

1 SB BILL NO. 151
 2 INTRODUCED BY Bob Nelson
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEDUCTION OF THE COST OF PREMIUMS FOR
 5 HEALTH CARE INSURANCE AND LONG-TERM CARE INSURANCE FOR A TAXPAYER, THE TAXPAYER'S
 6 DEPENDENTS, AND THE TAXPAYER'S PARENTS AND GRANDPARENTS; AMENDING SECTION 15-30-121,
 7 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
 8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10

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

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

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

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

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

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

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

30 (b) employment-related expenses incurred for the following services, but only if the expenses are

- 1 incurred to enable the taxpayer to be gainfully employed:
- 2 (i) household services that are attributable to the care of the qualifying individual; and
- 3 (ii) care of an individual who qualifies under subsection (3)(a);
- 4 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
- 5 household is furnished by an individual or, if the individual is married during the applicable period, is
- 6 furnished by the individual and the individual's spouse;
- 7 (d) the amounts deductible in subsections (3)(a) through (3)(c), subject to the 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 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 tax year
- 19 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
- 20 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 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 tax
3 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 tax year ended December
7 31, 1978;

8 (5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 that was
9 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) ~~one-half of the entire amount of premium payments for coverage of the taxpayer, the~~
13 ~~taxpayer's dependents, and the parents and grandparents of the taxpayer, except premiums deducted in~~
14 ~~determining Montana adjusted gross income or for which a credit was claimed under 15-30-128, for:~~

15 (a) insurance that provides payment for medical care, as defined by 26 U.S.C. 213(d), made
16 directly by the taxpayer; and

17 (b) long-term care insurance with benefits that meet or exceed the minimum standards as
18 established by the state insurance commissioner; and

19 (8) contributions to the Montana drug abuse resistance education program provided for in
20 44-2-702, subject to the conditions set forth in 15-30-159.

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

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

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

1 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
2 deduction under this subsection (~~10~~ 9). (Subsection (8) terminates on occurrence of contingency--sec.
3 12, Ch. 808, L. 1991.)"

4

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

8

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0151, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing the deduction of the cost of premiums for health care insurance and long-term care insurance for a taxpayer, the taxpayer's dependents, and the taxpayer's parents and grandparents; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:


Taxation Assumptions:

1. This proposal would apply retroactively to tax years beginning after December 31, 1996.
2. The Department of Revenue's (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 filed in 1995.
3. In 1995, 3,946 tax returns included the deductions for long-term care insurance.
4. The average cost per exception claimed would be $\$370,540/3,946 = \93.90 .
5. It is assumed that the number of returns claiming this deduction will increase by 10%, or approximately 400 persons, due to the passage of this legislation, resulting in a total revenue loss to the state general fund of \$37,560 ($\93.90×400) each year.
6. Currently, Montana allows for 50% deductibility of health insurance premiums for taxpayers and their dependents. Based on 1995 income tax returns, if 100% deductibility of health insurance premiums would have been allowed in 1995, revenue would have been reduced by an additional \$2.8 million. The health insurance premium deduction is expected to grow at an annual rate of %5 (DOR). Therefore the fiscal impact of allowing 100% deductibility of health insurance premiums (for taxpayers and their dependents) will be \$3.1 million in FY98 and \$3.2 million in FY99.
7. At this time there is no way to measure the fiscal impact of allowing deductibility of health insurance premiums purchased by taxpayers for their parents and grandparents. For this reason the net fiscal impact given below may be slightly understated.
8. Because there are already lines on the income tax form for long-term care and health insurance premium deductions, no new lines will need to be added and administrative costs will be minimal.
9. The revenue loss for FY98 will be \$3,137,560 (\$37,560 for long-term care insurance, plus \$3.1 million for health care insurance). The loss for FY99 will be \$3,237,560 (\$37,560 for long-term care insurance, plus \$3.2 million for health insurance).

