

HOUSE BILL NO. 107

INTRODUCED BY KASTEN

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INDIVIDUAL INCOME TAX DEDUCTION FOR LONG-TERM CARE INSURANCE PREMIUMS; ALLOWING A DEDUCTION FOR PREMIUMS PAID FOR INSURANCE POLICIES OR CERTIFICATES THAT PROVIDE COVERAGE FOR LONG-TERM CARE SERVICES FOR THE BENEFIT OF THE TAXPAYER OR THE TAXPAYER'S PARENTS OR GRANDPARENTS WHO RESIDE IN MONTANA; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, it is the public policy of this state to encourage individuals to plan and provide for their long-term health care needs through the purchase of insurance and other private means rather than relying on publicly funded programs, such as Medicaid, to meet their needs.

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;
- (c) one-half of premium payments for medical care as provided in subsection ~~(9)~~ (7)(a);

(2) federal income tax paid within the tax year;
(3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and (9) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f), as follows:



- 1 (a) expenses for household and dependent care services necessary for gainful employment incurred
2 for:
- 3 (i) a dependent under 15 years of age for whom an exemption can be claimed;
- 4 (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross
5 income do not apply, who is unable to provide self-care because of physical or mental illness; and
- 6 (iii) a spouse who is unable to provide self-care because of physical or mental illness;
- 7 (b) employment-related expenses incurred for the following services, but only if the expenses are
8 incurred to enable the taxpayer to be gainfully employed:
- 9 (i) household services that are attributable to the care of the qualifying individual; and
- 10 (ii) care of an individual who qualifies under subsection (3)(a);
- 11 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
12 household is furnished by an individual or, if the individual is married during the applicable period, is
13 furnished by the individual and the individual's spouse;
- 14 (d) the amounts deductible in subsections (3)(a) through (3)(c), subject to the following limitations:
- 15 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during
16 the year only to the extent that the expenses do not exceed \$4,800;
- 17 (ii) expenses for services in the household are deductible under subsection (3)(a) for
18 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
19 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
20 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent
21 that the expenses incurred during the year do not exceed:
- 22 (A) \$2,400 in the case of one qualifying individual;
- 23 (B) \$3,600 in the case of two qualifying individuals; and
- 24 (C) \$4,800 in the case of three or more qualifying individuals;
- 25 (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year
26 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
27 reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
- 28 (f) for purposes of this subsection (3):
- 29 (i) married couples shall file a joint return or file separately on the same form;
- 30 (ii) if the taxpayer is married during any period of the tax year, employment-related expenses

1 incurred are deductible only if:

2 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
3 extent that they are a direct result of the employment; or

4 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

5 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
6 separate maintenance may not be considered as married;

7 (iv) the deduction for employment-related expenses must be divided equally between the spouses
8 when filing separately on the same form;

9 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
10 year and payments made to an individual with respect to whom a deduction is allowable under
11 15-30-112(5) are not deductible as employment-related expenses;

12 (4) in the case of an individual, political contributions determined in accordance with the provisions
13 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
14 31, 1978;

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

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

19 (7) ~~one-half of insurance premium payments, except premiums deducted in determining Montana~~
20 ~~adjusted gross income, for as follows:~~

21 (a) one-half of premium payments, except premiums deducted in determining Montana adjusted
22 gross income, made directly by the taxpayer for insurance that provides payment for medical care made
23 directly by the taxpayer as defined by 26 U.S.C. 213(d); and

24 (b) ~~long-term care insurance with benefits that meet or exceed the minimum standards as~~
25 ~~established by the state insurance commissioner except as provided in 15-30-128(7), all premium payments~~
26 made directly by the taxpayer for long-term care insurance policies or certificates that provide coverage
27 primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for the benefit of the
28 taxpayer or of the taxpayer's parents or grandparents, or both, provided that the beneficiary is a Montana
29 resident; and

30 (8) contributions to the Montana drug abuse resistance education program provided for in

1 44-2-702, subject to the conditions set forth in 15-30-159.

