

SENATE BILL NO. 289—SENATORS CEGAVSKE, WASHINGTON;
HARDY AND MCGINNESS

MARCH 16, 2009

JOINT SPONSORS: ASSEMBLYMEN GANSERT; AND CHRISTENSEN

Referred to Committee on Taxation

SUMMARY—Establishes a tax credit for certain businesses that donate money to school tuition organizations. (BDR 34-84)

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 taxes; establishing a tax credit for certain businesses that donate money to certain school tuition organizations; setting forth the requirements for a school tuition organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that certain businesses pay taxes or fees on certain portions of their income. A person who extracts any mineral in this State or receives any royalty from the extraction must pay a tax on the gross yield and net proceeds of a mine. (NRS 362.140) Each bank must pay an excise tax on each branch office maintained in excess of one branch office in each county in the State. (NRS 363A.120) Each employer who is a certain kind of financial institution must pay an excise tax on the wages paid by the employer. (NRS 363A.130) Other employers must also pay an excise tax on the wages paid by the employer. (NRS 363B.110) A person who holds a gaming license must pay a license fee based upon his gross revenue each month. (NRS 463.370)

Section 5 of this bill establishes a tax credit for those businesses in the amount of the donation made if they donate money to a school tuition organization, which is an organization in this State that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code and which allocates at least 90 percent of the annual revenue of the organization for tuition grants to allow a child to attend a private school, charter school or empowerment school which is chosen by the parent or legal guardian of the child. **Section 6** of this bill prohibits a school tuition organization from limiting the qualified schools at which a scholarship or tuition



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grant may be used to only one school, and requires the organization annually to report information to the Department of Education regarding any donations received and any scholarships awarded in the preceding calendar year.

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

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

Sec. 3. *“Qualified school” means:*

1. A private school, as defined in NRS 394.103, including a private preschool;

2. A charter school; or

3. An empowerment school, as defined in NRS 386.700.

Sec. 4. *“School tuition organization” means an organization in this State that:*

1. Is recognized as exempt under section 501(c)(3) of the Internal Revenue Code; and

2. Allocates at least 90 percent of the annual revenue of the organization for tuition grants to allow a child to attend a qualified school which is chosen by a parent or legal guardian of the child.

Sec. 5. *1. A business entity which must pay a tax pursuant to NRS 362.140, 363A.120, 363A.130 or 363B.110 or a monthly fee for a state license for gaming pursuant to NRS 463.370 may receive a credit against the tax for a donation of money to a school tuition organization equal to the amount of the donation made.*

2. If the tax credit exceeds the amount of the tax due, the taxpayer may carry the amount forward for the 5 years immediately following the year the donation was made or until the credit is used, whichever is earlier.

Sec. 6. *1. A school tuition organization shall not limit the qualified schools at which a scholarship or tuition grant the organization awards to a child may be used to a single school.*

2. A school tuition organization which receives a donation of money from a business entity pursuant to section 5 of this act shall report to the Department by January 31 of each year, on a form prescribed by the Department:

(a) The name, address and contact information of the school tuition organization;



1 ***(b) The total number of donations received during the***
2 ***preceding calendar year;***

3 ***(c) The total dollar amount of donations received during the***
4 ***preceding calendar year;***

5 ***(d) The total number of children awarded scholarships or***
6 ***tuition grants in the preceding calendar year;***

7 ***(e) The total dollar amount of scholarships and tuition grants***
8 ***awarded during the preceding calendar year; and***

9 ***(f) For each qualified school at which a scholarship or tuition***
10 ***grant was awarded to a child attending the qualified school:***

11 ***(1) The name and address of the qualified school;***

12 ***(2) The number of scholarships or tuition grants awarded***
13 ***at the qualified school during the preceding calendar year; and***

14 ***(3) The total dollar amount of scholarships and tuition***
15 ***grants awarded at the qualified school during the preceding***
16 ***calendar year.***

17 **Sec. 7.** NRS 362.110 is hereby amended to read as follows:

18 362.110 1. Every person extracting any mineral in this State:

19 (a) Shall, on or before February 16 of each year, file with the
20 Department a statement showing the gross yield and claimed net
21 proceeds from each geographically separate operation where a
22 mineral is extracted by that person during the calendar year
23 immediately preceding the year in which the statement is filed.

