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S.B. 455

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 Welfare and Supportive Services 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:

1 Existing law imposes a tax, commonly known as the modified business tax, on
2 financial institutions and other businesses based on the amount of wages paid to
3 employees each calendar quarter. (NRS 363A.130, 363B.110) **Sections 1-4** of this
4 bill entitle an employer to receive a credit against the modified business tax if the
5 employer pays money to an entity under contract with the Department of Health
6 and Human Services to determine eligibility for child care subsidies, for the
7 purpose of providing child care assistance to an employee who has one or more
8 children under 13 years of age and whose household income does not exceed 85
9 percent of the median income in this State. Under **sections 1 and 3**: (1) the amount
10 of the credit is equal to 50 percent of the amount paid by the employer to the entity
11 under contract with the Department of Health and Human Services but the amount
12 of the credit must not exceed \$2,500 per employee per year; and (2) any unused
13 credits may be carried forward for 5 years. To claim the tax credit, **sections 1 and 3**
14 require the employer to notify the entity under contract with the Department of



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15 Health and Human Services and, upon receipt of that notice, that entity is required
16 to apply to the Department of Taxation for approval of the credit. If the Department
17 of Taxation approves the application, the entity under contract with the Department
18 of Health and Human Services is required to: (1) notify the taxpayer of the
19 approval of the credit; and (2) notify the Department of Taxation of payments made
20 to the entity by the taxpayer within 30 days after receipt of the payment. Finally,
21 **sections 1 and 3** limit the total amount of credit which may be awarded to
22 taxpayers to: (1) for Fiscal Years 2017-2018 and 2018-2019, \$5,000,000 and
23 \$5,500,000, respectively; and (2) for subsequent fiscal years, an amount equal to
24 110 percent of the amount authorized for the immediately preceding fiscal year.

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

30 **Section 6** of this bill makes an appropriation from the State General Fund of
31 \$25,000,000 for Fiscal Year 2017-2018 and \$25,000,000 for Fiscal Year 2018-2019
32 to the Program for Child Care and Development operated by the Division of
33 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:

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

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

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

16 *3. To receive the credit authorized by subsection 1, a taxpayer*
17 *must notify the appropriate entity under contract with the*
18 *Department of Health and Human Services to determine eligibility*
19 *for child care subsidies of the taxpayer's intent to qualify for the*
20 *credit authorized by subsection 1. Upon receipt of the notice, the*
21 *entity shall apply to the Department of Taxation for approval of*
22 *the credit authorized by subsection 1 if the entity determines that*
23 *the taxpayer is qualified for the credit and the employee for whom*
24 *child care assistance will be provided meets the qualifications set*
25 *forth in subsection 1. The Department of Taxation shall, within 20*



1 days after receiving an application, approve or deny the
2 application and provide to the entity notice of the decision and, if
3 the application is approved, the amount of the credit authorized.
4 Upon receipt of the notice from the Department of Taxation, the
5 entity shall provide notice of the approval to the taxpayer.

6 4. An entity under contract with the Department of Health
7 and Human Services to determine eligibility for child care
8 subsidies which receives a payment from a taxpayer who received
9 a notice of approval shall provide notice of the payment to the
10 Department of Taxation within 30 days after receipt of the
11 payment.

12 5. The Department of Taxation shall approve or deny an
13 application for the credit authorized by subsection 1 in the order
14 in which such applications are received. The Department may, for
15 each fiscal year, approve applications for the credits authorized by
16 subsection 1 and subsection 1 of section 3 of this act and approved
17 by the Department is:

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

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

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

23 6. If a taxpayer applies for and is approved for a credit
24 authorized by subsection 1, the amount of the credit is equal to the
25 amount approved by the Department of Taxation, which must not
26 exceed:

27 (a) Fifty percent of the amount paid to the entity under
28 contract with the Department of Health and Human Services to
29 determine eligibility for child care subsidies during the calendar
30 quarter for which the tax is due, for the purpose of assisting an
31 employee who meets the qualifications set forth in subsection 1 in
32 paying for the cost of child care; or

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

34 7. A credit described in this section must not be applied
35 retroactively.

36 8. If the amount of a credit described in this section exceeds
37 the tax liability of the taxpayer for the calendar quarter in which
38 the credit is claimed, the excess amount of the credit may be
39 carried forward and applied to the tax liability of the taxpayer for
40 the next following calendar quarter or calendar quarters for
41 which the taxpayer has a tax liability, except that any credit or the
42 excess amount of any credit expires on the date that is 5 years
43 after the end of the calendar quarter in which the credit is claimed
44 and must not be applied to any tax liability of the taxpayer
45 incurred on or after that date. If excess amounts of credits for



1 *more than one calendar quarter are carried forward by a taxpayer*
2 *pursuant to this subsection, the excess amount of the credit from*
3 *the earliest calendar quarter must be applied first.*

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.



