

SENATE BILL NO. 412—SENATORS HARRIS AND LIPPARELLI

MARCH 17, 2015

Referred to Committee on Revenue and
Economic Development

SUMMARY—Provides for a credit against taxes imposed on certain employers that make a matching contribution to certain college savings plans. (BDR 32-1033)

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; providing for a credit against taxes imposed on certain employers if an employer matches the contribution of an employee to certain college savings plans; providing for the amount of such a credit; providing for the credit to be applied after the year during which the credit was earned in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for college savings plans offered through the Nevada Higher Education Prepaid Tuition Program and the Nevada College Savings Program. Both programs allow persons to pay into investment funds offered by the State, with money paid into the fund and any interest earned on that money available for the costs of higher education. (Chapter 353B of NRS)

This bill provides a tax credit to certain employers who match a contribution of an employee to one of the college savings plans. **Sections 2 and 9** of this bill authorize the tax credit for employers that are financial institutions and are liable for a tax pursuant to chapter 363A of NRS, and **sections 3 and 10** of this bill authorize the tax credit for employers liable for a tax pursuant to chapter 363B of NRS. The tax credit is in an amount equal to 25 percent of the matching contribution, not to exceed \$500 per contributing employee per year, and any unused credits may be carried forward for 5 years.



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, 3 and 4 of this act.

3 **Sec. 2. 1.** *An employer is entitled to a credit against the*
4 *excise tax imposed on the employer pursuant to NRS 363A.130 if*
5 *the employer makes a contribution to a savings trust account in*
6 *the Nevada College Savings Trust Fund created by NRS 353B.340*
7 *and the contribution matches a contribution made to the savings*
8 *trust account by an employee of the employer.*

9 2. *A credit described in subsection 1 must be in an amount*
10 *equal to 25 percent of the matching contribution but may not*
11 *exceed \$500 per contributing employee per year.*

12 3. *A credit described in subsection 1 may not be applied*
13 *retroactively. If the amount of a credit exceeds the tax liability of*
14 *an employer for a year, the excess may be applied to the tax*
15 *liability of the employer for 5 years after the year in which the*
16 *matching contribution was made. A credit applied pursuant to this*
17 *subsection must be applied during the earliest year for which the*
18 *employer has a tax liability. If credits for more than 1 year are*
19 *available to an employer pursuant to this subsection, the credit*
20 *from the earliest year must be applied first.*

21 4. *An employer claiming a credit pursuant to this section*
22 *shall maintain any record required by the Department regarding*
23 *the matching contribution for which the credit is claimed.*

24 5. *A contribution made by an employer as described in*
25 *subsection 1 is the property of the employee whose contribution is*
26 *being matched and may not be claimed in any manner by the*
27 *employer.*

28 6. *As used in this section, "employer" has the meaning*
29 *ascribed to it in NRS 363A.030.*

30 **Sec. 3. 1.** *An employer is entitled to a credit against the*
31 *excise tax imposed on the employer pursuant to NRS 363B.110 if*
32 *the employer makes a contribution to a savings trust account in*
33 *the Nevada College Savings Trust Fund created by NRS 353B.340*
34 *and the contribution matches that made to the savings trust*
35 *account by an employee of the employer.*

36 2. *A credit described in subsection 1 must be in an amount*
37 *equal to 25 percent of the matching contribution but may not*
38 *exceed \$500 per contributing employee per year.*

39 3. *A credit described in subsection 1 may not be applied*
40 *retroactively. If the amount of a credit exceeds the tax liability of*
41 *an employer for a year, the excess may be applied to the tax*
42 *liability of the employer for 5 years after the year in which the*



1 *matching contribution was made. A credit applied pursuant to this*
2 *subsection must be applied during the earliest year for which the*
3 *employer has a tax liability. If credits for more than 1 year are*
4 *available to an employer pursuant to this subsection, the credit*
5 *from the earliest year must be applied first.*

6 4. *An employer claiming a credit pursuant to this section*
7 *shall maintain any record required by the Department regarding*
8 *the matching contribution for which the credit is claimed.*

9 5. *A contribution made by an employer as described in*
10 *subsection 1 is the property of the employee whose contribution is*
11 *being matched and may not be claimed in any manner by the*
12 *employer.*

13 6. *As used in this section, "employer" has the meaning*
14 *ascribed to it in NRS 363B.030.*