24 (b) May have up to 30 days after filing the statement required by
25 paragraph (a) to file an amended statement.

26 2. The statement must:

27 (a) Show the claimed deductions from the gross yield in the
28 detail set forth in NRS 362.120. The deductions are limited to
29 the costs incurred during the calendar year immediately preceding
30 the year in which the statement is filed.

31 (b) Be in the form prescribed by the Department.

32 (c) Be verified by the manager, superintendent, secretary or
33 treasurer of the corporation, or by the owner of the operation, or, if
34 the owner is a natural person, by someone authorized in his behalf.

35 ***3. If any person extracting any mineral in this State described***
36 ***in subsection 1 makes a donation of money to a school tuition***
37 ***organization pursuant to section 5 of this act during the calendar***
38 ***year immediately preceding the year in which the statement is filed***
39 ***pursuant to subsections 1 and 2, the person is entitled to receive,***
40 ***in accordance with section 5 of this act, a credit equal to the***
41 ***amount of the donation made against any taxes due.***

42 **Sec. 8.** NRS 362.110 is hereby amended to read as follows:

43 362.110 1. Every person extracting any mineral in this State
44 or receiving any royalty:



(a) Shall, on or before February 16 of each year, file with the Department a statement showing the gross yield and claimed net proceeds from each geographically separate operation where a mineral is extracted by that person during the calendar year immediately preceding the year in which the statement is filed.

(b) May have up to 30 days after filing the statement required by paragraph (a) to file an amended statement.

2. The statement must:

(a) Show the claimed deductions from the gross yield in the detail set forth in NRS 362.120. The deductions are limited to the costs incurred during the calendar year immediately preceding the year in which the statement is filed.

(b) Be in the form prescribed by the Department.

(c) Be verified by the manager, superintendent, secretary or treasurer of the corporation, or by the owner of the operation, or, if the owner is a natural person, by someone authorized in his behalf.

3. Each recipient of a royalty as described in subsection 1 shall annually file with the Department a list showing each of the lessees responsible for taxes due in connection with the operation or operations included in the statement filed pursuant to subsections 1 and 2.

4. If any person extracting any mineral in this State or receiving any royalty described in subsection 1 makes a donation of money to a school tuition organization pursuant to section 5 of this act during the calendar year immediately preceding the year in which the statement is filed pursuant to subsections 1 and 2, the person is entitled to receive, in accordance with section 5 of this act, a credit equal to the amount of the donation made against any taxes due.

Sec. 9. NRS 363A.120 is hereby amended to read as follows:

363A.120 1. There is hereby imposed an excise tax on each bank at the rate of \$1,750 for each branch office maintained by the bank in this State in excess of one branch office maintained by the bank in each county in this State on the first day of each calendar quarter.

2. Each bank that maintains more than one branch office in any county in this State on the first day of a calendar quarter shall, on or before the last day of the first month of that calendar quarter:

(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this section for the branch offices maintained by the bank in this State on the first day of that calendar quarter.

3. If any bank makes a donation of money to a school tuition organization pursuant to section 5 of this act during the calendar



quarter immediately preceding the month in which the statement is filed and taxes are remitted pursuant to this section, the bank is entitled to receive, in accordance with section 5 of this act, a credit equal to the amount of the donation made against any taxes due.

4. For the purposes of this section:

(a) "Bank" means:

(1) A corporation or limited-liability company that is chartered by this State, another state or the United States which conducts banking or banking and trust business; or

(2) A foreign bank licensed pursuant to chapter 666A of NRS.

