

SENATE BILL NO. 74

## 2 INTRODUCED BY

Durty

Hagan

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL INCOME TAX DEDUCTION FOR THE  
5 ACTUAL EXPENSES INCURRED FOR INSULIN OR PRESCRIPTION DRUGS OR MEDICINES; AMENDING  
6 SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
7 APPLICABILITY DATE."

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

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

12        "15-30-121. **Deductions allowed in computing net income.** In computing net income, there are  
13        allowed as deductions:

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

17 (a) items provided for in 15-30-123;

18 (b) state income tax paid;

19 (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 ~~(4)~~ (10) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f) as follows:

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

25 (ii) a dependent under 15 years of age for whom an exemption can be claimed;

26 (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross  
27 income do not apply, who is unable to provide self-care because of physical or mental illness; and

28 (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:

- (i) household services ~~which~~ that are attributable to the care of the qualifying individual; and
- (ii) care of an individual who qualifies under subsection (3)(a);
- (c) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;
- (d) the amounts deductible in ~~subsection~~ subsections (3)(a) through (3)(c), are subject to the following limitations:
  - (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during the year only to the extent the expenses do not exceed \$4,800;
  - (ii) expenses for services in the household are deductible under subsection (3)(a) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent the expenses incurred during the year do not exceed:
    - (A) \$2,400 in the case of one qualifying individual;
    - (B) \$3,600 in the case of two qualifying individuals; and
    - (C) \$4,800 in the case of three or more qualifying individuals;
  - (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the taxable year during which the expenses are incurred, the amount of the employment-related expenses incurred, ~~must~~ be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
  - (f) for purposes of this subsection (3):
    - (i) married couples shall file a joint return or file separately on the same form;
    - (ii) if the taxpayer is married during any period of the taxable year, employment-related expenses incurred are deductible only if:
      - (A) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or
      - (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);
      - (iii) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;
      - (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 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 year ended  
7 December 31, 1978;

8 (5) ~~that the portion of expenses for organic fertilizer that is allowed as a deduction under~~  
9 15-32-303 ~~which and 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;

16 (9) ~~the actual expenses incurred for insulin or prescription drugs or medicines referred to in section~~  
17 ~~213(b) of the Internal Revenue Code to the extent that the expenses are not compensated for by medical~~  
18 ~~insurance or by other sources.~~

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 the taxpayer charges for the care of a child of the same age for the same number of  
25 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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1           **NEW SECTION. Section 2. Effective date -- retroactive applicability.** [This act] is effective on  
2   passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
3   December 31, 1994.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0074, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing an individual income tax deduction for the actual expenses incurred for insulin or prescription drugs or medicines; and providing an immediate effective date , and a retroactive applicability date

ASSUMPTIONS:

1. This proposal applies to tax years beginning after December 31, 1994 (tax year 1995 forward).
2. In 1991, non-reimbursed payments for prescription drugs in the U.S. were \$20.0 billion out of total non-reimbursed health care expenses of \$144.3 billion; \$24.3 billion of the \$144.3 billion were for non-prescription drugs and medical supplies that are not deductible for income tax purposes, yielding a net total of \$120 billion subject to potential income tax deduction (U.S. Department of Health and Human Services, Health Care Financing Review, Winter 1992, pp. 5 & 21).
3. 1991 expenditures for prescription drugs were 17% (20/(144.3-24.3) of total U.S. expenditures eligible for the medical income tax deduction (MDOR).
4. The percent of non-reimbursed payments for prescription drugs is the same for Montana as for the nation (MDOR).
5. Insulin is sold in the pharmacy area of drug stores on both a prescription and non-prescription basis; it is assumed that all insulin expenditures are included in the national data for prescription drugs (MDOR).
6. The total tax decrease associated with full deductibility of medical expenses, net of insurance premiums, for tax year 1995 is \$3,622,000 and \$3,991,000 for tax year 1996 (MDOR & OBPP).
7. Applying 17% to these totals yields an estimated revenue decrease, as a result of the proposed legislation, of \$604,000 for tax year 1995 (FY96) and \$665,000 for tax year 1996 (FY97) -- MDOR.
8. A new line will need to be added to the individual income tax form, along with associated changes in the Department's Individual Income Tax System, at a one time cost of \$7,318 and an ongoing yearly cost of \$2,850 (MDOR).

(See next page for fiscal impact)

*Dave Lewis 1-13-95*  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

*Steve Doherty 1/13/95*  
STEVE DOHERTY, PRIMARY SPONSOR DATE

Fiscal Note for SB0074, as introduced

*SB 74*

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$10,168	\$2,850
<u>Revenues:</u>		
Individual Income Tax	(604,000)	(665,000)
<u>Net Impact:</u>		
General Fund	(\$614,168)	(\$667,850)

TECHNICAL NOTE:

As currently written, this bill would allow insulin or prescription drug medical payments to be deducted in addition to the amount presently allowed. MCA section 15-30-121 (1), lines 14-15 on page 1 of the bill, allows these non-reimbursed expenses to be deducted subject to a 7.5 percent floor in total medical expenses (current law). The new section 15-30-121 (9), lines 16-18 on page 3 of the bill, would allow an additional separate deduction for non-reimbursed insulin or prescription drug expenses, not subject to the 7.5 percent floor.