

Amendment No. 251

Senate Amendment to Senate Bill No. 455	(BDR 32-1006)
Proposed by: Senate Committee on Revenue and Economic Development	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

BJF/BJE



Date: 4/21/2017

S.B. No. 455—Authorizes tax credits for employers who assist employees in paying for child care. (BDR 32-1006)



SENATE BILL NO. 455—SENATORS FARLEY, CANNIZZARO, SPEARMAN, WOODHOUSE, PARKS; CANCELA, MANENDO AND SEGERBLOM

MARCH 27, 2017

Referred to Committee on Revenue and
Economic Development

SUMMARY—Authorizes tax credits for employers who assist employees in paying for child care. (BDR 32-1006)

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; authorizing an employer to receive a credit against the payroll taxes imposed on the employer if the employer provides certain monetary assistance to employees for child care; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to make available to businesses in this State information related to worksite wellness and family-friendly policies; ~~making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax, commonly known as the modified business tax, on financial institutions and other businesses based on the amount of wages paid to employees each calendar quarter. (NRS 363A.130, 363B.110) **Sections 1-4** of this bill entitle an employer to receive a credit against the modified business tax if the employer pays money to ~~an entity under contract with~~ **the Division of Welfare and Supportive Services** of the Department of Health and Human Services ~~to determine eligibility for child care subsidies~~ for the purpose of providing child care assistance to an employee. ~~who has one or more children under 13 years of age and whose~~ **To qualify for the credit, the employee for whom the assistance is provided must: (1) have a household income does not exceed 85 percent of the median income in this State; (2) be determined eligible for the Program for Child Care and Development by the Division; (3) use the assistance for the purpose of providing child care to a dependent child who is less than 13 years of age; (4) select a provider of child care who participates in the Quality Rating and Improvement System administered by the Office of Early Learning and Development of the Department of Education; and (5) pay directly to the provider of child care any portion of the cost of the child care that is not covered by the employer.** Under **sections 1 and 3**: (1) the amount of the credit is equal to 50 percent of the amount paid by the employer to the ~~entity under contract with the Department of Health and Human Services~~ **Division** but the amount of the credit must not exceed ~~(\$2,500)~~ **\$5,000** per employee per year; and (2) any unused credits may be carried forward for 5 years. To claim the tax credit, **sections 1 and 3** require the employer to notify the ~~entity under contract with the Department of Health and Human Services~~ **Division** and, upon receipt of that notice, ~~that entity~~ **the Division** is required to apply to the Department of

Taxation for approval of the credit. If the Department of Taxation approves the application, the ~~entity under contract with the Department of Health and Human Services~~ Division is required to: (1) notify the taxpayer of the approval of the credit; and (2) notify the Department of Taxation of payments made to the entity by the taxpayer within 30 days after receipt of the payment. Finally, **sections 1 and 3** limit the total amount of credit which may be awarded to taxpayers to: (1) for Fiscal Years 2017-2018 and 2018-2019, \$5,000,000 and \$5,500,000, respectively; and (2) for subsequent fiscal years, an amount equal to 110 percent of the amount authorized for the immediately preceding fiscal year.

Section 5 of this bill requires the Division of Public and Behavioral Health of the Department of Health and Human Services to make available to businesses in this State information concerning worksite wellness and family-friendly policies, including, without limitation, information concerning the tax credits established by **sections 1 and 3**.

~~Section 6 of this bill makes an appropriation from the State General Fund of \$25,000,000 for Fiscal Year 2017-2018 and \$25,000,000 for Fiscal Year 2018-2019 to the Program for Child Care and Development operated by the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

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

Section 1. Chapter 363A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, any taxpayer who is required to pay a tax pursuant to NRS 363A.130 may receive a credit against the tax otherwise due based on the amount paid by the employer to the ~~appropriate entity under contract with the Department of Health and Human Services to determine eligibility for child care subsidies~~ Division for the purpose of assisting an employee whose household income does not exceed 85 percent of the median household income in this State who meets the qualifications of subsection 3 in paying for the cost of child care ~~for a child who is less than 13 years of age.~~

2. No amount paid by an employer for child care assistance pursuant to subsection 1 may qualify for the credit authorized by that subsection if the amount was paid pursuant to a salary reduction plan.

