

Amendment No. 218

Assembly Amendment to Assembly Bill No. 269

(BDR 32-1142)

Proposed by: Assembly Committee on Taxation**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

SJC/BJE



Date: 4/15/2007

A.B. No. 269—Authorizes deductions from the state taxes on financial institutions and other businesses for certain qualified employee housing assistance provided by employers. (BDR 32-1142)



ASSEMBLY BILL NO. 269—ASSEMBLYMEN BUCKLEY, LESLIE, HORNE, ANDERSON, SMITH, ALLEN, ARBERRY, ATKINSON, BOBZIEN, CLABORN, CONKLIN, DENIS, GERHARDT, HOGAN, KIHUEN, KIRKPATRICK, KOIVISTO, MANENDO, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARKS, PARNELL, PIERCE, SEGERBLOM AND WOMACK

MARCH 8, 2007

JOINT SPONSORS: SENATORS SCHNEIDER, COFFIN, CARE, HORSFORD, LEE, TITUS, TOWNSEND, WIENER AND WOODHOUSE

Referred to Committee on Taxation

SUMMARY—Authorizes ~~[deductions from]~~ **credits against** the state taxes on financial institutions and other businesses for certain qualified employee housing assistance provided by employers. (BDR 32-1142)

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; authorizing ~~[deductions from]~~ **credits against** the state taxes on financial institutions and other businesses for certain qualified employee housing assistance provided by employers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes excise taxes on financial institutions and other businesses based upon the amount of wages they pay to their employees each calendar quarter. (NRS 363A.130, 363B.110) ~~[Existing law authorizes deductions from these taxes for certain amounts paid for health insurance and health benefit plans for employees and their dependents. (NRS 363A.125, 363B.115)]~~

Sections 2 and 6 of this bill authorize ~~[additional deductions from]~~ **credits against** these taxes for certain donations made for the provision of housing assistance to employees. **Sections 2 and 6** require that such a donation must be made to certain nonprofit organizations or Taft-Hartley trusts that administer the provision of that housing assistance, and specify the types of housing assistance that may qualify for the ~~[deductions]~~ **credits**. **Sections 2 and 6** further require the prior approval of the Housing Division of the Department of Business and Industry of the specific types of housing assistance provided, and ~~[provide for]~~ **impose** limitations on the **total** amount of tax ~~[deductions]~~ **credits** available each fiscal year. **Sections 3 and 7** of this bill ~~[allow any unused amount of such a deduction to be carried forward each calendar quarter until exhausted and]~~ require an employer who claims such a ~~[deduction]~~ **credit** to provide an explanation and appropriate documentation of the amount claimed upon the 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 adding thereto the
2 provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** ~~Except as otherwise provided in subsection 2, an employer may~~
4 ~~{deduct from the total amount of wages reported and upon which}~~ receive credit
5 against the excise tax ~~{is imposed}~~ otherwise required to be paid by the employer
6 pursuant to NRS 363A.130 in an amount equal to 50 percent of the monetary
7 value of any qualified employee housing assistance provided by the employer ~~{for~~
8 ~~the benefit of its employees}~~ in the calendar quarter for which the tax is ~~{paid.}~~
9 due.

10 **2.** ~~An employer may not {deduct from the wages upon which the excise}~~
11 receive any tax ~~{is imposed pursuant to NRS 363A.130.}~~ credit for:

12 (a) Any amount deducted from the wages of an employee.

13 (b) Any amount expended ~~for a project that has not been approved by the~~
14 Housing Division pursuant to subsection 3.

15 (c) ~~{Except for any amount carried forward from a previous calendar quarter~~
16 ~~pursuant to section 3 of this act, any}~~ Any amount that exceeds the amount
17 allocated for a project by the Housing Division pursuant to subsection 3.

