S.B. 325

SENATE BILL NO. 325–SENATORS SETTELMEYER, HANSEN, HARDY, HAMMOND, PICKARD; DENIS, GOICOECHEA AND SEEVERS GANSERT

MARCH 18, 2019

JOINT SPONSORS: ASSEMBLYMEN WHEELER, TITUS, LEAVITT; EDWARDS, ELLISON, HAFEN, HANSEN, HARDY, KRAMER, ROBERTS AND TOLLES

Referred to Committee on Judiciary

SUMMARY—Establishes the Nevada Child Adoption Grant Program to provide grants to assist certain prospective adoptive parents with certain costs of adoption. (BDR 11-163)

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 adoption; establishing the Nevada Child Adoption Grant Program to provide grants to assist certain prospective adoptive parents with certain costs of adoption; establishing a credit against the modified business tax for taxpayers who donate money to the Nevada Child Adoption Grant Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-5 of this bill establish the Nevada Child Adoption Grant Program. **Section 3** of this bill requires the Division of Child and Family Services of the Department of Health and Human Services, to the extent that money is available for that purpose, to provide grants to pay for any nonrecurring adoption expenses to a prospective adoptive parent who: (1) is a resident of this State; and (2) has filed a petition for the adoption of a child who is a resident of this State. **Section 3** places a limit on the total amount of grants that the Division may provide at: (1) $25,000 for each petition for adoption; and (2) $50,000 for the lifetime of a prospective adoptive parent. To provide grants under **section 3**, **section 4** of this bill: (1) requires the Division to accept donations from taxpayers which are made according to **section 6 or 7** of this bill; and (2) authorizes the Division to solicit and accept gifts and grants. **Section 5** of this bill requires the Division to annually submit a report concerning the Program to the Department of Health and Human Services.

Under existing law, financial institutions and other employers are required to pay an excise tax (the modified business tax) on wages paid by them. (NRS 363A.130, 363B.110) With respect to that tax, **sections 6 and 7** establish a tax credit equal to an amount approved by the Department of Taxation, which must not exceed the amount of any donation of money made by a taxpayer to the Division to fund the Nevada Child Adoption Grant Program established in **sections 2-5**. To claim the tax credit, **sections 6 and 7** require the Division to apply to the Department of Taxation for approval of the credit for a taxpayer who intends to make a donation to the Division. If the Department of Taxation approves the application, **sections 6 and 7** require the Division to provide notice to the prospective donor, who must make the donation within 30 days after receiving the notice. If the donor does not make the donation within the requisite period, **sections 6 and 7** provide that the donor forfeits eligibility for the credit. **Sections 6 and 7** provide that the Department: (1) must approve or deny applications for the tax credit in the order in which the applications are received; and (2) is authorized to approve applications for each fiscal year until the amount of the tax credits authorized for the fiscal year is reached. **Sections 6 and 7** provide that for the Fiscal Year 2019-2020, the amount authorized is $500,000, and for the Fiscal Year 2020-2021, the amount authorized is $550,000. **Sections 6 and 7** additionally provide that the amount authorized for each succeeding fiscal year is 110 percent of the amount authorized for the immediately preceding fiscal year.

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

Section 1. Chapter 127 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***Sections 2 to 5, inclusive, of this act may be cited as the Nevada Child Adoption Grant Program.***

Sec. 3. ***1. To the extent that money is available for that purpose, the Division shall provide grants to pay for any nonrecurring adoption expenses to a prospective adoptive parent who:***

(a) Is a resident of this State; and

(b) Has filed a petition for the adoption of a child who:

(1) Is a resident of this State; and

(2) Has been relinquished to:

(I) An agency which provides child welfare services; or

(II) A child-placing agency licensed by the Division pursuant to this chapter.

2. The person requesting nonrecurring adoption expenses must not have incurred the expense in a manner that violates any state, Indian or federal law and must not have been reimbursed from any other source.

3. The total amount of a grant provided by the Division pursuant to subsection 1 must not exceed:

(a) Twenty-five thousand dollars for each petition for adoption; and

(b) Fifty thousand dollars for the lifetime of a prospective adoptive parent.

4. A grant provided by the Division pursuant to subsection 1 must be paid directly to a prospective adoptive parent.

5. The Division shall adopt regulations prescribing the manner in which to apply for a grant pursuant to subsection 1 and may adopt such other regulations as the Division determines necessary to carry out the provisions of this section.

