferable*
40 *tax credit;*

41 (2) *Any additional qualified expenditures or production*
42 *costs that may serve as the basis for a transferable tax credit*
43 *pursuant to section 10 of this act;*

44 (3) *Any additional information that must be included with*
45 *an application pursuant to subsection 4;*



- 1 (4) *The application review process;*
2 (5) *Any type of film production which, due to obscene or*
3 *sexually explicit material, is not eligible for a transferable tax*
4 *credit; and*
5 (6) *The requirements for notice pursuant to section 13 of*
6 *this act; and*
7 (b) *May adopt any other regulations that are necessary to*
8 *carry out the provisions of this section and sections 10 to 14,*
9 *inclusive, of this act.*
10 9. *The Nevada Tax Commission:*
11 (a) *Shall adopt regulations prescribing the manner in which a*
12 *transferable tax credit:*
13 (1) *Is issued by the Commission; and*
14 (2) *May be used, applied or transferred, in whole or in part,*
15 *by a producer or third party recipient; and*
16 (b) *May adopt any other regulations that are necessary to*
17 *carry out the provisions of this section and sections 10 to 14,*
18 *inclusive, of this act.*
19 10. *A transferable tax credit issued pursuant to this section*
20 *must be used not later than 3 years after the issuance of the tax*
21 *credit.*
22 **Sec. 10. 1. Qualified expenditures and production costs**
23 *that may serve as a basis for a transferable tax credit issued*
24 *pursuant to section 9 of this act must be customary and reasonable*
25 *and must relate to:*
26 (a) *Set construction and operation;*
27 (b) *Wardrobe and makeup;*
28 (c) *Photography, sound and lighting;*
29 (d) *Filming, film processing and film editing;*
30 (e) *The rental or leasing of facilities, equipment and vehicles;*
31 (f) *Food and lodging;*
32 (g) *Sound mixing, special effects and visual effects;*
33 (h) *The payroll for residents of Nevada or personnel that*
34 *provided services in this State;*
35 (i) *Payment for services provided by a Nevada business;*
36 (j) *The design, construction, improvement or repair of*
37 *property, infrastructure, equipment or a production or*
38 *postproduction facility;*
39 (k) *State and local government taxes for lodging and rental*
40 *vehicles; and*
41 (l) *Any other transaction, service or activity provided by*
42 *regulations adopted by the Commission on Economic*
43 *Development pursuant to section 9 of this act.*
44 2. *Expenditures and costs:*
45 (a) *Related to:*



1 (1) *The acquisition, transfer or use of a transferable tax*
2 *credit;*

3 (2) *Postproduction marketing and distribution;*

4 (3) *Financing, depreciation and amortization;*

5 (4) *The payment of any profits as a result of the film*
6 *production; and*

7 (5) *The payment for any goods or services that are not*
8 *directly attributable to the film production;*

9 (b) *For which a producer is reimbursed, or for which a*
10 *producer reasonably anticipates being reimbursed; and*

11 (c) *That have been previously claimed as a basis for a*
12 *transferable tax credit,*

13 ↪ *are not eligible to serve as a basis for a transferable tax credit*
14 *issued pursuant to section 9 of this act.*

15 **Sec. 11.** 1. *Except as otherwise provided in subsection 3,*
16 *the base amount of a transferable tax credit issued to an eligible*
17 *producer pursuant to section 9 of this act must equal 25 percent of*
18 *the cumulative qualified expenditures and production costs of the*
19 *producer.*

20 2. *Except as otherwise provided in subsection 3, in addition to*
21 *the base amount calculated pursuant to subsection 1, a*
22 *transferable tax credit issued to an eligible producer pursuant to*
23 *section 9 of this act must include a credit in an amount equal to:*

24 (a) *Five percent of any wages paid to residents of this State;*

25 (b) *Eight percent of any sales tax paid to lodge any film or*
26 *production crew member for at least 30 days in this State;*

27 (c) *Seven percent of any sales tax paid to rent or lease a motor*
28 *vehicle for at least 30 days in this State;*