18 **3.** A sponsor must apply to the Housing Division for the approval of a
19 project. The Housing Division shall allocate a specific dollar amount of tax
20 ~~{deductions}~~ credit available for a fiscal year for each project it approves. An
21 allocation for general operating support may be made only in connection with an
22 allocation for an employer-assisted housing program or for technical assistance,
23 and must not exceed 10 percent of the amount allocated for the related employer-
24 assisted housing program or technical assistance. The Housing Division shall not
25 allocate pursuant to this subsection any total sum of tax ~~{deductions}~~ credit for
26 any fiscal year:

27 (a) In excess of \$4,000,000 for all employer-assisted housing programs it
28 approves.

29 (b) In excess of \$1,000,000 for all technical assistance and general operating
30 support it approves.

31 **4.** The Department, with the advice and assistance of the Housing Division,
32 shall adopt such regulations as it deems appropriate to carry out the provisions of
33 this section.

34 **5.** As used in this section:

35 (a) "Employee" means ~~{an}~~ any employee whose wages are included within
36 the measure of the excise tax imposed upon ~~{an}~~ any employer by NRS 363A.130,
37 and the members of the household of the employee.

38 (b) "Employer-assisted housing program" means a program for the
39 provision of down-payment assistance, closing-cost assistance, reduced-interest
40 mortgages, mortgage guarantees, rental subsidies or individual development
41 account savings plans, or any combination thereof, by a sponsor ~~{on behalf of an~~
42 ~~employer}~~ to assist in securing affordable housing in this State for employees
43 whose gross household income does not exceed 120 percent of the median
44 income, as adjusted for the size of the household, for the county in which the
45 applicable housing is located, as determined in accordance with the guidelines
46 most recently published by the United States Department of Housing and Urban
47 Development.

48 (c) "Fiscal year" means the 12-month period beginning on the first day of
49 July and ending on the last day of June.

(d) "General operating support" means any cost incurred by a sponsor as a part of its general costs of operation. The term is not limited to the direct costs of an employer-assisted housing program or technical assistance.

(e) "Housing Division" means the Housing Division of the Department of Business and Industry.

(f) "Project" means:

- (1) An employer-assisted housing program;
- (2) Technical assistance; or
- (3) General operating support.

(g) "Qualified employee housing assistance" means a donation of money, securities or real or personal property, or any combination thereof, to a sponsor which is used solely to pay for the costs of a project.

(h) "Sponsor" means a nonprofit organization that is organized under the laws of this State or of any other state, or a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(7)(C), for which one of the purposes of the organization or trust is education in home ownership.

(i) "Tax ~~[deduction]~~ credit" means the ~~[deduction]~~ credit authorized by subsection 1.

(j) "Technical assistance" means any costs incurred by a sponsor for:

- (1) Project planning;
- (2) Providing assistance to employees in applying for financing to obtain housing; or
- (3) Providing counseling services to employees who are prospective homebuyers.

~~Sec. 3. [1. If the amount of the deductions allowed pursuant to NRS 363A.135 and section 2 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 363A.135 or a credit allowed pursuant to section 2 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. 4. NRS 363A.135 is hereby amended to read as follows:

363A.135 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 363A.130 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

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

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

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

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

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

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

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

21 4. As used in this section:

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

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

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

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

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

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

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

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

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

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

47 (e) "Health benefit plan" means a health benefit plan that covers only those
48 categories of health care expenses that are generally deductible by employees on
49 their individual federal income tax returns pursuant to the provisions of 26 U.S.C. §
50 213 and any federal regulations relating thereto, if those expenses had been borne
51 directly by those employees.

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

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

3 **Sec. 6.** 1. ~~Except as otherwise provided in subsection 2, an employer may~~
4 ~~[deduct from the total amount of wages reported and upon which]~~ receive credit
5 against the excise tax [is imposed] otherwise required to be paid by the employer
6 pursuant to NRS 363B.110 in an amount equal to 50 percent of the monetary
7 value of any qualified employee housing assistance provided by the employer [for
8 the benefit of its employees] in the calendar quarter for which the tax is ~~[paid]~~
9 due.