6. As used in this section:

(a) "Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child.

(b) "Other expenses which are directly related to the legal adoption of a child" means the costs of the adoption incurred by or on behalf of a prospective adoptive parent and for which the prospective adoptive parent carries the ultimate liabilities for payment. Such costs may include, without limitation:

(1) The adoption study, including, without limitation, health and psychological examinations;

(2) Supervision of the placement of the child before the adoption; and

(3) Transportation and the reasonable costs of lodging and food for the child or the prospective adoptive parent when necessary to complete the placement or adoption process.

(c) "Prospective adoptive parent" means any adult person or any two persons married to each other who petition the district court of any county in this State for leave to adopt a child.

Sec. 4. *1. The Division:*

(a) Shall accept donations from taxpayers pursuant to sections 6 and 7 of this act and from other persons; and

(b) May solicit and accept gifts and grants.

2. Except as otherwise provided in subsection 3, the Division shall use any money received pursuant to subsection 1 to provide grants pursuant to section 3 of this act.

3. The Division may expend not more than 5 percent of the total amount of money accepted pursuant to subsection 1 to pay for its administrative expenses.

Sec. 5. *On or before January 31 of each year, the Division shall:*

1. Prepare a report setting forth:

(a) The total number of donations, gifts and grants received by the Division pursuant to sections 4, 6 and 7 of this act during the immediately preceding calendar year;

(b) The total dollar amount of such donations, gifts and grants received by the Division pursuant to section 4 of this act during the immediately preceding calendar year;

(c) The total number of prospective adoptive parents for whom the Division provided grants pursuant to section 3 of this act during the immediately preceding calendar year;

(d) The total amount of such grants provided pursuant to section 3 of this act during the immediately preceding calendar year;

(e) For each prospective adoptive parent for whom the Division provided grants pursuant to section 3 of this act during the immediately preceding calendar year:

(1) The name and address of the prospective adoptive parent; and

(2) The total amount of such grants provided to the prospective adoptive parent; and

2. Submit a copy of the report to the Department of Health and Human Services.

Sec. 6. Chapter 363A of NRS is hereby amended by adding thereto a new section to read as follows:

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 the Division of Child and Family Services for the Nevada Child Adoption Grant Program 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 the Division of Child and Family Services must, before making such a donation, notify the Division of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. The Division 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 shall, within 20 days after receiving the application, approve or deny the application and provide to the Division 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 Division 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 Division. If the taxpayer does not make the donation of money 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.

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. 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 pursuant to this subsection and section 7 of this act is:

(a) For the Fiscal Year 2019-2020, $500,000;

(b) For the Fiscal Year 2020-2021, $550,000; 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.

5. 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 pursuant to subsection 2, which must not exceed the amount of the donation made by the taxpayer to the Division of Child and Family Services. 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.

6. 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.

7. As used in this section:

(a) "Division" means the Division of Child and Family Services of the Department of Health and Human Services.

(b) "Nevada Child Adoption Grant Program" means the program administered by the Division pursuant to sections 2 to 5, inclusive, of this act.

Sec. 7. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

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 the Division for the Nevada Child Adoption Grant Program 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 the Division must, before making such a donation, notify the Division of Child and Family Services of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. The Division shall, before accepting any such donation, apply to the Department for approval of the credit authorized by subsection 1 for the donation. The Department shall, within 20 days after receiving the application, approve or deny the application and provide to the Division 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 Division 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 Division. If the taxpayer does not make the donation of money to the Division within 30 days after receiving the notice, the Division shall provide notice of the failure to the Department 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.** 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 pursuant to this subsection and section 6 of this act is:*

(a) For the Fiscal Year 2019-2020, $500,000;

(b) For the Fiscal Year 2020-2021, $550,000; 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.

***5.** 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 pursuant to subsection 2, which must not exceed the amount of the donation made by the taxpayer to the Division. 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.

6. 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.

7. As used in this section:

(a) "Division" means the Division of Child and Family Services of the Department of Health and Human Services.

(b) "Nevada Child Adoption Grant Program" means the program administered by the Division pursuant to sections 2 to 5, inclusive, of this act.

Sec. 8. This act becomes effective:

1. 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

2. On January 1, 2020, for all other purposes.