Nursing Home Assumptions:

10. 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.
11. 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.
12. The projected Medicaid cost/day for nursing home care is assumed to remain at the fiscal year 1997 level of \$69.22, or \$25,265 ($365 \times \$69.22$) per person per year.
13. 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%.
14. 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 - See page 2)

 1-14-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-15-97
KEN MILLER, PRIMARY SPONSOR DATE

Fiscal Note for SB0151, as introduced

SB 151

FISCAL IMPACT:

	<u>FY 98</u>	<u>FY 99</u>
<u>Revenues:</u>		
Income Tax (General Fund)	(\$3,137,560)	(\$3,237,560)

LONG TERM EFFECTS OF PROPOSED LEGISLATION:

If 10 persons purchase long term care insurance and as a result do not require Medicaid funded nursing home services, the state will experience reduced costs of \$252,650 per year (\$25,265 X 10). General fund expenses will decrease \$72,965 (\$252,650 X 28.88%) annually, offsetting the general fund revenue loss of \$37,560, for a net general fund savings of \$35,050, annually. The state will not see these savings during the 1999 biennium, but will experience savings to the general fund beginning in fiscal year 2001.

APPROVED BY COM
ON TAXATION

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2 INTRODUCED BY MILLER, MOLNAR

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

21 (C) PREMIUM PAYMENTS FOR MEDICAL CARE AS PROVIDED IN SUBSECTION (7)(A);

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

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28 for:

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

30 (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross

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

8 (4) in the case of an individual, political contributions determined in accordance with the provisions
9 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
10 31, 1978;

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

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14 subject to the conditions set forth in 15-30-156;

15 (7) ~~one-half of~~ the entire amount of premium payments for coverage of the taxpayer, the
16 taxpayer's dependents, and the parents and grandparents of the taxpayer, except premiums deducted in
17 determining Montana adjusted gross income or for which a credit was claimed under 15-30-128, for:

18 (a) insurance that provides payment for medical care, as defined by 26 U.S.C. 213(d), made
19 directly by the taxpayer; and

20 (b) long-term care insurance with benefits that meet or exceed the minimum standards as
21 established by the state insurance commissioner; ~~and~~

22 (8) ALL PREMIUM PAYMENTS MADE DIRECTLY BY THE TAXPAYER FOR THE BENEFIT OF THE
23 TAXPAYER FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1994, FOR LONG-TERM CARE
24 INSURANCE WITH BENEFITS THAT MEET OR EXCEED THE MINIMUM STANDARDS AS ESTABLISHED BY
25 THE STATE INSURANCE COMMISSIONER; AND

26 ~~(8)(9)~~ contributions to the Montana drug abuse resistance education program provided for in
27 44-2-702, subject to the conditions set forth in 15-30-159.

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

30 ~~(10)(9)(10)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family

1 day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the
 2 taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct
 3 employment-related expenses considered to have been paid for the care of the child.

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

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

11

12 NEW SECTION. Section 2. Effective date -- retroactive applicability. ~~{This act}~~ (1) EXCEPT AS
 13 PROVIDED IN SUBSECTION (2), [THIS ACT] is effective on passage and approval and applies retroactively,
 14 within the meaning of 1-2-109, to tax years beginning after December 31, 1996.

15 (2) SECTION 15-30-121(8) APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO
 16 TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.

17

-END-

SENATE BILL NO. 151

INTRODUCED BY MILLER, MOLNAR

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEDUCTION OF THE COST OF PREMIUMS FOR HEALTH CARE INSURANCE AND LONG-TERM CARE INSURANCE FOR A TAXPAYER, THE TAXPAYER'S DEPENDENTS, AND THE TAXPAYER'S PARENTS AND GRANDPARENTS; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE DATES."