15 **Sec. 4. 1. The Department shall adopt regulations to**
16 **implement the provisions of sections 2 and 3 of this act.**

17 2. **The regulations adopted pursuant to this section:**

18 (a) **Must include, without limitation, procedures for claiming a**
19 **credit provided for by section 2 and 3 of this act.**

20 (b) **Must not include any requirement that the Board of**
21 **Trustees of the College Savings Plans of Nevada created by NRS**
22 **353B.005 submit any reports to the Department regarding the**
23 **contributions described in sections 2 and 3 of this act.**

24 3. **Any regulations adopted pursuant to this section regarding**
25 **any deadline by which an employer, as that term is defined in NRS**
26 **363A.030 or 363B.030, must make a contribution in order to claim**
27 **a credit provided for by section 2 and 3 of this act must, to the**
28 **extent practicable, be consistent with any regulations adopted**
29 **pursuant to this title regarding any similar deadline by which such**
30 **an employer must make a contribution to a plan authorized by 26**
31 **U.S.C. § 401(k).**

32 **Sec. 5. NRS 353B.090 is hereby amended to read as follows:**

33 353B.090 1. **The Board shall develop the Nevada Higher**
34 **Education Prepaid Tuition Program for the prepayment of tuition at**
35 **a guaranteed rate which is established based on the annual actuarial**
36 **study required pursuant to NRS 353B.190 for undergraduate studies**
37 **at a university, state college or community college that is a member**
38 **of the System.**

39 2. **The Board shall adopt regulations for the implementation of**
40 **the Program, including, without limitation, regulations setting forth**
41 **requirements for ~~residency, a~~ :**

42 (a) **Residency;**

43 (b) **A limit on the number of qualified beneficiaries ~~the~~ ;**

44 (c) **The termination, withdrawal and transfer of money paid into**
45 **the Trust Fund ~~the~~ ;**



(d) A payment received by the Trust Fund as a matching contribution made as described in section 9 or 10 of this act to be credited to the qualified beneficiary on whose behalf the matching contribution was made;

(e) The time within which the money paid into the Trust Fund must be used ; ~~H~~ and ~~payment~~

(f) Payment schedules.

Sec. 6. NRS 353B.140 is hereby amended to read as follows:

353B.140 1. The Nevada Higher Education Prepaid Tuition Trust Fund is hereby created within the State Treasury to allow the cost of tuition to be paid in advance of enrollment at an institution of higher education.

2. The Trust Fund consists of payments received pursuant to:

(a) A prepaid tuition contract;

(b) A bequest, endowment or grant from the Federal Government; ~~for~~

(c) A matching contribution made as described in section 9 or 10 of this act; or

(d) Any other public or private source of money.

3. Money in the Trust Fund that is not expended during any biennium does not revert to the State General Fund at any time.

Sec. 7. NRS 353B.310 is hereby amended to read as follows:

353B.310 1. The State Treasurer shall adopt regulations to establish and carry out the Nevada College Savings Program, which must comply with the requirements of a qualified state tuition program pursuant to 26 U.S.C. § 529.

2. The regulations must be consistent with the provisions of the Internal Revenue Code set forth in Title 26 of the United States Code, and the regulations adopted pursuant thereto, to ensure that the Nevada College Savings Program meets all criteria for federal tax-deferred or tax-exempt benefits, or both.

3. The regulations must provide for the use of savings trust agreements and savings trust accounts to apply distributions toward qualified higher education expenses at eligible educational institutions in accordance with 26 U.S.C. § 529.

4. The regulations must set forth requirements for a payment received by the Trust Fund as a matching contribution made as described in section 2 or 3 of this act to be credited to the savings trust account to which the contribution was made.

5. The regulations may include any other provisions not inconsistent with federal law that the State Treasurer determines are necessary for the efficient and effective administration of the Nevada College Savings Program and the Trust Fund.



Sec. 8. NRS 353B.340 is hereby amended to read as follows:

353B.340 1. The Nevada College Savings Trust Fund is hereby created.

2. The Trust Fund is an instrumentality of this state, and its property and income are exempt from all taxation by this state and any political subdivision thereof.

3. The Trust Fund consists of:

(a) All money deposited in accordance with savings trust agreements; ~~and~~

(b) *All money received as a matching contribution made as described in section 2 or 3 of this act; and*

(c) All earnings on the money in the Trust Fund.