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

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

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

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

22 3. *To receive the credit authorized by subsection 1, a taxpayer*
23 *must notify the appropriate entity under contract with the*
24 *Department of Health and Human Services to determine eligibility*
25 *for child care subsidies of the taxpayer's intent to qualify for the*
26 *credit authorized by subsection 1. Upon receipt of the notice, the*
27 *entity shall apply to the Department of Taxation for approval of*
28 *the credit authorized by subsection 1 if the entity determines that*
29 *the employee for whom child care assistance will be provided*
30 *meets the qualifications set forth in subsection 1. The Department*
31 *of Taxation shall, within 20 days after receiving an application,*
32 *approve or deny the application and provide to the entity notice of*
33 *the decision and, if the application is approved, the amount of the*
34 *credit authorized. Upon receipt of the notice from the Department*
35 *of Taxation, the entity shall provide notice of the approval to the*
36 *taxpayer.*

37 4. *An entity under contract with the Department of Health*
38 *and Human Services to determine eligibility for child care*
39 *subsidies which receives a payment from a taxpayer who received*
40 *a notice of approval shall provide notice of the payment to the*
41 *Department of Taxation within 30 days after receipt of the*
42 *payment.*

43 5. *The Department of Taxation shall approve or deny an*
44 *application for the credit authorized by subsection 1 in the order*
45 *in which such applications are received. The Department may, for*



1 *each fiscal year, approve applications for the credits authorized by*
2 *subsection 1 and subsection 1 of section 1 of this act and approved*
3 *by the Department is:*

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

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

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

9 6. *If a taxpayer applies for and is approved for a credit*
10 *authorized by subsection 1, the amount of the credit is equal to the*
11 *amount approved by the Department of Taxation, which must not*
12 *exceed:*

13 (a) *Fifty percent of the amount paid to the entity under*
14 *contract with the Department of Health and Human Services to*
15 *determine eligibility for child care subsidies during the calendar*
16 *quarter for which the tax is due, for the purpose of assisting an*
17 *employee who meets the qualifications set forth in subsection 1 in*
18 *paying for the cost of child care; or*

19 (b) *Two thousand five hundred dollars per employee per year.*

20 7. *A credit described in this section must not be applied*
21 *retroactively.*

22 8. *If the amount of a credit described in this section exceeds*
23 *the tax liability of the taxpayer for the calendar quarter in which*
24 *the credit is claimed, the excess amount of the credit may be*
25 *carried forward and applied to the tax liability of the taxpayer for*
26 *the next following calendar quarter or calendar quarters for*
27 *which the taxpayer has a tax liability, except that any credit or the*
28 *excess amount of any credit expires on the date that is 5 years*
29 *after the end of the calendar quarter in which the credit is claimed*
30 *and must not be applied to any tax liability of the taxpayer*
31 *incurred on or after that date. If excess amounts of credits for*
32 *more than one calendar quarter are carried forward by a taxpayer*
33 *pursuant to this subsection, the excess amount of the credit from*
34 *the earliest calendar quarter must be applied first.*

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

36 363B.110 1. Except as otherwise provided in NRS 360.203,
37 there is hereby imposed an excise tax on each employer at the rate
38 of 1.475 percent of the amount by which the sum of all the wages,
39 as defined in NRS 612.190, paid by the employer during a calendar
40 quarter with respect to employment in connection with the business
41 activities of the employer exceeds \$50,000.

42 2. The tax imposed by this section:

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



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

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

7 (a) File with the Department a return on a form prescribed by
8 the Department; and

9 (b) Remit to the Department any tax due pursuant to this chapter
10 for that calendar quarter.

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

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

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

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

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

44 **Sec. 6.** 1. There is hereby appropriated from the State
45 General Fund to the Division of Welfare and Supportive Services of



1 the Department of Health and Human Services for the costs
2 associated with the Program for Child Care and Development
3 administered by the Division pursuant to chapter 422A of NRS the
4 following sums:

5 For the Fiscal Year 2017-2018 \$25,000,000
6 For the Fiscal Year 2018-2019 \$25,000,000

7 2. Any balance of the sums appropriated by subsection 1
8 remaining at the end of the respective fiscal years must not be
9 committed for expenditure after June 30 of the respective fiscal
10 years by the entity to which the appropriation is made or any entity
11 to which money from the appropriation is granted or otherwise
12 transferred in any manner, and any portion of the appropriated
13 money remaining must not be spent for any purpose after
14 September 21, 2018, and September 20, 2019, respectively, by
15 either the entity to which the money was appropriated or the entity
16 to which the money was subsequently granted or transferred, and
17 must be reverted to the State General Fund on or before
18 September 21, 2018, and September 20, 2019.

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

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