➤ The term does not include a financial institution engaging in business pursuant to chapter 677 of NRS, a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act, or any person or other entity this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) "Branch office" means any location or facility of a bank where deposit accounts are opened, deposits are accepted, checks are paid and loans are granted, including, but not limited to, a brick and mortar location, a detached or attached drive-in facility, a seasonal office, an office on a military base or government installation, a station or unit for paying and receiving, and a location where a customer can open accounts, make deposits and borrow money by telephone or through use of the Internet, and excluding any automated teller machines, consumer credit offices, contractual offices, customer bank communication terminals, electronic fund transfer units and loan production offices.

Sec. 10. NRS 363A.130 is hereby amended to read as follows:

363A.130 1. There is hereby imposed an excise tax on each employer at the rate of 2 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer.

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:



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(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this section for that calendar quarter.

4. If any employer makes a donation of money to a school tuition organization pursuant to section 5 of this act during the calendar quarter immediately preceding the month in which the return is filed and taxes are remitted pursuant to this section, the employer is entitled to receive, in accordance with section 5 of this act, a credit equal to the amount of the donation made against any taxes due.

Sec. 11. NRS 363B.110 is hereby amended to read as follows:

363B.110 1. There is hereby imposed an excise tax on each employer at the rate of 0.63 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer.

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:

(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this chapter for that calendar quarter.

4. If any employer makes a donation of money to a school tuition organization pursuant to section 5 of this act during the calendar quarter immediately preceding the month in which the statement is filed and taxes are remitted pursuant to this section, the employer is entitled to receive, in accordance with section 5 of this act, a credit equal to the amount of the donation made against any taxes due.

Sec. 12. NRS 463.370 is hereby amended to read as follows:

463.370 1. Except as otherwise provided in NRS 463.373, the Commission shall charge and collect from each licensee a license fee based upon all the gross revenue of the licensee as follows:

(a) Three and one-half percent of all the gross revenue of the licensee which does not exceed \$50,000 per calendar month;



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1 (b) Four and one-half percent of all the gross revenue of the
2 licensee which exceeds \$50,000 per calendar month and does not
3 exceed \$134,000 per calendar month; and

4 (c) Six and three-quarters percent of all the gross revenue of the
5 licensee which exceeds \$134,000 per calendar month.

6 2. Unless the licensee has been operating for less than a full
7 calendar month, the Commission shall charge and collect the fee
8 prescribed in subsection 1, based upon the gross revenue for the
9 preceding calendar month, on or before the 24th day of the
10 following month. Except for the fee based on the first full month of
11 operation, the fee is an estimated payment of the license fee for the
12 third month following the month whose gross revenue is used as its
13 basis.

14 3. When a licensee has been operating for less than a full
15 calendar month, the Commission shall charge and collect the fee
16 prescribed in subsection 1, based on the gross revenue received
17 during that month, on or before the 24th day of the following
18 calendar month of operation. After the first full calendar month of
19 operation, the Commission shall charge and collect the fee based on
20 the gross revenue received during that month, on or before the 24th
21 day of the following calendar month. The payment of the fee due for
22 the first full calendar month of operation must be accompanied by
23 the payment of a fee equal to three times the fee for the first full
24 calendar month. This additional amount is an estimated payment of
25 the license fees for the next 3 calendar months. Thereafter, each
26 license fee must be paid in the manner described in subsection 2.
27 Any deposit held by the Commission on July 1, 1969, must be
28 treated as an advance estimated payment.

29 4. All revenue received from any game or gaming device
30 which is operated on the premises of a licensee, regardless of
31 whether any portion of the revenue is shared with any other person,
32 must be attributed to the licensee for the purposes of this section and
33 counted as part of the gross revenue of the licensee. Any other
34 person, including, without limitation, an operator of an inter-casino
35 linked system, who is authorized to receive a share of the revenue
36 from any game, gaming device or inter-casino linked system that is
37 operated on the premises of a licensee is liable to the licensee for
38 that person's proportionate share of the license fees paid by the
39 licensee pursuant to this section and shall remit or credit the full
40 proportionate share to the licensee on or before the 24th day of each
41 calendar month. The proportionate share of an operator of an inter-
42 casino linked system must be based on all compensation and other
43 consideration received by the operator of the inter-casino linked
44 system, including, without limitation, amounts that accrue to the
45 meter of the primary progressive jackpot of the inter-casino linked



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1 system and amounts that fund the reserves of such a jackpot, subject
2 to all appropriate adjustments for deductions, credits, offsets and
3 exclusions that the licensee is entitled to take or receive pursuant to
4 the provisions of this chapter. A licensee is not liable to any other
5 person authorized to receive a share of the licensee's revenue from
6 any game, gaming device or inter-casino linked system that is
7 operated on the premises of the licensee for that person's
8 proportionate share of the license fees to be remitted or credited to
9 the licensee by that person pursuant to this section.

