

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; exempting certain persons who provide care for the children of friends and neighbors from regulation as child care facilities; 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 the Division of Welfare and Supportive Services of the  
6 Department of Health and Human Services for the purpose of providing child care  
7 assistance to an employee. To qualify for the credit, the employee for whom the  
8 assistance is provided must: (1) have a household income that does not exceed 85  
9 percent of the median household income in this State; (2) be determined eligible by  
10 the Division for the Program for Child Care and Development; (3) use the  
11 assistance for the purpose of providing child care to a dependent child who is less  
12 than 13 years of age; (4) select a provider of child care who participates in the  
13 Quality Rating and Improvement System administered by the Office of Early  
14 Learning and Development of the Department of Education; and (5) pay directly to  
15 the provider of child care any portion of the cost of the child care that is not  
16 covered by the employer. Under **sections 1 and 3** of this bill: (1) the amount of the



17 credit is equal to 50 percent of the amount paid by the employer to the Division for  
18 the cost of child care, but the amount of the credit must not exceed \$5,000 per  
19 employee per year; and (2) any unused credits may be carried forward for 5 years.  
20 To claim the tax credit, **sections 1 and 3** require the employer to apply to the  
21 Division and, upon receipt of the application and determining that the employer is  
22 qualified for the credit, the Division is required to apply to the Department of  
23 Taxation for approval of the credit. If the Department of Taxation approves the  
24 application, the Division is required to notify: (1) the taxpayer of the approval of  
25 the credit; and (2) the Department of Taxation of payments made to the Division by  
26 the taxpayer within 30 days after receipt of the payment. Finally, **sections 1 and 3**  
27 limit the total amount of credit which may be awarded to taxpayers to: (1) for Fiscal  
28 Years 2023-2024 and 2024-2025, \$5,000,000 and \$5,500,000, respectively; and (2)  
29 for subsequent fiscal years, an amount equal to 110 percent of the amount  
30 authorized for the immediately preceding fiscal year.

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

36 Existing law provides for the licensure of child care facilities, which are  
37 defined as: (1) an establishment operated and maintained for the purpose of  
38 furnishing care to five or more children for compensation; (2) certain facilities  
39 operated by a place of business to provide care for the children of its employees; (3)  
40 a child care institution; or (4) an outdoor youth program. (NRS 432A.024,  
41 432A.0275, 432A.131-432A.220) **Section 6** of this bill revises that definition to  
42 provide that a home in which a person provides care for six or fewer children of a  
43 friend or neighbor, or a combination thereof, is not deemed a child care facility and,  
44 thus, is not subject to licensure requirements under existing law.

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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 the excise tax imposed pursuant to NRS*  
5 *363A.130 may receive a credit against the tax otherwise due based*  
6 *on the amount paid by the employer to the Division for the*  
7 *purpose of assisting an employee who meets the qualifications of*  
8 *subsection 3 in paying for the cost of child care.*

9 *2. No amount paid by an employer for the cost of child care*  
10 *pursuant to subsection 1 may qualify for the credit authorized by*  
11 *that subsection if the amount was paid pursuant to a salary*  
12 *reduction plan.*

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

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



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

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

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

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

11 4. To receive the credit authorized by subsection 1, a taxpayer  
12 must apply to the Division in the manner prescribed by the  
13 Division. The Division shall use the application to verify the  
14 taxpayer's intent to qualify for the credit authorized by subsection  
15 1. Upon receipt of the application, the Division, after determining  
16 that the requirements of subsections 2 and 3 are satisfied, shall  
17 apply to the Department of Taxation for approval of the credit  
18 authorized by subsection 1. The Department of Taxation shall,  
19 within 20 days after receiving an application, approve or deny the  
20 application and provide to the Division notice of the decision and,  
21 if the application is approved, the amount of the credit authorized.  
22 Upon receipt of the notice from the Department of Taxation, the  
23 Division shall provide notice of the approval to the taxpayer. If the  
24 taxpayer does not make the payment for the cost of child care to  
25 the Division pursuant to subsection 1 within 30 days after  
26 receiving the notice, the Division shall provide notice of the failure  
27 to the Department of Taxation and the taxpayer forfeits any claim  
28 to the credit authorized by subsection 1.