4. Money in the Trust Fund:

(a) Is not the property of this state, and this state has no claim to or interest in such money; and

(b) Must not be commingled with money of this state.

5. A savings trust agreement or any other contract entered into by or on behalf of the Trust Fund does not constitute a debt or obligation of this state, and no account owner is entitled to any money in the Trust Fund except for that money on deposit in or accrued to his or her account.

6. The money in the Trust Fund must be preserved, invested and expended solely pursuant to and for the purposes authorized by NRS 353B.300 to 353B.370, inclusive, and must not be loaned or otherwise transferred or used by this state for any other purpose.

Sec. 9. Section 2 of this act is hereby amended to read as follows:

Sec. 2. 1. An employer is entitled to a credit against the excise tax imposed on the employer pursuant to NRS 363A.130 if ~~the~~:

(a) *The employer makes a contribution to the Nevada Higher Education Prepaid Trust Fund created by NRS 353B.140 on behalf of a qualified beneficiary on whose behalf a prepaid tuition contract is drawn pursuant to NRS 353B.100 and the contribution matches a contribution made on behalf of the qualified beneficiary by an employee of the employer; or*

(b) *The employer makes a contribution to a savings trust account in the Nevada College Savings Trust Fund created by NRS 353B.340 and the contribution matches a contribution made to the savings trust account by an employee of the employer.*

2. A credit described in subsection 1 must be in an amount equal to 25 percent of the matching contribution but may not exceed \$500 per contributing employee per year.



3. A credit described in subsection 1 may not be applied retroactively. If the amount of a credit exceeds the tax liability of an employer for a year, the excess may be applied to the tax liability of the employer for 5 years after the year in which the matching contribution was made. A credit applied pursuant to this subsection must be applied during the earliest year for which the employer has a tax liability. If credits for more than 1 year are available to an employer pursuant to this subsection, the credit from the earliest year must be applied first.

4. An employer claiming a credit pursuant to this section shall maintain any record required by the Department regarding the matching contribution for which the credit is claimed.

5. A contribution made by an employer as described in subsection 1 is the property of the employee whose contribution is being matched and may not be claimed in any manner by the employer.

6. As used in this section ~~["employer"]~~ :

(a) *"Employer"* has the meaning ascribed to it in NRS 363A.030.

(b) *"Prepaid tuition contract" has the meaning ascribed to it in NRS 353B.030.*

(c) *"Qualified beneficiary" has the meaning ascribed to it in NRS 353B.050.*

Sec. 10. Section 3 of this act is hereby amended to read as follows:

Sec. 3. 1. An employer is entitled to a credit against the excise tax imposed on the employer pursuant to NRS 363B.110 if ~~the~~ :

(a) *The employer makes a contribution to the Nevada Higher Education Prepaid Trust Fund created by NRS 353B.140 on behalf of a qualified beneficiary on whose behalf a prepaid tuition contract is drawn pursuant to NRS 353B.100 and the contribution matches that made on behalf of the qualified beneficiary by an employee of the employer; or*

(b) *The employer makes a contribution to a savings trust account in the Nevada College Savings Trust Fund created by NRS 353B.340 and the contribution matches that made to the savings trust account by an employee of the employer.*

2. A credit described in subsection 1 must be in an amount equal to 25 percent of the matching contribution but may not exceed \$500 per contributing employee per year.



3. A credit described in subsection 1 may not be applied retroactively. If the amount of a credit exceeds the tax liability of an employer for a year, the excess may be applied to the tax liability of the employer for 5 years after the year in which the matching contribution was made. A credit applied pursuant to this subsection must be applied during the earliest year for which the employer has a tax liability. If credits for more than 1 year are available to an employer pursuant to this subsection, the credit from the earliest year must be applied first.

4. An employer claiming a credit pursuant to this section shall maintain any record required by the Department regarding the matching contribution for which the credit is claimed.

5. A contribution made by an employer as described in subsection 1 is the property of the employee whose contribution is being matched and may not be claimed in any manner by the employer.

6. As used in this section ~~["employer"]~~ :

(a) *"Employer"* has the meaning ascribed to it in NRS 363B.030.

(b) *"Prepaid tuition contract" has the meaning ascribed to it in NRS 353B.030.*

(c) *"Qualified beneficiary" has the meaning ascribed to it in NRS 353B.050.*

Sec. 11. 1. This section and sections 1 to 4, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.

2. Sections 5, 6, 9 and 10 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2016, for all other purposes.

