

House BILL NO. 85

INTRODUCED BY

Raney Tomasko

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL INCOME TAX DEDUCTION FOR THE ACTUAL AMOUNT OF MEDICAL AND DENTAL EXPENSES, NOTWITHSTANDING THE DEDUCTION LIMITATIONS UNDER FEDERAL LAW; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) except as provided in subsection (9), the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 are labeled or amended, subject to the following exceptions ~~which~~ that are not deductible:

- (a) items provided for in 15-30-123;
- (b) state income tax paid;
- (2) federal income tax paid within the ~~taxable~~ tax year;
- (3) expenses of household and dependent care services as outlined in subsections (3)(a) through

(3)(c) and ~~(9)~~ (10) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f), as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

- (i) a dependent under 15 years of age for whom an exemption can be claimed;
- (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and
- (iii) a spouse who is unable to provide self-care because of physical or mental illness;

(b) employment-related expenses incurred for the following services, but only if ~~such~~ the expenses are incurred to enable the taxpayer to be gainfully employed:



- 1 (i) household services ~~which~~ that are attributable to the care of the qualifying individual; and
- 2 (ii) care of an individual who qualifies under subsection (3)(a);
- 3 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
- 4 household is furnished by an individual or, if the individual is married during the applicable period, is
- 5 furnished by the individual and the individual's spouse;
- 6 (d) the amounts deductible in subsection (3)(a) through (3)(c), ~~are~~ subject to the following
- 7 limitations:
- 8 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during
- 9 the year only to the extent that the expenses do not exceed \$4,800;
- 10 (ii) expenses for services in the household are deductible under subsection (3)(a) for
- 11 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
- 12 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
- 13 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent
- 14 that the expenses incurred during the year do not exceed:
- 15 (A) \$2,400 in the case of one qualifying individual;
- 16 (B) \$3,600 in the case of two qualifying individuals; and
- 17 (C) \$4,800 in the case of three or more qualifying individuals;
- 18 (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the ~~taxable tax~~ taxable tax
- 19 year during which the expenses are incurred, the amount of the employment-related expenses incurred,
- 20 ~~must to~~ be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
- 21 (f) for purposes of this subsection (3):
- 22 (i) married couples shall file a joint return or file separately on the same form;
- 23 (ii) if the taxpayer is married during any period of the ~~taxable tax~~ taxable tax year, employment-related expenses
- 24 incurred are deductible only if:
- 25 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
- 26 extent that they are a direct result of the employment; or
- 27 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);
- 28 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
- 29 separate maintenance may not be considered as married;
- 30 (iv) the deduction for employment-related expenses must be divided equally between the spouses

1 when filing separately on the same form;

2 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the
3 ~~taxable tax~~ year and payments made to an individual with respect to whom a deduction is allowable under
4 15-30-112(5) are not deductible as employment-related expenses;

5 (4) in the case of an individual, political contributions determined in accordance with the provisions
6 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the ~~taxable tax~~ year ended
7 December 31, 1978;

8 (5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 ~~which~~
9 that was not otherwise deducted in computing taxable income;

10 (6) contributions to the child abuse and neglect prevention program provided for in 41-3-701,
11 subject to the conditions set forth in 15-30-156;

12 (7) premium payments for long-term care insurance with benefits that meet or exceed the minimum
13 standards as established by the state insurance commissioner; ~~and~~

14 (8) contributions to the Montana drug abuse resistance education program provided for in
15 44-2-702, subject to the conditions set forth in 15-30-159; and

16 (9) the actual amount of medical and dental expenses referred to in section 213 of the Internal
17 Revenue Code, or as section 213 may be labeled or amended, but that are not fully deductible on the
18 federal individual income tax return by reason of the federal medical and dental deduction limitation.

19 ~~(9)~~(10) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care
20 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
21 own child and at least one unrelated child in the ordinary course of business may deduct
22 employment-related expenses considered to have been paid for the care of the child.

23 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is
24 equal to the amount that the taxpayer charges for the care of a child of the same age for the same number
25 of hours of care. The employment-related expenses apply regardless of whether any expenses actually have
26 been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

27 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
28 deduction under this subsection ~~(9)~~ (10). (Subsection (8) terminates on occurrence of contingency--sec.
29 12, Ch. 808, L. 1991.)"

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STATE OF MONTANA - FISCAL NOTE
Fiscal Note for HB0085, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing an individual income tax deduction for the actual amount of medical and dental expenses, notwithstanding the deduction limitations under federal law; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The tax impact on full-year residents currently utilizing the current law deduction for medical expenses is a reduction in tax of \$(6,255,000) in FY96, and \$(6,682,000) in FY97 (DOR income tax simulation model).
2. The above impact increases to \$(6,568,000) in FY96, and \$(7,016,000) in FY97 when nonresident and part-year resident filers are taken into consideration (this represents a 5% increase).
3. The impact will increase due to filers who have medical expenses that are not currently being deducted because the total expense does not exceed the current law floor of 7.5% of income, and for filers who currently are taking the standard deduction but would now be able to itemize due to the expansion of this deduction in the proposal.
4. The impact will increase by the ratio of all unreimbursed (out-of-pocket) medical expense in the state to the total medical expense currently being reported on income tax returns. In 1992, statewide unreimbursed medical expenses totaled \$358 million, and is estimated to be \$386.6 million in 1993 (Montana Health Care Authority); total medical expenses reported on income tax forms in 1993 totaled \$319.3 million. This results in a ratio of 1.21.
5. The total revenue impact after adjusting for unreported, unreimbursed medical expenses is \$(7,947,000) in FY96, and \$(8,489,000) in FY97.

FISCAL IMPACT:

Expenditures:

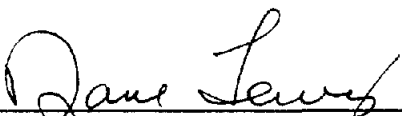
The proposed legislation would require changes to the income tax system, which would result in minor increases in administrative expenses.

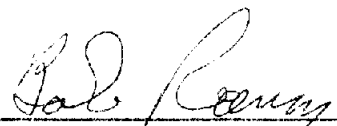
Revenues:

	<u>FY96</u>	<u>FY97</u>
Individual Income Tax (01)	\$(7,947,000)	\$(8,489,000)

TECHNICAL NOTES:

The bill provides that we are to provide a deduction for medical and dental expenses that are not fully deductible on the *federal* individual income tax return by reason of the federal medical and dental deduction limitation. This should refer to the *state* individual income tax return because adjusted gross income for state purposes can differ significantly from adjusted gross income for federal purposes.

 1-9-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/9/95
BOB RANEY, PRIMARY SPONSOR DATE
Fiscal Note for HB0085, as introduced

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