
SENATE BILL NO. 404—SENATORS HAMMOND, PICKARD, HANSEN;
KIECKHEFER, SEEVERS GANSERT AND SETTELMAYER

MARCH 21, 2019

JOINT SPONSORS: ASSEMBLYMEN HARDY, ROBERTS AND LEAVITT

Referred to Committee on Education

SUMMARY—Provides for the issuance of scholarships for certain career and technical education or early childhood education programs by scholarship organizations. (BDR 34-778)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 education; establishing a credit against the modified business tax for taxpayers who donate money to a scholarship organization; setting forth certain requirements for a scholarship organization and for programs that receive grants from a scholarship organization; requiring a scholarship organization to submit an annual report to the Department of Education; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, financial institutions and other employers are required to
2 pay an excise tax referred to as the modified business tax, on wages paid by them.
3 (NRS 363A.130, 363B.110) Existing law also establishes a tax credit equal to an
4 amount approved by the Department of Taxation, which must not exceed the
5 amount of any donation of money made by a taxpayer to a scholarship organization
6 for the purpose of providing grants on behalf of pupils who are members of a
7 household with a household income which is not more than 300 percent of the
8 federally designated level signifying poverty to attend certain schools in this State,
9 including private schools, chosen by the parents or legal guardians of those pupils.
10 (NRS 363A.139, 363B.119, 388D.270) This bill establishes a program of tax
11 credits for donations to scholarship organizations that provide grants on behalf of
12 pupils to enroll in an eligible program of early childhood education or career and
13 technical education.



14 Existing law imposes an excise tax on each wholesale sale of marijuana by a
15 cultivation facility to another medical marijuana establishment, each wholesale sale
16 of marijuana by a marijuana cultivation facility and each retail sale of marijuana or
17 marijuana products by a retail marijuana store. (NRS 372A.290, 453D.500) With
18 respect to that tax, **sections 8 and 11** of this bill establish a tax credit equal to an
19 amount approved by the Department of Taxation, which must not exceed the
20 amount of any donation of money made by a taxpayer to a scholarship
21 organization. To claim the tax credit, **sections 8 and 11** require a scholarship
22 organization to apply to the Department for approval of the credit for a taxpayer
23 who intends to make a donation to the scholarship organization. If the Department
24 approves the application, the scholarship organization must provide notice to the
25 prospective donor, who must make the donation within 30 days after receiving
26 the notice. If the donor does not make the donation within the requisite period, the
27 donor forfeits eligibility for the credit. The Department: (1) must approve or deny
28 applications for the tax credit in the order in which the applications are received by
29 the Department; and (2) is authorized to approve applications for each fiscal year
30 until \$7.5 million of tax credits are approved for that fiscal year.

31 **Section 5** of this bill establishes the requirements for a program of early
32 childhood education or career and technical education to be an eligible program.
33 **Section 6** of this bill provides that a scholarship organization: (1) must be exempt
34 from taxation pursuant to section 501(c)(3) of the Internal Revenue Code (26
35 U.S.C. § 501 (c)(3)); (2) must not own or operate any eligible program that receives
36 grants pursuant to **sections 2-7** of this bill; (3) must accept donations and may also
37 solicit and accept gifts and grants in addition to donations; (4) must not expend for
38 administrative expenses more than 5 percent of the money it receives; (5) must
39 provide grants on behalf of pupils who are members of a household with a
40 household income which is not more than 300 percent of the federally designated
41 level signifying poverty to attend eligible programs in this State; (6) must not limit
42 to a single eligible program the eligible programs for which it provides grants; and
43 (7) must not limit grants to specific pupils. **Section 6** also requires the maximum
44 amount of a grant provided by the scholarship organization to be adjusted each
45 fiscal year in an amount corresponding to the percentage of increase in the
46 Consumer Price Index published by the United States Department of Labor for the
47 preceding calendar year. With respect to donations, gifts and grants governed by
48 this bill, **section 6** also requires the organization to provide each person who makes
49 a donation, gift or grant with an affidavit attesting to certain information. For each
50 pupil who is a beneficiary of a grant, **section 6** requires that the eligible program in
51 which the pupil is enrolled maintain a record of the pupil's academic progress in
52 such a manner that the information may be aggregated for all such pupils enrolled
53 in the eligible program.