2 ~~(9) For the purpose of subsection (7)(a), deductible medical insurance premiums are those~~
3 ~~premiums that provide payment for medical care as defined by 26 U.S.C. 213(d).~~

4 ~~(10)(9)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care
5 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
6 own child and at least one unrelated child in the ordinary course of business may deduct
7 employment-related expenses considered to have been paid for the care of the child.

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

12 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
13 deduction under this subsection ~~(10) (9)~~. (Subsection (8) terminates on occurrence of contingency--sec.
14 12, Ch. 808, L. 1991.)"

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16 **NEW SECTION. Section 2. Effective date -- retroactive applicability.** [This act] is effective on
17 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
18 December 31, 1996.

19

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0107, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the individual income tax deduction for long-term care insurance premiums; allowing a deduction for premiums paid for insurance policies or certificates that provide coverage for long-term care services for the benefit of the taxpayer or the taxpayer's parents or grandparents who reside in Montana.

ASSUMPTIONS:

Taxation Assumptions:

1. The Department of Revenue (DoR) Tax Expenditure Report lists the tax expenditure for the long-term care insurance premium deduction to be \$370,540 for tax year 1997, based on actual returns file in 1995.
2. In 1995, there were 3,946 tax returns that included the deductions for long-term care insurance.
3. The average cost per exception claimed would be $\$370,540/3,946 = \93.90 .
4. It is assumed that the number of returns claiming this deduction will increase by 10%, or 400 persons, due to the passage of this legislation, resulting in a total revenue loss to the state general fund of \$37,560 ($\93.90×400).

Nursing Home Assumptions:

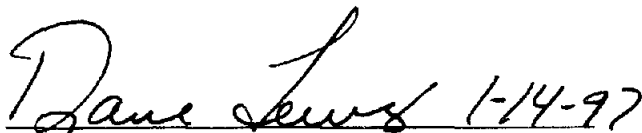
5. National statistics show that 2 out of 5 persons over the age of 65 will enter a nursing home. Based on this statistic, of the 400 additional persons who would purchase long-term care insurance, 160 persons could potentially enter a nursing home.
6. For the purposes of this fiscal note, it is assumed that 10 persons would buy long-term care insurance and would not become a Medicaid eligible nursing home client.
7. The projected Medicaid cost/day for nursing home care is assumed to remain at the FY97 level of \$69.22, or \$25,265 per person per year.
8. The federal medical assistance percentage matching rate will remain at the fiscal year 1999 level of 71.12%. The general fund match rate for Medicaid eligible nursing home costs will remain at the fiscal year 1999 level of 28.88%.
9. It is assumed that each person will pay long-term care insurance premiums for three years after the effective date of this bill before entering a nursing home. Therefore, the potential savings generated from this legislation will not start until fiscal year 2001.

FISCAL IMPACT:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Revenues:</u>		
General Fund	\$(37,560)	\$(37,560)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If 10 persons purchase long-term care insurance and therefore do not require Medicaid funded nursing home services, the state will experience reduced costs of \$252,650 per year. General fund expenses will decrease \$72,965 annually, offsetting the general fund revenue loss of \$34,060, for a net general fund savings of \$38,905, annually.


 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 BETTY KASTAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0107, as introduced

HB 107

APPROVED BY COM
ON TAXATION

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27 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
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29 taxpayer FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1994, or of the taxpayer's parents or
30 grandparents, or both, FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1996, provided that the

1 beneficiary is a Montana resident; and

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3 44-2-702, subject to the conditions set forth in 15-30-159.

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13 been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

14 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
15 deduction under this subsection ~~(10)~~ (9). (Subsection (8) terminates on occurrence of contingency--sec.
16 12, Ch. 802, L. 1991.)"