29 (d) *Six percent of any sales tax paid for any tangible service or*
30 *goods other than food; and*

31 (e) *One hundred percent of the cost to lease any state building*
32 *or facility.*

33 3. *The Commission on Economic Development may:*

34 (a) *Reduce the cumulative amount of a transferable tax credit*
35 *that is calculated pursuant to this section by an amount equal to*
36 *any damages incurred by the State or any political subdivision of*
37 *the State as a result of a film production that is produced in this*
38 *State; or*

39 (b) *Withhold the transferable tax credit, in whole or in part,*
40 *until any pending legal action in this State against a producer or*
41 *involving a film production is resolved.*

42 **Sec. 12.** 1. *As a condition of approval, a producer that*
43 *applies for a transferable tax credit pursuant to section 9 of this*
44 *act must consent to:*



1 (a) An audit by the Department to determine whether the
2 producer is in compliance with the requirements for the
3 transferable tax credit; and

4 (b) The disclosure of the audit report in the manner set forth
5 in this section.

6 2. If the Department conducts an audit of a producer to
7 determine whether the producer is in compliance with the
8 requirements for a transferable tax credit, the Department shall,
9 upon request, provide the audit report to the Commission on
10 Economic Development.

11 3. Until a producer has exhausted all appeals to the
12 Department and the Nevada Tax Commission relating to an audit,
13 the information contained in the audit report provided to the
14 Commission on Economic Development:

15 (a) Is confidential and proprietary information of the
16 producer;

17 (b) Is not a public record; and

18 (c) Must not be disclosed to any person who is not a member of
19 the Commission on Economic Development unless the producer
20 consents to the disclosure.

21 4. After a producer has exhausted all appeals to the
22 Department and the Nevada Tax Commission relating to an audit:

23 (a) The audit report provided to the Commission on Economic
24 Development is a public record; and

25 (b) Upon request by any person, the Executive Director of the
26 Commission on Economic Development shall disclose the audit
27 report to the person who made the request, except for any
28 information in the audit report that is not disclosed pursuant to
29 subsection 5.

30 5. Before the Executive Director of the Commission on
31 Economic Development discloses an audit report to the public, a
32 producer may submit a request to the Executive Director to protect
33 from disclosure any information in the audit report which, under
34 generally accepted business practices, would be considered a trade
35 secret or other confidential or proprietary information of the
36 producer. After consulting with the producer, the Executive
37 Director shall determine whether to disclose the information. The
38 decision of the Executive Director is final and is not subject to
39 judicial review.

40 6. If the Executive Director of the Commission on Economic
41 Development does not disclose information in an audit report
42 pursuant to subsection 5, the information:

43 (a) Must be redacted by the Executive Director before the audit
44 report is disclosed to the public; and



1 **(b) Must not be disclosed to any person who is not a member**
2 **of the Commission on Economic Development unless the producer**
3 **consents to the disclosure.**

4 **Sec. 13. 1. If the Commission on Economic Development**
5 **receives an application for a transferable tax credit pursuant to**
6 **section 9 of this act, the Commission shall, at least 30 days before**
7 **a hearing on the application, provide notice of the hearing to:**

8 **(a) The applicant;**

9 **(b) The Department; and**

10 **(c) The governing body of any local government that could be**
11 **affected by the decision of the Commission.**

12 **2. The notice required by this section must set forth the date,**
13 **time and location of a hearing on an application.**

14 **Sec. 14. A producer that becomes ineligible for a**
15 **transferable tax credit after receiving the transferable tax credit**
16 **pursuant to section 9 of this act shall repay to the Department or**
17 **the appropriate local government any portion of the tax credit to**
18 **which the producer is not entitled.**

19 **Sec. 15.** The Commission on Economic Development and the
20 Nevada Tax Commission shall each adopt such regulations as are
21 necessary to implement the provisions of this act on or before
22 December 31, 2011.

23 **Sec. 16.** This act becomes effective upon passage and approval
24 for the purpose of adopting regulations and on January 1, 2012, for
25 all other purposes.