54 **Section 7** of this bill requires a scholarship organization to submit an annual
55 report to the Department of Education concerning the donations, gifts and grants
56 received by the organization and the grants made by it during the preceding year.
57 **Sections 9 and 10** of this bill provide specifically for application of the credit
58 against the taxes affected by this bill.



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

1 **Section 1.** Chapter 388D of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 7, inclusive,
3 of this act.

4 **Sec. 2.** *As used in sections 2 to 7, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 and 4 of this act have the meanings ascribed to them in*
7 *those sections.*

8 **Sec. 3.** *“Eligible program” means a program of early*
9 *childhood education or a program of career and technical*
10 *education that meets the requirements set forth in section 5 of this*
11 *act.*

12 **Sec. 4.** *“Scholarship organization” means an organization in*
13 *this State that meets the requirements set forth in section 6 of this*
14 *act.*

15 **Sec. 5. 1.** *A program of early childhood education is an*
16 *eligible program if the program:*

17 (a) *Requires the payment of tuition for each pupil enrolled in*
18 *the program;*

19 (b) *Is rated by the Nevada Silver State Stars Quality Rating*
20 *and Improvement System, or a successor system determined by the*
21 *Department to be equivalent, at a level that the Department*
22 *determines to be satisfactory; and*

23 (c) *Is operated by a public school or a private school that does*
24 *not offer any other program of early childhood education. For the*
25 *purpose of this paragraph, a public school or private school is*
26 *deemed not to offer any other program of early childhood*
27 *education if it currently operates a single program of early*
28 *childhood education and includes pupils on whose behalf a grant*
29 *is provided pursuant to section 6 of this act in such a program.*

30 **2.** *A program of career and technical education is an eligible*
31 *program if the program:*

32 (a) *Requires the payment of tuition for each pupil enrolled in*
33 *the program;*

34 (b) *Graduates pupils who earn a credential of value to*
35 *employers and:*

36 (1) *Complete the requirements for a standard high school*
37 *diploma; or*

38 (2) *Successfully complete a high school equivalency*
39 *assessment,*

40 ↳ *at a rate that the Office of Workforce Innovation determines to*
41 *be satisfactory; and*

42 (c) *Is offered to pupils enrolled in high school.*



1 **3. The Department and the Office of Workforce Innovation**
2 *shall adopt regulations to carry out the provisions of this section.*

3 **Sec. 6. 1. A scholarship organization must:**

4 **(a) Be exempt from taxation pursuant to section 501(c)(3) of**
5 *the Internal Revenue Code, 26 U.S.C. § 501(c)(3).*

6 **(b) Not own or operate any eligible program in this State**
7 *which receives any grant money pursuant to sections 2 to 7,*
8 *inclusive, of this act.*

9 **(c) Accept donations from taxpayers and other persons and**
10 *may also solicit and accept gifts and grants.*

11 **(d) Not expend more than 5 percent of the total amount of**
12 *money accepted pursuant to paragraph (c) to pay its*
13 *administrative expenses.*

14 **(e) Provide grants on behalf of pupils who are members of a**
15 *household that has a household income which is not more than*
16 *300 percent of the federally designated level signifying poverty to*
17 *allow those pupils to attend an eligible program. The total amount*
18 *of a grant provided by the scholarship organization on behalf of a*
19 *pupil pursuant to this paragraph must not exceed, for a pupil*
20 *enrolled in an eligible program of:*

21 **(1) Early childhood education, \$5,000 for Fiscal Year**
22 *2019-2020.*

23 **(2) Career and technical education, \$8,262 for Fiscal Year**
24 *2019-2020.*

25 **(f) Not limit to a single eligible program the eligible programs**
26 *for which it provides grants.*