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18 NEW SECTION. Section 2. Effective date -- retroactive applicability. [This act] is effective on
19 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
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8 (b) employment-related expenses incurred for the following services, but only if the expenses are
9 incurred to enable the taxpayer to be gainfully employed:

10 (i) household services that are attributable to the care of the qualifying individual; and

11 (ii) care of an individual who qualifies under subsection (3)(a);

12 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
13 household is furnished by an individual or, if the individual is married during the applicable period, is
14 furnished by the individual and the individual's spouse;

15 (d) the amounts deductible in subsections (3)(a) through (3)(c), subject to the following limitations:

16 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during
17 the year only to the extent that the expenses do not exceed \$4,800;

18 (ii) expenses for services in the household are deductible under subsection (3)(a) for
19 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
20 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
21 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent
22 that the expenses incurred during the year do not exceed:

23 (A) \$2,400 in the case of one qualifying individual;

24 (B) \$3,600 in the case of two qualifying individuals; and

25 (C) \$4,800 in the case of three or more qualifying individuals;

26 (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year
27 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
28 reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

29 (f) for purposes of this subsection (3):

30 (i) married couples shall file a joint return or file separately on the same form;

1 (ii) if the taxpayer is married during any period of the tax year, employment-related expenses
2 incurred are deductible only if:

3 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
4 extent that they are a direct result of the employment; or

5 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

6 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
7 separate maintenance may not be considered as married;

8 (iv) the deduction for employment-related expenses must be divided equally between the spouses
9 when filing separately on the same form;

10 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
11 year and payments made to an individual with respect to whom a deduction is allowable under
12 15-30-112(5) are not deductible as employment-related expenses;

13 (4) in the case of an individual, political contributions determined in accordance with the provisions
14 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
15 31, 1978;

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

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

20 (7) ~~one-half of insurance premium payments, except premiums deducted in determining Montana~~
21 ~~adjusted gross income, for as follows:~~

22 (a) one-half of premium payments, except premiums deducted in determining Montana adjusted
23 gross income, made directly by the taxpayer for insurance that provides payment for medical care made
24 directly by the taxpayer as defined by 26 U.S.C. 213(d); and

25 (b) ~~long-term care insurance with benefits that meet or exceed the minimum standards as~~
26 ~~established by the state insurance commissioner except as provided in 15-30-128(7), all premium payments~~
27 made directly by the taxpayer for long-term care insurance policies or certificates that provide coverage
28 primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for the benefit of the
29 taxpayer FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1994, or of the taxpayer's parents or
30 grandparents, or both, FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1996, provided that the

1 beneficiary is a Montana resident; and

2 (8) contributions to the Montana drug abuse resistance education program provided for in
3 44-2-702, subject to the conditions set forth in 15-30-159.

4 ~~(9) For the purpose of subsection (7)(a), deductible medical insurance premiums are those~~
5 ~~premiums that provide payment for medical care as defined by 26 U.S.C. 213(d).~~

6 ~~(10)~~(9) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care
7 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
8 own child and at least one unrelated child in the ordinary course of business may deduct
9 employment-related expenses considered to have been paid for the care of the child.

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

14 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
15 deduction under this subsection ~~(10)~~ (9). (Subsection (8) terminates on occurrence of contingency--sec.
16 12, Ch. 808, L. 1991.)"

17

18 **NEW SECTION. Section 2. Effective date -- retroactive applicability.** [This act] is effective on
19 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
20 December 31, ~~1996~~ 1994.

21

-END-

1 HOUSE BILL NO. 107

2 INTRODUCED BY KASTEN

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE INDIVIDUAL INCOME TAX DEDUCTION FOR
6 LONG-TERM CARE INSURANCE PREMIUMS; ALLOWING A DEDUCTION FOR PREMIUMS PAID FOR
7 INSURANCE POLICIES OR CERTIFICATES THAT PROVIDE COVERAGE FOR LONG-TERM CARE SERVICES
8 FOR THE BENEFIT OF THE TAXPAYER OR THE TAXPAYER'S PARENTS OR GRANDPARENTS WHO RESIDE
9 IN MONTANA; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
10 AND A RETROACTIVE APPLICABILITY DATE."
11

12 WHEREAS, it is the public policy of this state to encourage individuals to plan and provide for their
13 long-term health care needs through the purchase of insurance and other private means rather than relying
14 on publicly funded programs, such as Medicaid, to meet their needs.
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17