10 2. An employer may not ~~[deduct from the wages upon which the excise]~~
11 receive any tax [is imposed pursuant to NRS 363B.110.] credit for:

12 (a) Any amount deducted from the wages of an employee.

13 (b) Any amount expended for a project that has not been approved by the
14 Housing Division pursuant to subsection 3.

15 (c) ~~[Except for any amount carried forward from a previous calendar quarter~~
16 ~~pursuant to section 7 of this act, any]~~ Any amount that exceeds the amount
17 allocated for a project by the Housing Division pursuant to subsection 3.

18 3. A sponsor must apply to the Housing Division for the approval of a
19 project. The Housing Division shall allocate a specific dollar amount of tax
20 ~~[deductions]~~ credit available for a fiscal year for each project it approves. An
21 allocation for general operating support may be made only in connection with an
22 allocation for an employer-assisted housing program or for technical assistance,
23 and must not exceed 10 percent of the amount allocated for the related employer-
24 assisted housing program or technical assistance. The Housing Division shall not
25 allocate pursuant to this subsection any total sum of tax ~~[deductions]~~ credit for
26 any fiscal year:

27 (a) In excess of \$4,000,000 for all employer-assisted housing programs it
28 approves.

29 (b) In excess of \$1,000,000 for all technical assistance and general operating
30 support it approves.

31 4. The Department, with the advice and assistance of the Housing Division,
32 shall adopt such regulations as it deems appropriate to carry out the provisions of
33 this section.

34 5. As used in this section:

35 (a) "Employee" means ~~[an]~~ any employee whose wages are included within
36 the measure of the excise tax imposed upon ~~[an]~~ any employer by NRS 363B.110,
37 and the members of the household of the employee.

38 (b) "Employer-assisted housing program" means a program for the
39 provision of down-payment assistance, closing-cost assistance, reduced-interest
40 mortgages, mortgage guarantees, rental subsidies or individual development
41 account savings plans, or any combination thereof, by a sponsor ~~[on behalf of an~~
42 ~~employer]~~ to assist in securing affordable housing in this State for employees
43 whose gross household income does not exceed 120 percent of the median
44 income, as adjusted for the size of the household, for the county in which the
45 applicable housing is located, as determined in accordance with the guidelines
46 most recently published by the United States Department of Housing and Urban
47 Development.

48 (c) "Fiscal year" means the 12-month period beginning on the first day of
49 July and ending on the last day of June.

50 (d) "General operating support" means any costs incurred by a sponsor as a
51 part of its general costs of operation. The term is not limited to the direct costs of
52 an employer-assisted housing program or technical assistance.

(e) *"Housing Division" means the Housing Division of the Department of Business and Industry.*

(f) *"Project" means:*

- (1) *An employer-assisted housing program;*
- (2) *Technical assistance; or*
- (3) *General operating support.*

(g) *"Qualified employee housing assistance" means a donation of money, securities or real or personal property, or any combination thereof, to a sponsor which is used solely to pay for the costs of a project.*

(h) *"Sponsor" means a nonprofit organization that is organized under the laws of this State or of any other state, or a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(7)(C), for which one of the purposes of the organization or trust is education in home ownership.*

(i) *"Tax ~~deduction~~" credit" means the ~~deduction~~ credit authorized by subsection 1.*

(j) *"Technical assistance" means any costs incurred by a sponsor for:*

- (1) *Project planning;*
- (2) *Providing assistance to employees in applying for financing to obtain housing; or*
- (3) *Providing counseling services to employees who are prospective homebuyers.*

~~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 a credit allowed pursuant to 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:

- 1 1. Upon passage and approval for the purpose of adopting regulations and
2 performing any other preparatory administrative tasks that are necessary to carry
3 out the provisions of this act; and
- 4 2. On July 1, 2007, for all other purposes.