27 **(g) Except as otherwise provided in paragraph (e), not limit to**
28 *specific pupils the grants provided pursuant to that paragraph.*

29 **2. The maximum amount of a grant provided by the**
30 *scholarship organization pursuant to paragraph (e) of subsection*
31 *1 must be adjusted on July 1 of each year for the fiscal year*
32 *beginning that day and ending June 30 in a rounded dollar*
33 *amount corresponding to the percentage of increase in the*
34 *Consumer Price Index (All Items) published by the United States*
35 *Department of Labor for the preceding calendar year. On May 1*
36 *of each year, the Department of Education shall determine the*
37 *amount of increase required by this subsection, establish the*
38 *adjusted amounts to take effect on July 1 of that year and notify*
39 *each scholarship organization of the adjusted amounts. The*
40 *Department of Education shall also post the adjusted amounts on*
41 *its Internet website.*

42 **3. A grant provided on behalf of a pupil pursuant to**
43 *subsection 1 must be paid directly to the eligible program chosen*
44 *by the parent or legal guardian of the pupil. If a grant is provided*
45 *on behalf of a pupil pursuant to subsection 1 to an eligible*



1 *program of early childhood education in which the pupil is*
2 *enrolled and the pupil or the family of the pupil receives any other*
3 *money or assistance from this State or any political subdivision of*
4 *this State, the grant supplements the other money or assistance*
5 *and the State or political subdivision must not count the amount of*
6 *the grant against the pupil or the family of the pupil when*
7 *determining the money or assistance provided to the pupil or the*
8 *family of the pupil.*

9 4. *A scholarship organization shall provide each taxpayer*
10 *and other person who makes a donation, gift or grant of money to*
11 *the scholarship organization pursuant to paragraph (c) of*
12 *subsection 1 with an affidavit, signed under penalty of perjury,*
13 *which includes, without limitation:*

14 (a) *A statement that the scholarship organization satisfies the*
15 *requirements set forth in subsection 1; and*

16 (b) *The total amount of the donation, gift or grant made to the*
17 *scholarship organization.*

18 5. *Each eligible program in which a pupil is enrolled for*
19 *whom a grant is provided by a scholarship organization shall*
20 *maintain a record of the academic progress of the pupil. The*
21 *record must be maintained in such a manner that the information*
22 *may be aggregated and reported for all such pupils if reporting is*
23 *required by the regulations of the Department of Education.*

24 6. *The Department of Education:*

25 (a) *Shall adopt regulations prescribing the contents of and*
26 *procedures for applications for grants provided pursuant to*
27 *subsection 1.*

28 (b) *May adopt such other regulations as the Department*
29 *determines necessary to carry out the provisions of this section.*

30 **Sec. 7.** *A scholarship organization which receives a*
31 *donation, gift or grant of money described in section 6 of this act*
32 *shall report to the Department of Education, on or before*
33 *January 31 of each year, on a form prescribed by the Department:*

34 1. *The name, address and contact information of the*
35 *scholarship organization;*

36 2. *The total number of such donations, gifts and grants*
37 *received by the scholarship organization during the immediately*
38 *preceding calendar year;*

39 3. *The total dollar amount of such donations, gifts and grants*
40 *received during the immediately preceding calendar year;*

41 4. *The total number of pupils for whom the scholarship*
42 *organization made grants during the immediately preceding*
43 *calendar year pursuant to section 6 of this act;*

44 5. *The total dollar amount of such grants made during the*
45 *immediately preceding calendar year; and*



1 6. *For each eligible program for which such a grant was*
2 *made during the immediately preceding calendar year:*

3 (a) *The name and address of the eligible program;*

4 (b) *The number of pupils enrolled in the eligible program for*
5 *whom such a grant was made; and*

6 (c) *The total dollar amount of such grants provided for pupils*
7 *enrolled in the eligible program.*

8 **Sec. 8.** Chapter 372A of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 1. *Any taxpayer who is required to pay a tax pursuant to NRS*
11 *372A.290 may receive a credit against the tax otherwise due for*
12 *any donation of money made by the taxpayer to a scholarship*
13 *organization in the manner provided by this section.*