3. To receive the credit authorized by subsection 1, an employee for whom the taxpayer provides assistance in paying for the cost of child care must:

(a) Have a household income that does not exceed 85 percent of the median household income in this State;

(b) Be determined eligible for the Program for Child Care and Development, as defined in NRS 422A.055, by the Division;

(c) Use the child care assistance for a dependent child who is less than 13 years of age;

(d) Select a provider of child care who participates in the Quality Rating and Improvement System administered by the Office of Early Learning and Development of the Department of Education; and

(e) Pay directly to the provider of child care any portion of the cost of child care not paid by the taxpayer.

4. To receive the credit authorized by subsection 1, a taxpayer must ~~notify the appropriate entity under contract with~~ apply to the ~~the Department of Health and Human Services to determine eligibility for child care subsidies off~~ Division in the manner prescribed by the Division. The Division shall use the application to verify the taxpayer's intent to qualify for the credit authorized by subsection 1. Upon receipt of the ~~notice~~ application, the ~~entity~~ Division, after determining that the requirements of subsections 2 and 3 are satisfied, shall apply to the

1 Department of Taxation for approval of the credit authorized by subsection 1. ~~If~~
2 ~~the entity determines that the taxpayer is qualified for the credit and the employee~~
3 ~~for whom child care assistance will be provided meets the qualifications set forth~~
4 ~~in subsection 1.~~ The Department of Taxation shall, within 20 days after
5 receiving an application, approve or deny the application and provide to the
6 ~~entity~~ Division notice of the decision and, if the application is approved, the
7 amount of the credit authorized. Upon receipt of the notice from the Department
8 of Taxation, the ~~entity~~ Division shall provide notice of the approval to the
9 taxpayer.

10 ~~4. An entity under contract with the Department of Health and Human~~
11 ~~Services to determine eligibility for child care subsidies which receives a payment~~
12 ~~from a taxpayer who received a notice of approval. If the taxpayer does not make~~
13 ~~the payment to the Division within 30 days after receiving the notice, the Division~~
14 ~~shall provide notice of the failure to the Department of Taxation and the taxpayer~~
15 ~~forfeits any claim to the credit authorized by subsection 1.~~

16 5. Upon receipt of a payment from a taxpayer who received a notice of
17 approval, the Division shall ~~provide~~ :

18 (a) Provide notice of the payment to the Department of Taxation within 30
19 days after receipt of the payment ~~;~~

20 ~~5.~~ ; and

21 (b) Transfer the payment received from the taxpayer directly to the provider
22 of child care.

23 6. The Department of Taxation shall approve or deny an application for the
24 credit authorized by subsection 1 in the order in which such applications are
25 received. The Department may, for each fiscal year, approve applications for the
26 credits authorized by subsection 1 and subsection 1 of section 3 of this act ~~and~~
27 approved by the Department is ~~;~~ in an amount not to exceed:

28 (a) For Fiscal Year 2017-2018, \$5,000,000;

29 (b) For Fiscal Year 2018-2019, \$5,500,000; and

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

32 ~~6.~~ 7. If a taxpayer applies for and is approved for a credit authorized by
33 subsection 1, the amount of the credit is equal to the amount approved by the
34 Department of Taxation, which must not exceed ~~;~~ the lesser of:

35 (a) Fifty percent of the amount paid to the ~~entity under contract with the~~
36 ~~Department of Health and Human Services to determine eligibility for child care~~
37 ~~subsidies~~ Division during the calendar quarter for which the tax is due, for the
38 purpose of assisting an employee who meets the qualifications set forth in
39 subsection ~~1~~ 3 in paying for the cost of child care; or

40 (b) ~~Two~~ Five thousand ~~(five hundred)~~ dollars per employee per year.

41 ~~7.~~ 8. A credit described in this section must not be applied retroactively.

42 ~~8.~~ 9. If the amount of a credit described in this section exceeds the tax
43 liability of the taxpayer for the calendar quarter in which the credit is claimed,
44 the excess amount of the credit may be carried forward and applied to the tax
45 liability of the taxpayer for the next following calendar quarter or calendar
46 quarters for which the taxpayer has a tax liability, except that any credit or the
47 excess amount of any credit expires on the date that is 5 years after the end of the
48 calendar quarter in which the credit is claimed and must not be applied to any tax
49 liability of the taxpayer incurred on or after that date. If excess amounts of
50 credits for more than one calendar quarter are carried forward by a taxpayer
51 pursuant to this subsection, the excess amount of the credit from the earliest
52 calendar quarter must be applied first.