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

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

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

35 6. The Department of Taxation shall approve or deny an  
36 application for the credit authorized by subsection 1 in the order  
37 in which such applications are received. The Department may, for  
38 each fiscal year, approve applications for the credits authorized by  
39 subsection 1 and subsection 1 of section 3 of this act in an amount  
40 not to exceed:

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

42 (b) For Fiscal Year 2024-2025, \$5,500,000; and

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



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

5       (a) *Fifty percent of the amount paid to the Division during the*  
6 *calendar quarter for which the tax is due, for the purpose of*  
7 *assisting an employee who meets the qualifications set forth in*  
8 *subsection 3 in paying for the cost of child care; or*

9       (b) *Five thousand dollars per employee per year.*

10      8. *A credit described in this section must not be applied*  
11 *retroactively.*

12      9. *If the amount of a credit described in this section exceeds*  
13 *the tax liability of the taxpayer for the calendar quarter in which*  
14 *the credit is claimed, the excess amount of the credit may be*  
15 *carried forward and applied to the tax liability of the taxpayer for*  
16 *the next following calendar quarter or calendar quarters for*  
17 *which the taxpayer has a tax liability, except that any credit or the*  
18 *excess amount of any credit expires on the date that is 5 years*  
19 *after the end of the calendar quarter in which the credit is claimed*  
20 *and must not be applied to any tax liability of the taxpayer*  
21 *incurred on or after that date. If excess amounts of credits for*  
22 *more than one calendar quarter are carried forward by a taxpayer*  
23 *pursuant to this subsection, the excess amount of the credit from*  
24 *the earliest calendar quarter must be applied first.*

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

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

29      363A.130 1. Except as otherwise provided in NRS 360.203,  
30 there is hereby imposed an excise tax on each employer at the rate  
31 of 2 percent of the wages, as defined in NRS 612.190, paid by the  
32 employer during a calendar quarter with respect to employment in  
33 connection with the business activities of the employer.

34      2. The tax imposed by this section:

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

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

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

44      (a) File with the Department a return on a form prescribed by  
45 the Department; and



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

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

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

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

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

32 *1. Except as otherwise provided in subsection 2, any taxpayer*  
33 *who is required to pay the excise tax imposed pursuant to NRS*  
34 *363B.110 may receive a credit against the tax otherwise due based*  
35 *on the amount paid by the employer to the Division for the*  
36 *purpose of assisting an employee who meets the qualifications of*  
37 *subsection 3 in paying for the cost of child care.*

38 *2. No amount paid by an employer for the cost of child care*  
39 *pursuant to subsection 1 may qualify for the credit authorized by*  
40 *that subsection if the amount was paid pursuant to a salary*  
41 *reduction plan.*

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



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

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

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

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

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

13 4. *To receive the credit authorized by subsection 1, a taxpayer*  
14 *must apply to the Division in the manner prescribed by the*  
15 *Division. The Division shall use the application to verify the*  
16 *taxpayer's intent to qualify for the credit authorized by subsection*  
17 *1. Upon receipt of the application, the Division, after determining*  
18 *that the requirements of subsections 2 and 3 are satisfied, shall*  
19 *apply to the Department of Taxation for approval of the credit*  
20 *authorized by subsection 1. The Department of Taxation shall,*  
21 *within 20 days after receiving an application, approve or deny the*  
22 *application and provide to the Division notice of the decision and,*  
23 *if the application is approved, the amount of the credit authorized.*  
24 *Upon receipt of the notice from the Department of Taxation, the*  
25 *Division shall provide notice of the approval to the taxpayer. If the*  
26 *taxpayer does not make the payment to the Division within 30 days*  
27 *after receiving the notice, the Division shall provide notice of the*  
28 *failure to the Department of Taxation and the taxpayer forfeits*  
29 *any claim to the credit authorized by subsection 1.*