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

35 3. *The Department of Taxation shall approve or deny*
36 *applications for the credit authorized by subsection 1 in the order*
37 *in which the applications are received.*

38 4. *The Department of Taxation may, for each fiscal year,*
39 *approve applications for the credit authorized by subsection 1 until*
40 *the total amount of the credits authorized by subsection 1 and*
41 *approved by the Department of Taxation is \$7,500,000. The*
42 *amount of any credit which is forfeited pursuant to subsection 2*
43 *must not be considered in calculating the amount of credits*
44 *authorized for any fiscal year.*



1 5. *If a taxpayer applies to and is approved by the Department*
2 *of Taxation for the credit authorized by subsection 1, the amount*
3 *of the credit provided by this section is equal to the amount*
4 *approved by the Department of Taxation pursuant to subsection 2,*
5 *which must not exceed the amount of the donation made by the*
6 *taxpayer to a scholarship organization. The total amount of the*
7 *credit applied against the taxes described in subsection 1 and*
8 *otherwise due from a taxpayer must not exceed the amount of the*
9 *donation.*

10 6. *If the amount of the tax described in subsection 1 and*
11 *otherwise due from a taxpayer is less than the credit to which the*
12 *taxpayer is entitled pursuant to this section, the taxpayer may,*
13 *after applying the credit to the extent of the tax otherwise due,*
14 *carry the balance of the credit forward for not more than 5 years*
15 *after the end of the calendar year in which the donation is made*
16 *or until the balance of the credit is applied, whichever is earlier.*

17 7. *As used in this section, "scholarship organization" has the*
18 *meaning ascribed to it in section 4 of this act.*

19 **Sec. 9.** NRS 372A.290 is hereby amended to read as follows:

20 372A.290 1. An excise tax is hereby imposed on each
21 wholesale sale in this State of marijuana by a cultivation facility to
22 another medical marijuana establishment at the rate of 15 percent of
23 the fair market value at wholesale of the marijuana. The excise tax
24 imposed pursuant to this subsection is the obligation of the
25 cultivation facility.

26 2. An excise tax is hereby imposed on each retail sale in this
27 State of marijuana or marijuana products by a retail marijuana store
28 at the rate of 10 percent of the sales price of the marijuana or
29 marijuana products. The excise tax imposed pursuant to this
30 subsection:

31 (a) Is the obligation of the retail marijuana store.

32 (b) Is separate from and in addition to any general state and
33 local sales and use taxes that apply to retail sales of tangible
34 personal property.

35 3. The revenues collected from the excise tax imposed pursuant
36 to subsection 1 must be distributed:

37 (a) To the Department and to local governments in an amount
38 determined to be necessary by the Department to pay the costs of
39 the Department and local governments in carrying out the provisions
40 of chapter 453A of NRS; and

41 (b) If any money remains after the revenues are distributed
42 pursuant to paragraph (a), to the State Treasurer to be deposited to
43 the credit of the State Distributive School Account in the State
44 General Fund.



1 4. For the purpose of subsection 3 and NRS 453D.510, a total
2 amount of \$5,000,000 of the revenues collected from the excise tax
3 imposed pursuant to subsection 1 and the excise tax imposed
4 pursuant to NRS 453D.500 in each fiscal year shall be deemed
5 sufficient to pay the costs of all local governments to carry out the
6 provisions of chapters 453A and 453D of NRS. The Department
7 shall, by regulation, determine the manner in which local
8 governments may be reimbursed for the costs of carrying out the
9 provisions of chapters 453A and 453D of NRS.

10 5. The revenues collected from the excise tax imposed pursuant
11 to subsection 2 must be paid over as collected to the State Treasurer
12 to be deposited to the credit of the Account to Stabilize the
13 Operation of the State Government created in the State General
14 Fund pursuant to NRS 353.288.

