

ASSEMBLY BILL NO. 373—ASSEMBLYMEN DUNCAN, HICKEY,
HARDY, PAUL ANDERSON, FIORE; HAMBRICK AND
LIVERMORE

MARCH 18, 2013

Referred to Concurrent Committees on Education
and Taxation

SUMMARY—Establishes a tax credit for donations to a school
tuition organization. (BDR 34-716)

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 education; establishing a tax credit for certain
taxpayers and holders of state gaming licenses that donate
money to a school tuition organization; setting forth
certain requirements for a school tuition organization;
requiring such an organization to submit an annual report
to the Department of Taxation; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the payment of various taxes and fees by persons
engaged in business. Each bank must pay an excise tax on certain branch offices it
maintains in this State. (NRS 363A.120) Financial institutions and other employers
are required to pay an excise tax on wages paid by them. (NRS 363A.130,
363B.110) The holder of a state gaming license must pay a monthly fee to the
Nevada Gaming Commission based upon the licensee's gross revenue.
(NRS 463.370)

With respect to those taxes and fees, **section 3** of this bill establishes a tax
credit equal to the lesser of \$100,000 or the amount of any donation of money made
by a taxpayer or the holder of a state gaming license to a school tuition
organization. **Section 4** of this bill provides that such an organization: (1) must be
exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code;
(2) must accept donations and may also solicit and accept gifts and grants in
addition to donations; (3) must not expend more than 3 percent of the money
received to pay its administrative expenses; (4) must provide grants to the parents
or legal guardians of children who are English language learners or who are
members of a household that has a household income that is not more than 200
percent of the federally designated level signifying poverty to allow those children



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to attend schools in this State, including private schools, chosen by the parents or guardians; and (5) must not limit to a single school the schools for which it provides grants. With respect to donations, gifts and grants governed by the bill, **section 4** also requires the organization to provide each person who makes a donation, gift or grant with an affidavit attesting to certain information.

Section 5 of this bill requires a school tuition organization to submit an annual report to the Department of Taxation concerning the donations, gifts and grants received by the organization and the grants made by it during the preceding year. **Section 6** of this bill requires the Department, in collaboration with the Nevada Gaming Commission, to establish the procedure by which a taxpayer or the holder of a state gaming license may apply the credit against the taxes and fees described above. **Sections 7-10** of this bill provide specifically for the application of the credit against the taxes and fees affected by the bill.

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 5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 5, inclusive, of this act, unless the context otherwise requires, "school tuition organization" means an organization in this State that meets the requirements set forth in section 4 of this act.*

Sec. 3. 1. *Any taxpayer or holder of a state gaming license who is required to pay:*

(a) A tax pursuant to NRS 363A.120, 363A.130 or 363B.110; or

(b) The monthly fee for the state gaming license pursuant to NRS 463.370,

↪ is entitled to a credit against the tax or fee otherwise due for any donation of money made by the taxpayer or licensee to a school tuition organization.

2. *The amount of the credit provided by this section is equal to the lesser of the amount of the donation made by the taxpayer or licensee to a school tuition organization or \$100,000. The total amount of the credit applied against all the taxes and fees described in subsection 1 and otherwise due from a taxpayer or licensee must not exceed the lesser of the amount of the donation or \$100,000.*

3. *If the amount of the tax or fee described in subsection 1 and otherwise due from a taxpayer or licensee is less than the credit to which the taxpayer or licensee is entitled pursuant to this section, the taxpayer or licensee may, after applying the credit to the extent of the tax or fee otherwise due, carry the balance of the credit forward for not more than 5 years after the end of the*



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1 *calendar year in which the donation is made or until the balance*
2 *of the credit is applied, whichever is earlier.*

3 **Sec. 4. 1. A school tuition organization must:**

4 *(a) Be exempt from taxation pursuant to section 501(c)(3) of*
5 *the Internal Revenue Code, 26 U.S.C. § 501(c)(3).*

6 *(b) Accept donations from taxpayers, holders of state gaming*
7 *licenses and other persons and entities and may also solicit and*
8 *accept gifts and grants in addition to donations.*

9 *(c) Not expend more than 3 percent of the total amount of*
10 *money accepted by the school tuition organization pursuant to*
11 *paragraph (b) to pay its administrative expenses.*

12 *(d) Provide grants to the parents or legal guardians of children*
13 *who are English language learners or who are members of a*
14 *household that has a household income which is not more than*
15 *200 percent of the federally designated level signifying poverty, as*
16 *determined by the school tuition organization, to allow those*
17 *children to attend schools in this State chosen by the parents or*
18 *legal guardians, including, without limitation, private schools as*
19 *defined in NRS 394.103. The total amount of a grant provided by*
20 *the school tuition organization to a parent or legal guardian*
21 *pursuant to this subsection must not exceed the tuition charged for*
22 *enrollment in the school chosen by the parent or legal guardian.*

