

SENATE BILL NO. 278—SENATOR SPEARMAN

MARCH 14, 2023

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions governing child care.
(BDR 32-290)

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 child care; authorizing an employer to receive a credit against the payroll taxes imposed on the employer if the employer provides certain financial 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; 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 a licensed child care facility or a registered small child care establishment for the purpose of providing child care assistance to an employee. To qualify for the credit, the employee for whom the assistance is provided must: (1) have a household income that does not exceed 150 percent of the median household income in this State; (2) use the assistance for the purpose of providing child care to a dependent child who is less than 13 years of age or a dependent child with special needs who is less than 19 years of age; (3) select a provider of child care who participates in or is eligible for the Program for Child Care and Development administered by the Division of Welfare and Support Services of the Department of Health and Human Services; and (4) pay directly to the provider of child care any portion of the cost of the child care that is not covered by the employer. **Sections 1 and 3** of this bill require the Division to, either quarterly or as requested, submit to the Department of Taxation a list of providers of child care who participate in or are eligible for the Program for Child



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Care and Development. 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 Division for the cost of child care, but the amount of the credit must not exceed \$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 apply to the Department of Taxation. Finally, **sections 1 and 3** limit the total amount of credit which may be awarded to taxpayers to: (1) for Fiscal Years 2023-2024 and 2024-2025, \$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**.

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 the excise tax imposed pursuant to NRS 363A.130 may receive a credit against the tax otherwise due based on the amount paid by the employer to a child care facility that is licensed pursuant to NRS 432A.131 or a small child care establishment registered pursuant to NRS 432A.1756 for the purpose of assisting an employee who meets the qualifications of subsection 3 in paying for the cost of child care.

2. No amount paid by an employer for the cost of child care 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 150 percent of the median household income in this State;

(b) Use the assistance for:

(1) A dependent child who is less than 13 years of age; or

(2) A dependent child with special needs who is less than 19 years of age;

(c) Select a provider of child care who participates in or is eligible for the Program for Child Care and Development administered by the Division; and

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



4. To receive the credit authorized by subsection 1, a taxpayer must apply to the Department in the manner prescribed by the Department. The Department shall use the application to verify the taxpayer's intent to qualify for the credit authorized by subsection 1. Upon receipt of the application, the Department, after determining that the requirements of subsections 2 and 3 are satisfied, 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 3 of this act in an amount not to exceed:

(a) For Fiscal Year 2023-2024, \$5,000,000;

(b) For Fiscal Year 2024-2025, \$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.

5. 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 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 in paying for the cost of child care; or

(b) Five thousand dollars per employee per year.

6. A credit described in this section must not be applied retroactively.

7. 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.

8. The Division shall quarterly, or as requested, provide to the Department a list of providers of child care who satisfy the requirements of paragraph (c) of subsection 3.



1 **9. As used in this section, "Division" means the Division of**
2 **Welfare and Supportive Services of the Department of Health and**
3 **Human Services.**

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

5 363A.130 1. Except as otherwise provided in NRS 360.203,
6 there is hereby imposed an excise tax on each employer at the rate
7 of 2 percent of the wages, as defined in NRS 612.190, paid by the
8 employer during a calendar quarter with respect to employment in
9 connection with the business activities of the employer.

10 2. The tax imposed by this section:

11 (a) Does not apply to any person or other entity or any wages
12 this State is prohibited from taxing under the Constitution, laws or
13 treaties of the United States or the Nevada Constitution.

14 (b) Must not be deducted, in whole or in part, from any wages of
15 persons in the employment of the employer.

16 3. Each employer shall, on or before the last day of the month
17 immediately following each calendar quarter for which the
18 employer is required to pay a contribution pursuant to
19 NRS 612.535:

20 (a) File with the Department a return on a form prescribed by
21 the Department; and

22 (b) Remit to the Department any tax due pursuant to this section
23 for that calendar quarter.

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

38 5. An employer who makes a donation of money to a
39 scholarship organization during the calendar quarter for which a
40 return is filed pursuant to this section is entitled, in accordance with
41 NRS 363A.139, to a credit equal to the amount authorized pursuant
42 to NRS 363A.139 against any tax otherwise due pursuant to this
43 section. As used in this subsection, "scholarship organization" has
44 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 the excise tax imposed pursuant to NRS 363B.110 may receive a credit against the tax otherwise due based on the amount paid by the employer to a child care facility that is licensed pursuant to NRS 432A.131 or a small child care establishment that is registered pursuant to NRS 432A.1756 for the purpose of assisting an employee who meets the qualifications of subsection 3 in paying for the cost of child care.*

2. *No amount paid by an employer for the cost of child care 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 150 percent of the median household income in this State;*

(b) *Use the assistance for:*

(1) *A dependent child who is less than 13 years of age; or*

(2) *A dependent child with special needs who is less than 19 years of age;*

(c) *Select a provider of child care who participates in or is eligible for the Program for Child Care and Development administered by the Division; and*

(d) *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 apply to the Department in the manner prescribed by the Department. The Department shall use the application to verify the taxpayer's intent to qualify for the credit authorized by subsection 1. Upon receipt of the application, the Department, after determining that the requirements of subsections 2 and 3 are satisfied, 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 in an amount not to exceed:*



(a) For Fiscal Year 2023-2024, \$5,000,000;
(b) For Fiscal Year 2024-2025, \$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.

5. 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 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 in paying for the cost of child care; or

(b) Five thousand dollars per employee per year.

6. A credit described in this section must not be applied retroactively.

7. 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.

8. The Division shall quarterly, or as requested, provide to the Department a list of providers of child care who satisfy the requirements of paragraph (c) of subsection 3.

9. 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. (Deleted by amendment.)

Sec. 7. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective:

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

(b) On January 1, 2024, for all other purposes.

