

SENATE BILL NO. 211—SENATORS TITUS, WIENER, CARE,
COFFIN, LEE, MATHEWS, SCHNEIDER AND WOODHOUSE

MARCH 5, 2007

JOINT SPONSORS: ASSEMBLYMEN PARKS, OCEGUERA, ARBERRY,
MANENDO, BUCKLEY, ANDERSON, ATKINSON, BOBZIEN,
CLABORN, CONKLIN, DENIS, GERHARDT, HOGAN, HORNE,
KIHUEN, KIRKPATRICK, KOIVISTO, LESLIE, MCCLAIN,
MORTENSON, MUNFORD, OHRENSCHALL, PARNELL,
PIERCE, SEGERBLOM, SMITH AND WOMACK

Referred to Committee on Taxation

SUMMARY—Authorizes deductions from the state taxes on
financial institutions and other businesses for certain
expenditures by employers for the provision of day
care to the children of their employees.
(BDR 32-676)

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 the taxation of businesses; authorizing
deductions from the state taxes on financial institutions
and other businesses for certain expenditures by
employers for the provision of day care to the children of
their employees; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

- 1 Existing law imposes excise taxes on financial institutions and other businesses
- 2 based upon the amount of wages they pay to their employees each calendar quarter.
- 3 (NRS 363A.130, 363B.110) Existing law authorizes deductions from these taxes
- 4 for certain amounts paid for health insurance and health benefit plans for
- 5 employees and their dependents. (NRS 363A.135, 363B.115)
- 6 This bill authorizes additional deductions from these taxes for certain amounts
- 7 paid for the provision of day care to the children of employees. This bill allows any
- 8 unused amount of such a deduction to be carried forward each calendar quarter



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9 until exhausted and requires an employer who claims such a deduction to provide
10 an explanation and appropriate documentation of the amount claimed upon the
11 request of the Department of Taxation.

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 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *Except as otherwise provided in subsection 2, an*
4 *employer may deduct from the total amount of wages reported and*
5 *upon which the excise tax is imposed pursuant to NRS 363A.130*
6 *any amount authorized pursuant to this section that is paid by the*
7 *employer for day care for the children of its employees in the*
8 *calendar quarter for which the tax is paid. The amounts for which*
9 *the deduction is allowed include:*

10 (a) *For an employer that provides on-site day care without*
11 *charge to its employees, the reasonable and necessary costs for*
12 *designing, constructing, maintaining, repairing and operating the*
13 *facilities and services for such on-site day care, including the costs*
14 *of:*

15 (1) *Professional services, labor and materials used or*
16 *consumed in the design, construction, maintenance and repair of*
17 *those facilities;*

18 (2) *Wages, salaries, compensation and benefits for the*
19 *employees or independent contractors who operate those facilities;*

20 (3) *Personal property and supplies used or consumed in the*
21 *operation of those facilities;*

22 (4) *Lease and rental payments for the space used in the*
23 *operation of those facilities;*

24 (5) *Utility payments for the space used in the operation of*
25 *those facilities;*

26 (6) *Property and casualty insurance associated with the*
27 *operation of those facilities;*

28 (7) *Fees for any inspections, licenses, permits and other*
29 *approvals required by law for the operation of those facilities; and*

30 (8) *Any other appropriate expenses, as determined by the*
31 *Department.*

32 (b) *For an employer that pays for off-site day care or*
33 *reimburses its employees for off-site day care, the reasonable and*
34 *necessary costs for such off-site day care, as determined by the*
35 *Department.*

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



1 (a) Any amounts deducted from the wages of employees for
2 day care; or

3 (b) Any payments made by employees for day care, except for
4 the reasonable and necessary costs for off-site day care, as
5 determined by the Department, which are reimbursed by the
6 employer.

7 3. As used in this section:

8 (a) "Child" means a person under the age of 18 years who:

9 (1) Is related to an employee by blood, marriage or
10 adoption within the third degree of consanguinity or affinity; or

11 (2) Is a stepchild, foster child, ward or dependent of an
12 employee,

13 and who resides in the same household as the employee.

14 (b) "Day care" means the provision of day care services to a
15 child in compliance with all federal, state and local laws and
16 regulations governing the licensure and regulation of child care
17 facilities and services.