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

19 "15-30-121. **Deductions allowed in computing net income.** In computing net income, there are
20 allowed as deductions:21 (1) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b),
22 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 are labeled or amended, subject
23 to the following exceptions, which are not deductible:

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

25 (b) state income tax paid;

26 (c) one-half of premium payments for medical care as provided in subsection ~~(9)~~ (7)(a);27 (D) LONG-TERM CARE INSURANCE PREMIUMS PAID;

28 (2) federal income tax paid within the tax year;

29 (3) expenses of household and dependent care services as outlined in subsections (3)(a) through
30 (3)(c) and (9) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f), as

1 follows:

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

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

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

7 (iii) a spouse who is unable to provide self-care because of physical or mental illness;

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

10 (i) household services that are attributable to the care of the qualifying individual; and

11 (ii) care of an individual who qualifies under subsection (3)(a);

12 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
13 household is furnished by an individual or, if the individual is married during the applicable period, is
14 furnished by the individual and the individual's spouse;

15 (d) the amounts deductible in subsections (3)(a) through (3)(c), subject to the following limitations:

16 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during
17 the year only to the extent that the expenses do not exceed \$4,800;

18 (ii) expenses for services in the household are deductible under subsection (3)(a) for
19 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
20 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
21 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent
22 that the expenses incurred during the year do not exceed:

23 (A) \$2,400 in the case of one qualifying individual;

24 (B) \$3,600 in the case of two qualifying individuals; and

25 (C) \$4,800 in the case of three or more qualifying individuals;

26 (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year
27 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
28 reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

29 (f) for purposes of this subsection (3):

30 (i) married couples shall file a joint return or file separately on the same form;

1 (ii) if the taxpayer is married during any period of the tax year, employment-related expenses
2 incurred are deductible only if:

3 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
4 extent that they are a direct result of the employment; or

5 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

6 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
7 separate maintenance may not be considered as married;

8 (iv) the deduction for employment-related expenses must be divided equally between the spouses
9 when filing separately on the same form;

10 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
11 year and payments made to an individual with respect to whom a deduction is allowable under
12 15-30-112(5) are not deductible as employment-related expenses;

13 (4) in the case of an individual, political contributions determined in accordance with the provisions
14 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
15 31, 1978;

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

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

20 (7) ~~one-half of insurance premium payments, except premiums deducted in determining Montana~~
21 ~~adjusted gross income, for as follows:~~

22 (a) one-half of premium payments, except premiums deducted in determining Montana adjusted
23 gross income, made directly by the taxpayer for insurance that provides payment for medical care made
24 directly by the taxpayer as defined by 26 U.S.C. 213(d); and

25 (b) ~~long term care insurance with benefits that meet or exceed the minimum standards as~~
26 ~~established by the state insurance commissioner~~ except as provided in 15-30-128(7), all premium payments
27 made directly by the taxpayer for long-term care insurance policies or certificates that provide coverage
28 primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for the benefit of the
29 taxpayer FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1994, or of the taxpayer's parents or
30 grandparents, or both, FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1996, provided that the

1 beneficiary is a Montana resident; and

2 (8) contributions to the Montana drug abuse resistance education program provided for in
3 44-2-702, subject to the conditions set forth in 15-30-159.

4 ~~(9) For the purpose of subsection (7)(a), deductible medical insurance premiums are those~~
5 ~~premiums that provide payment for medical care as defined by 26 U.S.C. 213(d).~~

6 ~~(10)(9)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care
7 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
8 own child and at least one unrelated child in the ordinary course of business may deduct
9 employment-related expenses considered to have been paid for the care of the child.

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

14 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
15 deduction under this subsection ~~(10)~~ (9). (Subsection (8) terminates on occurrence of contingency--sec.
16 12, Ch. 808, L. 1991.)"

17

18 **NEW SECTION. Section 2. Effective date -- retroactive applicability.** [This act] is effective on
19 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
20 December 31, ~~1996~~ 1994.

21

-END-