

ASSEMBLY BILL NO. 242—ASSEMBLYMAN HAFEN

MARCH 11, 2021

JOINT SPONSORS: SENATORS
HAMMOND AND SEEVERS GANSERT

Referred to Committee on Revenue

SUMMARY—Revises provisions related to taxation.
(BDR 32-865)

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 against certain taxes the Department of Taxation is authorized to approve for certain taxpayers who donate money to a scholarship organization; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, financial institutions, mining businesses and other
2 employers are required to pay an excise tax (the modified business tax) on wages
3 paid by them. (NRS 363A.130, 363B.110) Existing law establishes a credit against
4 the modified business tax for taxpayers who make a donation of money to a
5 scholarship organization that provides grants on behalf of pupils who are members
6 of a household with a household income of not more than 300 percent of the
7 federally designated level signifying poverty to allow those pupils to attend schools
8 in this State, including private schools, chosen by the parents or legal guardians of
9 those pupils. Each credit is in an amount approved by the Department of Taxation
10 and must not exceed the amount of the donation made by the taxpayer. (NRS
11 363A.139, 363B.119, 388D.270) Under existing law, the Department is: (1)
12 required to approve or deny applications for the tax credit in the order in which the
13 applications are received by the Department; and (2) authorized to approve
14 applications for each fiscal year until the amount of the tax credits approved for the
15 fiscal year is the amount authorized by statute for that fiscal year. The amount of
16 credits authorized for each fiscal year is a total of \$6,655,000, plus an additional
17 \$4,745,000 per fiscal year for Fiscal Year 2019-2020 and Fiscal Year 2020-2021.
18 (NRS 363A.139, 363B.119) Thus, the total amount of credits authorized for Fiscal
19 Year 2019-2020 and Fiscal Year 2020-2021 was \$11,400,000 per fiscal year.



20 **Sections 1 and 2** of this bill provide that the total amount of credits authorized
21 for future fiscal years is \$11,400,000 per fiscal year.

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

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

3 363A.139 1. Any taxpayer who is required to pay a tax
4 pursuant to NRS 363A.130 may receive a credit against the tax
5 otherwise due for any donation of money made by the taxpayer to a
6 scholarship organization in the manner provided by this section.

7 2. To receive the credit authorized by subsection 1, a taxpayer
8 who intends to make a donation of money to a scholarship
9 organization must, before making such a donation, notify the
10 scholarship organization of the taxpayer's intent to make the
11 donation and to seek the credit authorized by subsection 1. A
12 scholarship organization shall, before accepting any such donation,
13 apply to the Department of Taxation for approval of the credit
14 authorized by subsection 1 for the donation. The Department of
15 Taxation shall, within 20 days after receiving the application,
16 approve or deny the application and provide to the scholarship
17 organization notice of the decision and, if the application is
18 approved, the amount of the credit authorized. Upon receipt of
19 notice that the application has been approved, the scholarship
20 organization shall provide notice of the approval to the taxpayer
21 who must, not later than 30 days after receiving the notice, make the
22 donation of money to the scholarship organization. If the taxpayer
23 does not make the donation of money to the scholarship
24 organization within 30 days after receiving the notice, the
25 scholarship organization shall provide notice of the failure to the
26 Department of Taxation and the taxpayer forfeits any claim to
27 the credit authorized by subsection 1.

28 3. The Department of Taxation shall approve or deny
29 applications for the credit authorized by subsection 1 in the order in
30 which the applications are received.

31 4. ~~Except as otherwise provided in subsection 5, the~~ *The*
32 Department of Taxation may, for each fiscal year, approve
33 applications for the credit authorized by subsection 1 until the total
34 amount of the credits authorized by subsection 1 and approved by
35 the Department of Taxation pursuant to this subsection and
36 subsection 4 of NRS 363B.119 is ~~[\$6,655,000.]~~ ***\$11,400,000.*** The
37 amount of any credit which is forfeited pursuant to subsection 2
38 must not be considered in calculating the amount of credits
39 authorized for any fiscal year.



1 5. ~~Except as otherwise provided in this subsection, in addition~~
2 ~~to the amount of credits authorized by subsection 4 for Fiscal Years~~
3 ~~2019-2020 and 2020-2021, the Department of Taxation may~~
4 ~~approve applications for the credit authorized by subsection 1 for~~
5 ~~each of those fiscal years until the total amount of the credits~~
6 ~~authorized by subsection 1 and approved by the Department of~~
7 ~~Taxation pursuant to this subsection and subsection 5 of NRS~~
8 ~~363B.119 is \$4,745,000. The provisions of subsection 4 do not~~
9 ~~apply to the amount of credits authorized by this subsection and the~~
10 ~~amount of credits authorized by this subsection must not be~~
11 ~~considered when determining the amount of credits authorized for a~~
12 ~~fiscal year pursuant to subsection 4. If, in Fiscal Year 2019-2020 or~~
13 ~~2020-2021, the amount of credits authorized by subsection 1 and~~
14 ~~approved pursuant to this subsection is less than \$4,745,000, the~~
15 ~~remaining amount of credits pursuant to this subsection must be~~
16 ~~carried forward and made available for approval during subsequent~~
17 ~~fiscal years until the total amount of credits authorized by~~
18 ~~subsection 1 and approved pursuant to this subsection is equal to~~
19 ~~\$9,490,000. The amount of any credit which is forfeited pursuant to~~
20 ~~subsection 2 must not be considered in calculating the amount of~~
21 ~~credits authorized pursuant to this subsection.~~

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

30 ~~[7.]~~ 6. If the amount of the tax described in subsection 1 and
31 otherwise due from a taxpayer is less than the credit to which the
32 taxpayer is entitled pursuant to this section, the taxpayer may, after
33 applying the credit to the extent of the tax otherwise due, carry the
34 balance of the credit forward for not more than 5 years after the end
35 of the calendar year in which the donation is made or until the
36 balance of the credit is applied, whichever is earlier.

