

ASSEMBLY BILL NO. 231—ASSEMBLYMEN GANSERT, HARDY,
MABEY, ALLEN, BEERS, CARPENTER, CHRISTENSEN, COBB,
CONKLIN, GOEDHART, GOICOECHEA, GRADY, KIRKPATRICK,
MARVEL, PARNELL, SETTELMAYER, STEWART AND WEBER

MARCH 1, 2007

Referred to Committee on Ways and Means

SUMMARY—Provides an employer with an increased tax deduction for payments he makes for health insurance or a health benefit plan for his employees. (BDR 32-407)

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; increasing the amount of the deduction from certain excise taxes that an employer may take for payments he makes for health insurance or a health benefit plan for his employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, an employer is required to pay an excise tax on the wages
- 2 he pays to his employees, but is allowed a tax deduction for payments he makes for
- 3 health insurance or a health benefit plan for his employees. (NRS 363A.130,
- 4 363A.135, 363B.110, 363B.115) This bill doubles the amount of the tax deduction.

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

- 1 **Section 1.** NRS 363A.135 is hereby amended to read as
- 2 follows:
- 3 363A.135 1. Except as otherwise provided in subsection 2,
- 4 an employer may deduct from the total amount of wages reported
- 5 and upon which the excise tax is imposed pursuant NRS 363A.130



1 *an amount equal to two times* any amount authorized pursuant to
2 this section that is paid by the employer for health insurance or a
3 health benefit plan for its employees in the calendar quarter for
4 which the tax is paid. The amounts for which the deduction is
5 allowed include:

6 (a) For a self-insured employer, all amounts paid during the
7 calendar quarter for claims, direct administrative services costs,
8 including such services provided by the employer, and any
9 premiums paid for individual or aggregate stop-loss insurance
10 coverage. An employer is not authorized to deduct the costs of a
11 program of self-insurance unless the program is a qualified
12 employee welfare benefit plan pursuant to the Employee Retirement
13 Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

14 (b) The premiums for a policy of health insurance or reinsurance
15 for a health benefit plan for employees.

16 (c) Any amounts which are:

17 (1) Paid by an employer to a Taft-Hartley trust which:

18 (I) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

19 (II) Qualifies as an employee welfare benefit plan; and

20 (2) Considered by the Internal Revenue Service to be fully
21 tax deductible pursuant to the provisions of the Internal Revenue
22 Code.

23 (d) Such other similar payments for health care or insurance for
24 health care for employees as are authorized by the Department.

25 2. An employer may not deduct from the wages upon which
26 the excise tax is imposed pursuant to NRS 363A.130:

27 (a) Amounts paid for health care or premiums paid for insurance
28 for an industrial injury or occupational disease for which coverage is
29 required pursuant to chapters 616A to 616D, inclusive, or 617 of
30 NRS; or

31 (b) Any payments made by employees for health care or health
32 insurance or amounts deducted from the wages of employees for
33 such health care or insurance.

34 3. If the amount of the deduction allowed pursuant to this
35 section to an employer for a calendar quarter exceeds the amount of
36 reported wages for that calendar quarter, the excess amount of that
37 deduction may be carried forward to the following calendar quarter
38 until the deduction is exhausted. An employer claiming the
39 deduction allowed pursuant to this section shall, upon the request of
40 the Department, explain the amount claimed to the satisfaction of
41 the Department and provide the Department with such
42 documentation as the Department deems appropriate for that
43 purpose.

44 4. As used in this section:



(a) "Claims" means claims for those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

(b) "Direct administrative services costs" means, if borne directly by a self-insured employer and reasonably allocated to the direct administration of claims:

(1) Payments for medical or office supplies that will be consumed in the course of the provision of medical care or the direct administration of claims;

(2) Payments to third-party administrators or independent contractors for the provision of medical care or the direct administration of claims;

(3) Rent and utility payments for the maintenance of medical or office space used for the provision of medical care or the direct administration of claims;

(4) Payments for the maintenance, repair and upkeep of medical or office space used for the provision of medical care or the direct administration of claims;

(5) Salaries and wages paid to medical, clerical and administrative staff and other personnel employed to provide medical care or directly to administer claims; and

(6) The depreciation of property other than medical or office supplies, used for the provision of medical care or the direct administration of claims.

(c) "Employee welfare benefit plan" has the meaning ascribed to it in 29 U.S.C. § 1002.

(d) "Employees" means employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363A.130, and their spouses, children and other dependents who qualify for coverage under the terms of the health insurance or health benefit plan provided by that employer.