10. As used in this section, "Division" means the Division of Welfare and Supportive Services of the Department of Health and Human Services.

Sec. 2. NRS 363A.130 is hereby amended to read as follows:

363A.130 1. Except as otherwise provided in NRS 360.203, 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. In determining the amount of the tax due pursuant to this section, an employer is entitled to subtract from the amount calculated pursuant to subsection 1 a credit in an amount equal to 50 percent of the amount of the commerce tax paid by the employer pursuant to chapter 363C of NRS for the preceding taxable year. The credit may only be used for any of the 4 calendar quarters immediately following the end of the taxable year for which the commerce tax was paid. The amount of credit used for a calendar quarter may not exceed the amount calculated pursuant to subsection 1 for that calendar quarter. Any unused credit may not be carried forward beyond the fourth calendar quarter immediately following the end of the taxable year for which the commerce tax was paid, and a taxpayer is not entitled to a refund of any unused credit.

5. An employer who makes a donation of money to a scholarship organization during the calendar quarter for which a return is filed pursuant to this section is entitled, in accordance with NRS 363A.139, to a credit equal to the amount authorized pursuant to NRS 363A.139 against any tax otherwise due pursuant to this section. As used in this subsection, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.

6. An employer who, during the calendar quarter for which a return is filed pursuant to this section, makes a payment of money which qualifies for a credit pursuant to section 1 of this act is entitled to a credit equal to the amount authorized pursuant to section 1 of this act against any tax otherwise due pursuant to this section.

Sec. 3. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, any taxpayer who is required to pay a tax pursuant to NRS 363B.110 may receive a credit against the tax otherwise due based on the amount paid to the ~~appropriate entity under contract with the Department of Health and Human Services to determine eligibility for child care subsidies.~~ Division for the purpose of assisting an employee ~~whose household income does not exceed 85 percent of the median household income in this State~~ who meets the qualifications of subsection 3 in paying for the cost of child care. ~~for a child who is less than 13 years of age.~~

2. No amount paid by an employer for child care assistance pursuant to subsection 1 may qualify for the credit authorized by that subsection if the amount was paid pursuant to a salary reduction plan.

3. To receive the credit authorized by subsection 1, an employee for whom the taxpayer provides assistance in paying for the cost of child care must:

(a) Have a household income that does not exceed 85 percent of the median household income in this State;

(b) Be determined eligible for the Program for Child Care and Development, as defined in NRS 422A.055, by the Division;

(c) Use the child care assistance for a dependent child who is less than 13 years of age;

(d) Select a provider of child care who participates in the Quality Rating and Improvement System administered by the Office of Early Learning and Development of the Department of Education; and

(e) Pay directly to the provider of child care any portion of the cost of child care not paid by the taxpayer.

4. To receive the credit authorized by subsection 1, a taxpayer must ~~notify the appropriate entity under contract with the Department of Health and Human Services to determine eligibility for child care subsidies off~~ apply to the Division in the manner prescribed by the Division. The Division shall use the application to verify the taxpayer's intent to qualify for the credit authorized by subsection 1. Upon receipt of the ~~notice,~~ application, the ~~entity,~~ Division, after determining that the requirements of subsections 2 and 3 are satisfied, shall apply to the Department of Taxation for approval of the credit authorized by subsection 1. If the entity determines that the employee for whom child care assistance will be provided meets the qualifications set forth in subsection 1, The Department of Taxation shall, within 20 days after receiving an application, approve or deny the application and provide to the ~~entity,~~ Division notice of the decision and, if the application is approved, the amount of the credit authorized. Upon receipt of the notice from the Department of Taxation, the ~~entity,~~ Division shall provide notice of the approval to the taxpayer.

~~4. An entity under contract with the Department of Health and Human Services to determine eligibility for child care subsidies which receives a payment from a taxpayer who received a notice of approval. If the taxpayer does not make the payment to the Division within 30 days after receiving the notice, the Division shall provide notice of the failure to the Department of Taxation and the taxpayer forfeits any claim to the credit authorized by subsection 1.~~

5. Upon receipt of a payment from a taxpayer who received a notice of approval, the Division shall ~~provide~~ :

(a) Provide notice of the payment to the Department of Taxation within 30 days after receipt of the payment ~~;~~

~~5.;~~ and

(b) Transfer the payment received from the taxpayer directly to the provider of legal care.

