

SENATE BILL NO. 75

INTRODUCED BY

*Cherby*  
*Julian*

*Hagan*

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAXPAYER 65 YEARS OF AGE OR OLDER AN INDIVIDUAL INCOME TAX DEDUCTION FOR MEDICAL EXPENSES RELATED TO IN-HOME USE OF OXYGEN; 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) 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 are not deductible:

- (a) items provided for in 15-30-123;
- (b) state income tax paid;
- (2) federal income tax paid within the taxable 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~~ subsections (3)(a) through (3)(c), ~~are~~ subject to the
- 7 following limitations:
- 8 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during
- 9 the year only to the extent 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 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 year
- 19 during which the expenses are incurred, the amount of the employment-related expenses incurred, ~~must~~
- 20 ~~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 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 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) for a taxpayer 65 years of age or older, the actual medical expenses that are not reimbursed  
17 by medical insurance or by other sources and that are used for oxygen equipment and supplies used by the  
18 taxpayer in the taxpayer's residence, for prescriptions for oxygen, and for other costs directly related to  
19 supplying oxygen to the taxpayer.

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

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

28 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the  
29 deduction under this subsection ~~(9)~~ (10). (Subsection (8) terminates on occurrence of contingency--sec.  
30 12, Ch. 808, L. 1991.)"



STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0075, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a taxpayer 65 years of age or older an individual income tax deduction for medical expenses related to in-home use of oxygen; 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).
2. Taxpayers 65 years of age or older are eligible for Medicare.
3. Currently, the Medicare program reimburses taxpayers for expenditures for in-home use of oxygen.
4. Non-reimbursed oxygen related medical expenses are minimal for the 65+ age group.
5. No new line will need to be added to the individual income tax form; any taxpayers reporting a deduction will do so on the miscellaneous deduction line.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>

Expenditures:

There is no impact on Department of Revenue expenditures.

Revenues:

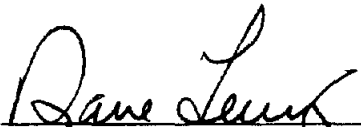
Individual Income Tax	minimal	minimal
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Net Impact:

General Fund	minimal	minimal
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TECHNICAL NOTE:

As currently written, this bill would allow oxygen related medical payments to be deducted in addition to the amount presently allowed. 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 15-30-121 (9), lines 16-19 on page 3 of the bill, would allow an additional separate deduction for non-reimbursed oxygen related expenses, not subject to the 7.5 percent floor.

 1-11-95  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

 1/12/95  
 STEVE DOHERTY, PRIMARY SPONSOR DATE

1 SENATE BILL NO. 75

2 INTRODUCED BY DOHERTY, HARPER, QUILICI

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17 by medical insurance or by other sources and that are used for oxygen equipment and supplies used by the  
18 taxpayer in the taxpayer's residence, for prescriptions for oxygen, and for other costs directly related to  
19 supplying oxygen to the taxpayer. THE DEDUCTION ALLOWED UNDER THIS SUBSECTION MAY NOT BE  
20 INCLUDED AS A DEDUCTION ALLOWED IN SUBSECTION (1).

21 ~~(9)(10)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care  
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23 own child and at least one unrelated child in the ordinary course of business may deduct  
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30 deduction under this subsection ~~(9)~~ (10). (Subsection (8) terminates on occurrence of contingency--sec.



1 12, Ch. 808, L. 1991.)"

2

3 NEW SECTION. **Section 2. Effective date -- retroactive applicability.** [This act] is effective on  
4 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
5 December 31, 1994.

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-END-

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SENATE BILL NO. 75

INTRODUCED BY DOHERTY, HARPER, QUILICI

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AND A RETROACTIVE APPLICABILITY DATE."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.