15 6. *A taxpayer who makes a donation of money to a*
16 *scholarship organization during the calendar quarter for which a*
17 *return is filed pursuant to this section is entitled, in accordance*
18 *with section 8 of this act, to a credit equal to the amount*
19 *authorized pursuant to section 8 of this act against any tax*
20 *otherwise due pursuant to this section. As used in this subsection,*
21 *“scholarship organization” has the meaning ascribed to it in*
22 *section 4 of this act.*

23 7. As used in this section:

24 (a) “Local government” has the meaning ascribed to it in
25 NRS 360.640.

26 (b) “Marijuana products” has the meaning ascribed to it in
27 NRS 453D.030.

28 (c) “Medical marijuana establishment” has the meaning ascribed
29 to it in NRS 453A.116.

30 **Sec. 10.** NRS 453D.500 is hereby amended to read as follows:

31 453D.500 1. An excise tax is hereby imposed and must be
32 collected by the State respecting wholesale sales of marijuana in this
33 State by a marijuana cultivation facility at a rate of 15 percent of the
34 fair market value at wholesale of the marijuana. The tax imposed
35 pursuant to this section:

36 ~~H-1~~ (a) Is the obligation of the marijuana cultivation facility;
37 and

38 ~~F-2~~ (b) Is separate from and in addition to any general state and
39 local sales and use taxes that apply to retail sales of tangible
40 personal property.

41 2. *A marijuana cultivation facility who makes a donation of*
42 *money to a scholarship organization during the calendar quarter*
43 *for which a return is filed for the excise tax imposed pursuant to*
44 *this section is entitled, in accordance with section 8 of this act, to a*
45 *credit equal to the amount authorized pursuant to section 8 of this*



1 *act against any tax otherwise due pursuant to this section. As used*
2 *in this subsection, "scholarship organization" has the meaning*
3 *ascribed to it in section 4 of this act.*

4 **Sec. 11.** Section 8 of this act is hereby amended to read as
5 follows:

6 Sec. 8. 1. Any taxpayer who is required to pay a tax
7 pursuant to NRS 372A.290 *or 453D.500* may receive a credit
8 against the tax otherwise due for any donation of money
9 made by the taxpayer to a scholarship organization in the
10 manner provided by this section.

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

33 3. The Department of Taxation shall approve or deny
34 applications for the credit authorized by subsection 1 in the
35 order in which the applications are received.

36 4. The Department of Taxation may, for each fiscal year,
37 approve applications for the credit authorized by subsection 1
38 until the total amount of the credits authorized by subsection
39 1 and approved by the Department of Taxation is \$7,500,000.
40 The amount of any credit which is forfeited pursuant to
41 subsection 2 must not be considered in calculating the amount
42 of credits authorized for any fiscal year.

43 5. If a taxpayer applies to and is approved by the
44 Department of Taxation for the credit authorized by
45 subsection 1, the amount of the credit provided by this section



1 is equal to the amount approved by the Department of
2 Taxation pursuant to subsection 2, which must not exceed the
3 amount of the donation made by the taxpayer to a scholarship
4 organization. The total amount of the credit applied against
5 the taxes described in subsection 1 and otherwise due from a
6 taxpayer must not exceed the amount of the donation.

7 6. If the amount of the tax described in subsection 1 and
8 otherwise due from a taxpayer is less than the credit to which
9 the taxpayer is entitled pursuant to this section, the taxpayer
10 may, after applying the credit to the extent of the tax
11 otherwise due, carry the balance of the credit forward for not
12 more than 5 years after the end of the calendar year in which
13 the donation is made or until the balance of the credit is
14 applied, whichever is earlier.

15 7. As used in this section [~~-, "scholarship"~~]:

16 (a) "*Scholarship* organization" has the meaning ascribed
17 to it in section 4 of this act.

18 (b) "*Taxpayer*" includes a marijuana cultivation facility,
19 as defined in NRS 453D.030.

20 **Sec. 12.** 1. This section and sections 1 to 9, inclusive, of this
21 act become effective on July 1, 2019.

22 2. Sections 10 and 11 of this act become effective on
23 January 2, 2020.



