

ASSEMBLY BILL NO. 458—COMMITTEE ON EDUCATION

MARCH 25, 2019

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to certain tax credits for the Nevada Educational Choice Scholarship Program. (BDR 32-794)

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; revising provisions governing the amount of credits the Department of Taxation is authorized to approve against the modified business tax for taxpayers who donate money to a scholarship organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, financial institutions, mining businesses and other employers are required to pay an excise tax (the modified business tax) on wages paid by them. (NRS 363A.130, 363B.110) Existing law establishes a credit against the modified business tax equal to an amount which is approved by the Department of Taxation and which must not exceed the amount of any donation of money made by a taxpayer to a scholarship organization that provides grants on behalf of pupils who are members of a household with a household income of not more than 300 percent of the federally designated level signifying poverty to allow those pupils to attend schools in this State, including private schools, chosen by the parents or legal guardians of those pupils. (NRS 363A.139, 363B.119, 388D.270) Under existing law, the Department: (1) is required to 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 the amount authorized by statute for that fiscal year. The amount of credits authorized for each fiscal year is equal to 110 percent of the amount authorized for the immediately preceding fiscal year, not including certain additional tax credits authorized for Fiscal Year 2017-2018. For Fiscal Year 2017-2018, the amount of credits authorized which are relevant for calculating the credits authorized in subsequent fiscal years is \$6,050,000. Thus, for Fiscal Year 2018-2019, the amount of credits authorized is \$6,655,000, plus any remaining amount of tax credits carried forward from the additional credit authorization made for Fiscal Year 2017-2018. (NRS 363A.139, 363B.119)



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This bill eliminates the annual 110 percent increase in the amount of credits authorized and, instead, provides that the amount of credits authorized for each fiscal year is \$6,655,000, plus any remaining amount of tax credits carried forward from the additional credit authorization made for Fiscal Year 2017-2018.

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

Section 1. NRS 363A.139 is hereby amended to read as follows:

363A.139 1. Any taxpayer who is required to pay a tax pursuant to NRS 363A.130 may receive a credit against the tax otherwise due for any donation of money made by the taxpayer to a 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 a scholarship organization must, before making such a donation, notify the scholarship organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. A 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 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 scholarship organization shall provide notice of the approval to the taxpayer who must, not later than 30 days after receiving the notice, make the donation of money to the scholarship organization. If the taxpayer does not make the donation of money to the scholarship organization within 30 days after receiving the notice, the scholarship 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.

4. Except as otherwise provided in subsection 5, 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 pursuant to this subsection is ~~£~~:

~~—(a) For Fiscal Year 2015-2016, \$5,000,000;~~

~~—(b) For Fiscal Year 2016-2017, \$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.~~

~~→~~ **\$6,655,000.** 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.

5. In addition to the amount of credits authorized by subsection 4 for Fiscal Year 2017-2018, the Department of Taxation may approve applications for the credit authorized by subsection 1 for that fiscal year until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection and subsection 5 of NRS 363B.119 is \$20,000,000. The provisions of ~~[paragraph (c) of]~~ subsection 4 do not apply to the amount of credits authorized by this subsection and the amount of credits authorized by this subsection must not be considered when determining the amount of credits authorized for a fiscal year pursuant to ~~[that paragraph.]~~ **subsection 4.** If, in Fiscal Year 2017-2018, the amount of credits authorized by subsection 1 and approved pursuant to this subsection is less than \$20,000,000, the remaining amount of credits pursuant to this subsection must be carried forward and made available for approval during subsequent fiscal years until the total amount of credits authorized by subsection 1 and approved pursuant to this subsection is equal to \$20,000,000. The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized pursuant to this subsection.

6. 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 a 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.

7. 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.

8. As used in this section, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.



Sec. 2. NRS 363B.119 is hereby amended to read as follows:

363B.119 1. Any taxpayer who is required to pay a tax pursuant to NRS 363B.110 may receive a credit against the tax otherwise due for any donation of money made by the taxpayer to a 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 a scholarship organization must, before making such a donation, notify the scholarship organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. A 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 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 scholarship organization shall provide notice of the approval to the taxpayer who must, not later than 30 days after receiving the notice, make the donation of money to the scholarship organization. If the taxpayer does not make the donation of money to the scholarship organization within 30 days after receiving the notice, the scholarship 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.

4. Except as otherwise provided in subsection 5, 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 pursuant to this subsection is ~~1~~:

~~—(a) For Fiscal Year 2015-2016, \$5,000,000;~~

~~—(b) For Fiscal Year 2016-2017, \$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.~~

~~→~~ **\$6,655,000.** 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.

5. In addition to the amount of credits authorized by subsection 4 for Fiscal Year 2017-2018, the Department of Taxation may approve applications for the credit authorized by subsection 1 for



1 that fiscal year until the total amount of the credits authorized by
2 subsection 1 and approved by the Department of Taxation pursuant
3 to this subsection and subsection 5 of NRS 363A.139 is
4 \$20,000,000. The provisions of ~~paragraph (e) of~~ subsection 4 do
5 not apply to the amount of credits authorized by this subsection and
6 the amount of credits authorized by this subsection must not be
7 considered when determining the amount of credits authorized for a
8 fiscal year pursuant to ~~that paragraph.~~ **subsection 4.** If, in Fiscal
9 Year 2017-2018, the amount of credits authorized by subsection 1
10 and approved pursuant to this subsection is less than \$20,000,000,
11 the remaining amount of credits pursuant to this subsection must be
12 carried forward and made available for approval during subsequent
13 fiscal years until the total amount of credits authorized by
14 subsection 1 and approved pursuant to this subsection is equal to
15 \$20,000,000. The amount of any credit which is forfeited pursuant
16 to subsection 2 must not be considered in calculating the amount of
17 credits authorized pursuant to this subsection.

18 6. If a taxpayer applies to and is approved by the Department
19 of Taxation for the credit authorized by subsection 1, the amount of
20 the credit provided by this section is equal to the amount approved
21 by the Department of Taxation pursuant to subsection 2, which must
22 not exceed the amount of the donation made by the taxpayer to a
23 scholarship organization. The total amount of the credit applied
24 against the taxes described in subsection 1 and otherwise due from a
25 taxpayer must not exceed the amount of the donation.

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

33 8. As used in this section, "scholarship organization" has the
34 meaning ascribed to it in NRS 388D.260.

35 **Sec. 3.** This act becomes effective upon passage and approval
36 for the purpose of adopting regulations and performing any other
37 administrative tasks that are necessary to carry out the provisions of
38 this act, and on July 1, 2019, for all other purposes.