23 *(e) Not limit to a single school the schools for which it provides*
24 *grants.*

25 **2. A school tuition organization shall provide each taxpayer,**
26 **holder of a state gaming license and other person or entity who**
27 **makes a donation, gift or grant of money to the school tuition**
28 **organization pursuant to paragraph (b) of subsection 1 with an**
29 **affidavit, signed under penalty of perjury, which includes, without**
30 **limitation:**

31 *(a) A statement that the school tuition organization satisfies*
32 *the requirements set forth in subsection 1; and*

33 *(b) The total amount of the donation, gift or grant made to the*
34 *school tuition organization.*

35 **Sec. 5. A school tuition organization which receives a**
36 **donation, gift or grant of money described in section 4 of this act**
37 **shall report to the Department of Taxation, on or before**
38 **January 31 of each year, on a form prescribed by the Department**
39 **of Taxation:**

40 **1. The name, address and contact information of the school**
41 **tuition organization;**

42 **2. The total number of such donations, gifts and grants**
43 **received by the school tuition organization during the immediately**
44 **preceding calendar year;**



1 3. *The total dollar amount of such donations, gifts and grants*
2 *received during the immediately preceding calendar year;*

3 4. *The total number of children for whom the school tuition*
4 *organization made grants during the immediately preceding*
5 *calendar year pursuant to section 4 of this act;*

6 5. *The total dollar amount of such grants made during the*
7 *immediately preceding calendar year; and*

8 6. *For each school for which such a grant was made during*
9 *the immediately preceding calendar year:*

10 (a) *The name and address of the school;*

11 (b) *The number of children enrolled in the school for whom*
12 *such a grant was made; and*

13 (c) *The total dollar amount of such grants provided for*
14 *children enrolled in the school.*

15 **Sec. 6.** Chapter 360 of NRS is hereby amended by adding
16 thereto a new section to read as follows:

17 1. *In collaboration with the Nevada Gaming Commission, the*
18 *Department:*

19 (a) *Shall establish a procedure by which a taxpayer or the*
20 *holder of a state gaming license who makes a donation described*
21 *in section 3 of this act to a school tuition organization may apply*
22 *the credit provided by that section.*

23 (b) *May adopt regulations to carry out the provisions of this*
24 *section.*

25 2. *As used in this section, "school tuition organization" has*
26 *the meaning ascribed to it in section 2 of this act.*

27 **Sec. 7.** NRS 363A.120 is hereby amended to read as follows:

28 363A.120 1. There is hereby imposed an excise tax on each
29 bank at the rate of \$1,750 for each branch office maintained by the
30 bank in this State in excess of one branch office maintained by
31 the bank in each county in this State on the first day of each
32 calendar quarter.

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

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

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

41 3. *A bank which makes a donation of money to a school*
42 *tuition organization during the calendar quarter immediately*
43 *preceding the calendar quarter for which a return is filed*
44 *pursuant to this section is entitled, in accordance with section 3 of*
45 *this act, to a credit equal to the amount allowed pursuant to*



section 3 of this act against any tax otherwise due pursuant to this section. As used in this subsection, "school tuition organization" has the meaning ascribed to it in section 2 of this act.

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. 8. 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:

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



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

4. An employer who makes a donation of money to a school tuition organization during the calendar quarter for which a return is filed pursuant to this section is entitled, in accordance with section 3 of this act, to a credit equal to the amount allowed pursuant to section 3 of this act against any tax otherwise due pursuant to this section. As used in this subsection, "school tuition organization" has the meaning ascribed to it in section 2 of this act.

Sec. 9. 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. An employer who makes a donation of money to a school tuition organization during the calendar quarter for which a return is filed pursuant to this section is entitled, in accordance with section 3 of this act, to a credit equal to the amount allowed pursuant to section 3 of this act against any tax otherwise due pursuant to this section. As used in this subsection, "school tuition organization" has the meaning ascribed to it in section 2 of this act.

Sec. 10. 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;



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



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. A licensee who makes a donation of money to a school tuition organization during any month is entitled, in accordance with section 3 of this act, to a credit equal to the amount allowed pursuant to section 3 of this act against the license fees otherwise due pursuant to this section for the gross revenue earned in that month and in each succeeding month until the credit has been fully offset. As used in this subsection, "school tuition organization" has the meaning ascribed to it in section 2 of this act.

Sec. 11. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2014, for all other purposes.