30 5. *Upon receipt of a payment from a taxpayer who received a*  
31 *notice of approval, the Division shall:*

32 (a) *Provide notice of the payment to the Department of*  
33 *Taxation within 30 days after receipt of the payment; and*

34 (b) *Transfer the payment received from the taxpayer directly to*  
35 *the provider of child care.*

36 6. *The Department of Taxation shall approve or deny an*  
37 *application for the credit authorized by subsection 1 in the order*  
38 *in which such applications are received. The Department may, for*  
39 *each fiscal year, approve applications for the credits authorized by*  
40 *subsection 1 and subsection 1 of section 1 of this act in an amount*  
41 *not to exceed:*

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

43 (b) *For Fiscal Year 2024-2025, \$5,500,000; and*



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

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

8 (a) Fifty percent of the amount paid to the Division during the  
9 calendar quarter for which the tax is due, for the purpose of  
10 assisting an employee who meets the qualifications set forth in  
11 subsection 3 in paying for the cost of child care; or

12 (b) Five thousand dollars per employee per year.

13 8. A credit described in this section must not be applied  
14 retroactively.

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

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

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

32 363B.110 1. Except as otherwise provided in NRS 360.203,  
33 there is hereby imposed an excise tax on each employer at the rate  
34 of 1.475 percent of the amount by which the sum of all the wages,  
35 as defined in NRS 612.190, paid by the employer during a calendar  
36 quarter with respect to employment in connection with the business  
37 activities of the employer exceeds \$50,000.

38 2. The tax imposed by this section:

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

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

44 3. Each employer shall, on or before the last day of the month  
45 immediately following each calendar quarter for which the





1 employer is required to pay a contribution pursuant to  
2 NRS 612.535:

3 (a) File with the Department a return on a form prescribed by  
4 the Department; and

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

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

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

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

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

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

40 **Sec. 6.** NRS 432A.024 is hereby amended to read as follows:

41 432A.024 1. "Child care facility" means:

42 (a) An establishment operated and maintained for the purpose of  
43 furnishing care on a temporary or permanent basis, during the day or  
44 overnight, to five or more children under 18 years of age, if  
45 compensation is received for the care of any of those children;





- 1 (b) An on-site child care facility;
- 2 (c) A child care institution; or
- 3 (d) An outdoor youth program.
- 4 2. "Child care facility" does not include:
- 5 (a) The home of a natural parent or guardian, foster home as
- 6 defined in NRS 424.014 or maternity home;
- 7 (b) A home in which the only children received, cared for and
- 8 maintained are related within the third degree of consanguinity or
- 9 affinity by blood, adoption or marriage to the person operating the
- 10 facility;
- 11 (c) A home in which a person provides care for ~~the~~ :
- 12 (1) *The* children of a friend or neighbor for not more than 4
- 13 weeks if the person who provides the care does not regularly engage
- 14 in that activity; *or*
- 15 (2) *Six or fewer children of a friend or neighbor, or any*
- 16 *combination thereof;*
- 17 (d) A location at which an out-of-school-time program is
- 18 operated;
- 19 (e) A seasonal or temporary recreation program;
- 20 (f) An out-of-school recreation program; or
- 21 (g) A receiving center, as defined in NRS 424.0175.
- 22 **Sec. 7.** 1. This section becomes effective upon passage and
- 23 approval.
- 24 2. Sections 1 to 6, inclusive, of this act become effective:
- 25 (a) Upon passage and approval for the purpose of adopting any
- 26 regulations and performing any other preparatory administrative
- 27 tasks that are necessary to carry out the provisions of this act; and
- 28 (b) On January 1, 2024, for all other purposes.