(e) "Health benefit plan" means a health benefit plan that covers only those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

(f) "Self-insured employer" means an employer that provides a program of self-insurance for its employees.

Sec. 2. NRS 363B.115 is hereby amended to read as follows:

363B.115 1. Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363B.110 **an**



1 **amount equal to two times** any amount authorized pursuant to this
2 section that is paid by the employer for health insurance or a health
3 benefit plan for its employees in the calendar quarter for which the
4 tax is paid. The amounts for which the deduction is allowed include:

5 (a) For a self-insured employer, all amounts paid during the
6 calendar quarter for claims, direct administrative services costs,
7 including such services provided by the employer, and any
8 premiums paid for individual or aggregate stop-loss insurance
9 coverage. An employer is not authorized to deduct the costs of a
10 program of self-insurance unless the program is a qualified
11 employee welfare benefit plan pursuant to the Employee Retirement
12 Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

13 (b) The premiums for a policy of health insurance or reinsurance
14 for a health benefit plan for employees.

15 (c) Any amounts which are:

16 (1) Paid by an employer to a Taft-Hartley trust which:

17 (I) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

18 (II) Qualifies as an employee welfare benefit plan; and

19 (2) Considered by the Internal Revenue Service to be fully
20 tax deductible pursuant to the provisions of the Internal Revenue
21 Code.

22 (d) Such other similar payments for health care or insurance for
23 health care for employees as are authorized by the Department.

24 2. An employer may not deduct from the wages upon which
25 the excise tax is imposed pursuant to NRS 363B.110:

26 (a) Amounts paid for health care or premiums paid for insurance
27 for an industrial injury or occupational disease for which coverage is
28 required pursuant to chapters 616A to 616D, inclusive, or 617 of
29 NRS; or

30 (b) Any payments made by employees for health care or health
31 insurance or amounts deducted from the wages of employees for
32 such health care or insurance.

33 3. If the amount of the deduction allowed pursuant to this
34 section to an employer for a calendar quarter exceeds the amount of
35 reported wages for that calendar quarter, the excess amount of that
36 deduction may be carried forward to the following calendar quarter
37 until the deduction is exhausted. An employer claiming the
38 deduction allowed pursuant to this section shall, upon the request of
39 the Department, explain the amount claimed to the satisfaction of
40 the Department and provide the Department with such
41 documentation as the Department deems appropriate for that
42 purpose.

43 4. As used in this section:

44 (a) "Claims" means claims for those categories of health care
45 expenses that are generally deductible by employees on their



1 individual federal income tax returns pursuant to the provisions of
2 26 U.S.C. § 213 and any federal regulations relating thereto, if those
3 expenses had been borne directly by those employees.

4 (b) "Direct administrative services costs" means, if borne
5 directly by a self-insured employer and reasonably allocated to the
6 direct administration of claims:

7 (1) Payments for medical or office supplies that will be
8 consumed in the course of the provision of medical care or the direct
9 administration of claims;

10 (2) Payments to third-party administrators or independent
11 contractors for the provision of medical care or the direct
12 administration of claims;

13 (3) Rent and utility payments for the maintenance of medical
14 or office space used for the provision of medical care or the direct
15 administration of claims;

16 (4) Payments for the maintenance, repair and upkeep of
17 medical or office space used for the provision of medical care or the
18 direct administration of claims;

19 (5) Salaries and wages paid to medical, clerical and
20 administrative staff and other personnel employed to provide
21 medical care or directly to administer claims; and

22 (6) The depreciation of property other than medical or office
23 supplies, used for the provision of medical care or the direct
24 administration of claims.

25 (c) "Employee welfare benefit plan" has the meaning ascribed to
26 it in 29 U.S.C. § 1002.

27 (d) "Employees" means employees whose wages are included
28 within the measure of the excise tax imposed upon an employer by
29 NRS 363B.110, and their spouses, children and other dependents
30 who qualify for coverage under the terms of the health insurance or
31 health benefit plan provided by that employer.

32 (e) "Health benefit plan" means a health benefit plan that covers
33 only those categories of health care expenses that are generally
34 deductible by employees on their individual federal income tax
35 returns pursuant to the provisions of 26 U.S.C. § 213 and any
36 federal regulations relating thereto, if those expenses had been borne
37 directly by those employees.

38 (f) "Self-insured employer" means an employer that provides a
39 program of self-insurance for its employees.

40 **Sec. 3.** This act becomes effective on July 1, 2007.

