

ASSEMBLY BILL NO. 350—ASSEMBLYMEN ARAUJO, SPRINKLE, THOMPSON, KIRKPATRICK, DIAZ; ELLIOT ANDERSON, BENITEZ-THOMPSON, BUSTAMANTE ADAMS, CARRILLO, FLORES, JOINER, NEAL, OHRENSCHALL AND SPIEGEL

MARCH 17, 2015

JOINT SPONSORS: SENATORS FORD, WOODHOUSE, SPEARMAN, KIHUEN, MANENDO; ATKINSON, DENIS AND PARKS

Referred to Committee on Taxation

SUMMARY—Provides for certain credits against the modified business tax for taxpayers who donate money to an early childhood education scholarship organization. (BDR 38-1057)

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 children; providing for a credit against the modified business tax for taxpayers who donate money to an early childhood education scholarship organization; setting forth certain requirements relating to such an organization; requiring such an organization to submit an annual report to the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, financial institutions and other employers are required to
2 pay an excise tax, known as the modified business tax, on wages paid by the
3 employer. (NRS 363A.130, 363B.110) With respect to the modified business tax,
4 **section 3** of this bill provides for a tax credit equal to an amount approved by the
5 Department of Taxation, which must not exceed the amount of any donation of
6 money made by a taxpayer to an early childhood education scholarship
7 organization. To claim the tax credit, **section 3** requires an early childhood
8 education scholarship organization to apply to the Department for approval of the
9 credit for a taxpayer who intends to make a donation to the organization. If the



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Department approves the application, the organization must provide notice to the prospective donor, who must make the donation within 10 days after receiving such notice. If the donor does not make the donation within the requisite period, the donor forfeits eligibility for the credit. The Department: (1) must approve or deny applications for the tax credit in the order in which the applications are received by the Department; and (2) is authorized to approve applications for each fiscal year until the amount of the tax credits approved for the fiscal year is equal to the amount authorized by statute for that fiscal year. For Fiscal Year 2015-2016, the amount authorized is \$10 million. The amount authorized for each succeeding fiscal year is 110 percent of the amount authorized for the immediately preceding fiscal year.

Section 4 of this bill provides that an early childhood education scholarship organization: (1) must be exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3); (2) must not own or operate any child care facility that receives grants pursuant to **sections 2-5** of this bill; (3) must accept donations and may also solicit and accept gifts and grants in addition to donations; (4) must not expend for administrative expenses more than 5 percent of the money it receives; (5) must provide grants on behalf of children who are members of a household with a household income which is not more than 150 percent of the federally designated level signifying poverty for a family of four persons to allow those children to attend child care facilities in this State chosen by the parents or legal guardians of those children; (6) must not limit to a single facility the child care facilities for which it provides grants; and (7) except for the household income limitations, must not limit grants to specific children. With respect to donations, gifts and grants governed by **sections 2 and 5**, **section 4** also requires the early childhood education scholarship organization to provide each person who makes a donation, gift or grant with an affidavit attesting to certain information.

Section 5 requires an early childhood education scholarship organization to submit an annual report to the Department of Health and Human Services concerning the donations, gifts and grants received by the organization and the grants made by the organization during the preceding year. **Sections 6 and 7** of this bill provide specifically for the application of the credit against the taxes affected by **sections 2-5**.

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

Section 1. Chapter 432A 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, "early childhood education scholarship organization" means an entity in this State that meets the requirements set forth in section 4 of this act.*

Sec. 3. 1. *Any taxpayer who is required to pay a tax pursuant to NRS 363A.130 or 363B.110 may receive a credit against the tax otherwise due for any donation of money made by the taxpayer to an early childhood education scholarship organization in the manner provided by this section.*



2. To receive the credit authorized by subsection 1, a taxpayer who intends to make a donation of money to an early childhood education scholarship organization must, before making such a donation, notify the organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. An early childhood education scholarship organization shall, before accepting any such donation, apply to the Department of Taxation for approval of the credit authorized by subsection 1 for the donation. The Department of Taxation shall, within 20 days after receiving the application, approve or deny the application and provide to the early childhood education scholarship organization notice of the decision and, if the application is approved, the amount of the credit authorized. Upon receipt of notice that the application has been approved, the early childhood education scholarship organization shall provide notice of the approval to the taxpayer, who must, not later than 10 days after receiving the notice, make the donation of money to the organization. If the taxpayer does not make the donation of money to the early childhood education scholarship organization within 10 days after receiving the notice, the organization shall provide notice of the failure to the Department of Taxation and the taxpayer forfeits any claim to the credit authorized by subsection 1.