18 (c) "Employee" means an employee whose wages are included
19 within the measure of the excise tax imposed upon an employer by
20 NRS 363A.130.

21 (d) "Off-site day care" means day care provided to a child of
22 an employee at a location other than the place of employment.

23 (e) "On-site day care" means day care provided to a child of
24 an employee at the place of employment.

25 **Sec. 3.** 1. If the amount of the deductions allowed pursuant
26 to NRS 363A.135 and section 2 of this act to an employer for a
27 calendar quarter exceeds the amount of reported wages for that
28 calendar quarter, the excess amount of those deductions may be
29 carried forward to the following calendar quarter until the
30 deductions are exhausted.

31 2. An employer claiming a deduction allowed pursuant to
32 NRS 363A.135 or section 2 of this act shall, upon the request of
33 the Department, explain the amount claimed to the satisfaction of
34 the Department and provide the Department with such
35 documentation as the Department deems appropriate for that
36 purpose.

37 **Sec. 4.** NRS 363A.135 is hereby amended to read as follows:

38 363A.135 1. Except as otherwise provided in subsection 2,
39 an employer may deduct from the total amount of wages reported
40 and upon which the excise tax is imposed pursuant NRS 363A.130
41 any amount authorized pursuant to this section that is paid by the
42 employer for health insurance or a health benefit plan for its
43 employees in the calendar quarter for which the tax is paid. The
44 amounts for which the deduction is allowed include:



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

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

(c) Any amounts which are:

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

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

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

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

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

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

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

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

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

~~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.



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(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. 5. Chapter 363B of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. 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 any amount authorized pursuant to this section that is paid by the employer for day care for the children of its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:*



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(a) For an employer that provides on-site day care without charge to its employees, the reasonable and necessary costs for designing, constructing, maintaining, repairing and operating the facilities and services for such on-site day care, including the costs of:

(1) Professional services, labor and materials used or consumed in the design, construction, maintenance and repair of those facilities;

(2) Wages, salaries, compensation and benefits for the employees or independent contractors who operate those facilities;

(3) Personal property and supplies used or consumed in the operation of those facilities;

(4) Lease and rental payments for the space used in the operation of those facilities;

(5) Utility payments for the space used in the operation of those facilities;

(6) Property and casualty insurance associated with the operation of those facilities;

(7) Fees for any inspections, licenses, permits and other approvals required by law for the operation of those facilities; and

(8) Any other appropriate expenses, as determined by the Department.

(b) For an employer that pays for off-site day care or reimburses its employees for off-site day care, the reasonable and necessary costs for such off-site day care, as determined by the Department.

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

(a) Any amounts deducted from the wages of employees for day care; or

(b) Any payments made by employees for day care, except for the reasonable and necessary costs for off-site day care, as determined by the Department, which are reimbursed by the employer.

3. As used in this section:

(a) "Child" means a person under the age of 18 years who:

(1) Is related to an employee by blood, marriage or adoption within the third degree of consanguinity or affinity; or

(2) Is a stepchild, foster child, ward or dependent of an employee,

↪ and who resides in the same household as the employee.

(b) "Day care" means the provision of day care services to a child in compliance with all federal, state and local laws and regulations governing the licensure and regulation of child care facilities and services.



(c) "Employee" means an employee whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363B.110.

(d) "Off-site day care" means day care provided to a child of an employee at a location other than the place of employment.

(e) "On-site day care" means day care provided to a child of an employee at the place of employment.

Sec. 7. 1. If the amount of the deductions allowed pursuant to NRS 363B.115 and section 6 of this act to an employer for a calendar quarter exceeds the amount of reported wages for that calendar quarter, the excess amount of those deductions may be carried forward to the following calendar quarter until the deductions are exhausted.

2. An employer claiming a deduction allowed pursuant to NRS 363B.115 or section 6 of this act shall, upon the request of the Department, explain the amount claimed to the satisfaction of the Department and provide the Department with such documentation as the Department deems appropriate for that purpose.

Sec. 8. 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 any amount authorized pursuant to this section that is paid by the employer for health insurance or a health benefit plan for its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:

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

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

(c) Any amounts which are:

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

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

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

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



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

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

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

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

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

~~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 363B.110, 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. 9. This act becomes effective on January 1, 2008.