6. The Department of Taxation shall approve or deny an application for the credit authorized by subsection 1 in the order in which such applications are received. The Department may, for each fiscal year, approve applications for the credits authorized by subsection 1 and subsection 1 of section 1 of this act ~~and approved by the Department is;~~ in an amount not to exceed:

(a) For Fiscal Year 2017-2018, \$5,000,000;

(b) For Fiscal Year 2018-2019, \$5,500,000; and

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

~~16.7~~ 7. If a taxpayer applies for and is approved for a credit authorized by subsection 1, the amount of the credit is equal to the amount approved by the Department of Taxation, which must not exceed ~~the lesser of:~~

(a) Fifty percent of the amount paid to the ~~entity under contract with the Department of Health and Human Services to determine eligibility for child care subsidies~~ Division during the calendar quarter for which the tax is due, for the purpose of assisting an employee who meets the qualifications set forth in subsection ~~3~~ 3 in paying for the cost of child care; or

(b) ~~Two~~ Five thousand ~~five hundred~~ dollars per employee per year.

~~16.7~~ 8. A credit described in this section must not be applied retroactively.

~~16.7~~ 9. If the amount of a credit described in this section exceeds the tax liability of the taxpayer for the calendar quarter in which the credit is claimed, the excess amount of the credit may be carried forward and applied to the tax liability of the taxpayer for the next following calendar quarter or calendar quarters for which the taxpayer has a tax liability, except that any credit or the excess amount of any credit expires on the date that is 5 years after the end of the calendar quarter in which the credit is claimed and must not be applied to any tax liability of the taxpayer incurred on or after that date. If excess amounts of credits for more than one calendar quarter are carried forward by a taxpayer pursuant to this subsection, the excess amount of the credit from the earliest calendar quarter must be applied first.

10. As used in this section, "Division" means the Division of Welfare and Supportive Services of the Department of Health and Human Services.

Sec. 4. NRS 363B.110 is hereby amended to read as follows:

363B.110 1. Except as otherwise provided in NRS 360.203, there is hereby imposed an excise tax on each employer at the rate of 1.475 percent of the amount by which the sum of all 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 exceeds \$50,000.

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. In determining the amount of the tax due pursuant to this section, an employer is entitled to subtract from the amount calculated pursuant to subsection 1 a credit in an amount equal to 50 percent of the amount of the commerce tax paid by the employer pursuant to chapter 363C of NRS for the preceding taxable year. The credit may only be used for any of the 4 calendar quarters immediately following the end of the taxable year for which the commerce tax was paid. The amount of credit used for a calendar quarter may not exceed the amount calculated pursuant to subsection 1 for that calendar quarter. Any unused credit may not be carried forward beyond the fourth calendar quarter immediately following the end of the taxable year for which the commerce tax was paid, and a taxpayer is not entitled to a refund of any unused credit.

5. An employer who makes a donation of money to a scholarship organization during the calendar quarter for which a return is filed pursuant to this section is entitled, in accordance with NRS 363B.119, to a credit equal to the amount authorized pursuant to NRS 363B.119 against any tax otherwise due pursuant to this section. As used in this subsection, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.

6. An employer who, during the calendar quarter for which a return is filed pursuant to this section, makes a payment of money which qualifies for a credit pursuant to section 3 of this act is entitled to a credit equal to the amount authorized pursuant to section 3 of this act against any tax otherwise due pursuant to this section.

Sec. 5. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

The Division shall make available for businesses in this State information related to worksite wellness and family-friendly policies, including, without limitation, information concerning the tax credit authorized by sections 1 and 3 of this act.

Sec. 6. ~~1. There is hereby appropriated from the State General Fund to the Division of Welfare and Supportive Services of the Department of Health and Human Services for the costs associated with the Program for Child Care and Development administered by the Division pursuant to chapter 422A of NRS the following sums:~~

~~For the Fiscal Year 2017-2018.....\$25,000,000~~

~~For the Fiscal Year 2018-2019.....\$25,000,000~~

~~2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019.] (Deleted by amendment.)~~

Sec. 7. ~~1.1~~ This section and sections 1 to 5, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.

~~2. Section 6 of this act becomes effective on July 1, 2017.]~~