3. The Department of Taxation shall approve or deny applications for the credit authorized by subsection 1 in the order in which the applications are received. The Department of Taxation may, for each fiscal year, approve applications for the credit authorized by subsection 1 until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation is:

(a) For Fiscal Year 2015-2016, \$10,000,000;

(b) For Fiscal Year 2016-2017, \$11,000,000; and

(c) For each succeeding fiscal year, an amount equal to 110 percent of the amount authorized for the immediately preceding fiscal year.

➡ The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized for any fiscal year.

4. If a taxpayer applies to and is approved by the Department of Taxation for the credit authorized by subsection 1, the amount of the credit provided by this section is equal to the amount approved by the Department of Taxation pursuant to subsection 2, which must not exceed the amount of the donation made by the taxpayer to an early childhood education scholarship organization. The total amount of the credit applied against the



taxes described in subsection 1 and otherwise due from a taxpayer must not exceed the amount of the donation.

5. If the amount of the tax described in subsection 1 and otherwise due from a taxpayer is less than the credit to which the taxpayer is entitled pursuant to this section, the taxpayer may, after applying the credit to the extent of the tax otherwise due, carry the balance of the credit forward for not more than 5 years after the end of the calendar year in which the donation is made or until the balance of the credit is applied, whichever is earlier.

Sec. 4. 1. An early childhood education scholarship organization must:

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

(b) Not own or operate any child care facility in this State which receives any grant money pursuant to sections 2 to 5, inclusive, of this act.

(c) Accept donations from taxpayers and other persons and may also solicit and accept gifts and grants.

(d) Not expend more than 5 percent of the total amount of money accepted pursuant to paragraph (c) to pay its administrative expenses.

(e) Provide grants on behalf of children who are at least 6 months of age and not more than 5 years of age, who are not eligible to enroll in kindergarten and who are members of a household that has a household income which is not more than 150 percent of the federally designated level signifying poverty for a family of four persons to allow those children to attend child care facilities in this State chosen by the parents or legal guardians of those children. The total amount of a grant provided by the scholarship organization on behalf of a child pursuant to this paragraph must not exceed the lesser of:

(1) The tuition charged for enrollment in the child care facility chosen by the parent or legal guardian of the child;

(2) For children who are enrolled full-time and who are:

(I) At least 2 1/2 but not more than 5 years of age, \$2,760 per year; or

(II) At least 6 months of age but less than 2 1/2 years of age, \$3,230 per year; or

(3) For children who are enrolled part-time and attend the child care facility:

(I) Five times per week, \$1,380 per year; or

(II) Three times per week, \$828 per year.

(f) Not limit to a single facility the child care facilities for which it provides grants.



(g) Except as otherwise provided in paragraph (e), not limit to specific children the grants provided pursuant to that paragraph.

2. A grant provided on behalf of a child pursuant to subsection 1 must be paid directly to the child care facility chosen by the parent or legal guardian of the child.

3. An early childhood education scholarship organization shall provide each taxpayer and other person who makes a donation, gift or grant of money to the organization pursuant to paragraph (c) of subsection 1 with an affidavit, signed under penalty of perjury, which includes, without limitation:

(a) A statement that the organization satisfies the requirements set forth in subsection 1; and

(b) The total amount of the donation, gift or grant made to the organization.

4. The Department of Health and Human Services:

(a) Shall adopt regulations prescribing the contents of and procedures for applications for grants provided pursuant to subsection 1.

(b) May adopt such other regulations as the Department determines necessary to carry out the provisions of this section.

Sec. 5. An early childhood education scholarship organization which receives a donation, gift or grant of money described in section 4 of this act shall report to the Department of Health and Human Services, on or before January 31 of each year, on a form prescribed by the Department:

1. The name, address and contact information of the organization;

2. The total number of such donations, gifts and grants received by the organization during the immediately preceding calendar year;

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

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

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

6. For each child care facility for which such a grant was made during the immediately preceding calendar year:

(a) The name and address of the child care facility;

(b) The number of children enrolled in the child care facility;

(c) The total dollar amount of such grants provided for children enrolled in the child care facility.



Sec. 6. 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

(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 an early childhood education scholarship 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 authorized pursuant to section 3 of this act against any tax otherwise due pursuant to this section. As used in this subsection, "early childhood education scholarship organization" has the meaning ascribed to it in section 2 of this act.

Sec. 7. 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 an early childhood education scholarship 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 authorized pursuant to section 3 of this act against any tax otherwise due pursuant to this section. As used in this subsection, “early childhood education scholarship organization” has the meaning ascribed to it in section 2 of this act.

Sec. 8. 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, 2016, for all other purposes.