10 5. An operator of an inter-casino linked system shall not enter
11 into any agreement or arrangement with a licensee that provides for
12 the operator of the inter-casino linked system to be liable to the
13 licensee for less than its full proportionate share of the license fees
14 paid by the licensee pursuant to this section, whether accomplished
15 through a rebate, refund, charge-back or otherwise.

16 6. Any person required to pay a fee pursuant to this section
17 shall file with the Commission, on or before the 24th day of each
18 calendar month, a report showing the amount of all gross revenue
19 received during the preceding calendar month. Each report must be
20 accompanied by:

21 (a) The fee due based on the revenue of the month covered by
22 the report; and

23 (b) An adjustment for the difference between the estimated fee
24 previously paid for the month covered by the report, if any, and the
25 fee due for the actual gross revenue earned in that month. If
26 the adjustment is less than zero, a credit must be applied to the
27 estimated fee due with that report.

28 7. If the amount of license fees required to be reported and paid
29 pursuant to this section is later determined to be greater or less than
30 the amount actually reported and paid, the Commission shall:

31 (a) Charge and collect the additional license fees determined to
32 be due, with interest thereon until paid; or

33 (b) Refund any overpayment to the person entitled thereto
34 pursuant to this chapter, with interest thereon.

35 ➤ Interest pursuant to paragraph (a) must be computed at the rate
36 prescribed in NRS 17.130 from the first day of the first month
37 following the due date of the additional license fees until paid.
38 Interest pursuant to paragraph (b) must be computed at one-half the
39 rate prescribed in NRS 17.130 from the first day of the first month
40 following the date of overpayment until paid.

41 8. Failure to pay the fees provided for in this section shall be
42 deemed a surrender of the license at the expiration of the period for
43 which the estimated payment of fees has been made, as established
44 in subsection 2.



9. Except as otherwise provided in NRS 463.386, the amount of the fee prescribed in subsection 1 must not be prorated.

10. Except as otherwise provided in NRS 463.386, if a licensee ceases operation, the Commission shall:

(a) Charge and collect the additional license fees determined to be due with interest computed pursuant to paragraph (a) of subsection 7; or

(b) Refund any overpayment to the licensee with interest computed pursuant to paragraph (b) of subsection 7,

➔ based upon the gross revenue of the licensee during the last 3 months immediately preceding the cessation of operation, or portions of those last 3 months.

11. If in any month, the amount of gross revenue is less than zero, the licensee may offset the loss against gross revenue in succeeding months until the loss has been fully offset.

12. If in any month, the amount of the license fee due is less than zero, the licensee is entitled to receive a credit against any license fees due in succeeding months until the credit has been fully offset.

13. If, in any month, the licensee makes a donation of money to a school tuition organization pursuant to section 5 of this act, the licensee is entitled to receive, in accordance with that section, a credit equal to the amount of the donation made against any license fees due that month and in succeeding months until the credit has been fully offset.

Sec. 13. Section 3 of this act is hereby amended to read as follows:

Sec. 3. "Qualified school" means:

1. A private school, as defined in NRS 394.103, including a private preschool; **or**

2. A charter school. ~~;~~ ~~or~~

~~3. An empowerment school, as defined in NRS 386.700.]~~

Sec. 14. 1. This section and sections 1 to 7, inclusive, and 9 to 12, inclusive, of this act become effective on July 1, 2009.

2. Sections 3 and 7 of this act expire by limitation on June 30, 2011.

3. Sections 8 and 13 of this act become effective on July 1, 2011.