37 ~~[8.]~~ 7. As used in this section, “scholarship organization” has
38 the meaning ascribed to it in NRS 388D.260.

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

40 363B.119 1. Any taxpayer who is required to pay a tax
41 pursuant to NRS 363B.110 may receive a credit against the tax
42 otherwise due for any donation of money made by the taxpayer to a
43 scholarship organization in the manner provided by this section.

44 2. To receive the credit authorized by subsection 1, a taxpayer
45 who intends to make a donation of money to a scholarship



1 organization must, before making such a donation, notify the
2 scholarship organization of the taxpayer's intent to make the
3 donation and to seek the credit authorized by subsection 1. A
4 scholarship organization shall, before accepting any such donation,
5 apply to the Department of Taxation for approval of the credit
6 authorized by subsection 1 for the donation. The Department of
7 Taxation shall, within 20 days after receiving the application,
8 approve or deny the application and provide to the scholarship
9 organization notice of the decision and, if the application is
10 approved, the amount of the credit authorized. Upon receipt of
11 notice that the application has been approved, the scholarship
12 organization shall provide notice of the approval to the taxpayer
13 who must, not later than 30 days after receiving the notice, make the
14 donation of money to the scholarship organization. If the taxpayer
15 does not make the donation of money to the scholarship
16 organization within 30 days after receiving the notice, the
17 scholarship organization shall provide notice of the failure to the
18 Department of Taxation and the taxpayer forfeits any claim to
19 the credit authorized by subsection 1.

20 3. The Department of Taxation shall approve or deny
21 applications for the credit authorized by subsection 1 in the order in
22 which the applications are received.

23 4. ~~Except as otherwise provided in subsection 5, the~~ **The**
24 Department of Taxation may, for each fiscal year, approve
25 applications for the credit authorized by subsection 1 until the total
26 amount of the credits authorized by subsection 1 and approved by
27 the Department of Taxation pursuant to this subsection and
28 subsection 4 of NRS 363A.139 is ~~[\$6,655,000.]~~ **\$11,400,000.** The
29 amount of any credit which is forfeited pursuant to subsection 2
30 must not be considered in calculating the amount of credits
31 authorized for any fiscal year.

32 5. ~~In addition to the amount of credits authorized by~~
33 ~~subsection 4 for Fiscal Years 2019-2020 and 2020-2021, the~~
34 ~~Department of Taxation may approve applications for the credit~~
35 ~~authorized by subsection 1 for each of those fiscal years until the~~
36 ~~total amount of the credits authorized by subsection 1 and approved~~
37 ~~by the Department of Taxation pursuant to this subsection and~~
38 ~~subsection 5 of NRS 363A.139 is \$4,745,000. The provisions of~~
39 ~~subsection 4 do not apply to the amount of credits authorized by~~
40 ~~this subsection and the amount of credits authorized by this~~
41 ~~subsection must not be considered when determining the amount of~~
42 ~~credits authorized for a fiscal year pursuant to subsection 4. If, in~~
43 ~~Fiscal Year 2019-2020 or 2020-2021, the amount of credits~~
44 ~~authorized by subsection 1 and approved pursuant to this subsection~~
45 ~~is less than \$4,745,000, the remaining amount of credits pursuant to~~



~~1 this subsection must be carried forward and made available for
2 approval during subsequent fiscal years until the total amount of
3 credits authorized by subsection 1 and approved pursuant to this
4 subsection is equal to \$9,490,000. The amount of any credit which
5 is forfeited pursuant to subsection 2 must not be considered in
6 calculating the amount of credits authorized pursuant to this
7 subsection.~~

~~8 —6.]~~ If a taxpayer applies to and is approved by the Department
9 of Taxation for the credit authorized by subsection 1, the amount of
10 the credit provided by this section is equal to the amount approved
11 by the Department of Taxation pursuant to subsection 2, which must
12 not exceed the amount of the donation made by the taxpayer to a
13 scholarship organization. The total amount of the credit applied
14 against the taxes described in subsection 1 and otherwise due from a
15 taxpayer must not exceed the amount of the donation.

~~16 [7.]~~ 6. If the amount of the tax described in subsection 1 and
17 otherwise due from a taxpayer is less than the credit to which the
18 taxpayer is entitled pursuant to this section, the taxpayer may, after
19 applying the credit to the extent of the tax otherwise due, carry the
20 balance of the credit forward for not more than 5 years after the end
21 of the calendar year in which the donation is made or until the
22 balance of the credit is applied, whichever is earlier.

~~23 [8.]~~ 7. As used in this section, “scholarship organization” has
24 the meaning ascribed to it in NRS 388D.260.

25 **Sec. 3.** This act becomes effective on July 1, 2021.