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

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

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(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;

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(C) PREMIUM PAYMENTS FOR MEDICAL CARE AS PROVIDED IN SUBSECTION (7)(A);

(D) LONG-TERM CARE INSURANCE PREMIUMS PAID;

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

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(ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross

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

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

30 (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross

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

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

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

5 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
6 year and payments made to an individual with respect to whom a deduction is allowable under
7 15-30-112(5) are not deductible as employment-related expenses;

8 (4) in the case of an individual, political contributions determined in accordance with the provisions
9 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
10 31, 1978;

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

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

15 (7) ~~one-half of the entire amount of premium payments for coverage of the taxpayer, the~~
16 ~~taxpayer's dependents, and the parents and grandparents of the taxpayer, except premiums deducted in~~
17 ~~determining Montana adjusted gross income or for which a credit was claimed under 15-30-128, for:~~

18 (a) ~~insurance that provides payment for medical care, as defined by 26 U.S.C. 213(d), made~~
19 ~~directly by the taxpayer; and~~

20 (b) ~~long-term care insurance with benefits that meet or exceed the minimum standards as~~
21 ~~established by the state insurance commissioner; and~~

22 ~~(8) ALL PREMIUM PAYMENTS MADE DIRECTLY BY THE TAXPAYER FOR THE BENEFIT OF THE~~
23 ~~TAXPAYER FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1994, FOR LONG-TERM CARE~~
24 ~~INSURANCE WITH BENEFITS THAT MEET OR EXCEED THE MINIMUM STANDARDS AS ESTABLISHED BY~~
25 ~~THE STATE INSURANCE COMMISSIONER; AND~~

26 ~~(8)(9)~~ contributions to the Montana drug abuse resistance education program provided for in
27 44-2-702, subject to the conditions set forth in 15-30-159.

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

30 ~~(10)(9)(10)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family

1 day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the
 2 taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct
 3 employment-related expenses considered to have been paid for the care of the child.

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

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

11

12 **NEW SECTION. Section 2. Effective date -- retroactive applicability. ~~(This act)~~ (1) EXCEPT AS**
 13 **PROVIDED IN SUBSECTION (2), [THIS ACT] is effective on passage and approval and applies retroactively,**
 14 **within the meaning of 1-2-109, to tax years beginning after December 31, 1996.**

15 **(2) SECTION 15-30-121(B) APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO**
 16 **TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.**

17

-END-

SENATE BILL NO. 151

INTRODUCED BY MILLER, MOLNAR

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEDUCTION OF THE COST OF PREMIUMS FOR HEALTH CARE INSURANCE AND LONG-TERM CARE INSURANCE FOR A TAXPAYER, THE TAXPAYER'S DEPENDENTS, AND THE TAXPAYER'S PARENTS AND GRANDPARENTS; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE DATES."

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);~~

(C) PREMIUM PAYMENTS FOR MEDICAL CARE AS PROVIDED IN SUBSECTION (7)(A);

(D) LONG-TERM CARE INSURANCE PREMIUMS PAID;

(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)~~ (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

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

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

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

5 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
6 year and payments made to an individual with respect to whom a deduction is allowable under
7 15-30-112(5) are not deductible as employment-related expenses;

8 (4) in the case of an individual, political contributions determined in accordance with the provisions
9 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
10 31, 1978;

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

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

15 (7) ~~one-half of the entire amount of premium payments for coverage of the taxpayer, the~~
16 ~~taxpayer's dependents, and the parents and grandparents of the taxpayer, except premiums deducted in~~
17 ~~determining Montana adjusted gross income or for which a credit was claimed under 15-30-128, for:~~

18 (a) insurance that provides payment for medical care, as defined by 26 U.S.C. 213(d), made
19 directly by the taxpayer; and

20 (b) long-term care insurance with benefits that meet or exceed the minimum standards as
21 established by the state insurance commissioner; and

22 (8) ALL PREMIUM PAYMENTS MADE DIRECTLY BY THE TAXPAYER FOR THE BENEFIT OF THE
23 TAXPAYER FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1994, FOR LONG-TERM CARE
24 INSURANCE WITH BENEFITS THAT MEET OR EXCEED THE MINIMUM STANDARDS AS ESTABLISHED BY
25 THE STATE INSURANCE COMMISSIONER; AND

26 ~~(8)(9)~~ contributions to the Montana drug abuse resistance education program provided for in
27 44-2-702, subject to the conditions set forth in 15-30-159.

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

30 ~~(10)(9)(10)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family

1 day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the
 2 taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct
 3 employment-related expenses considered to have been paid for the care of the child.

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

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

11

12 **NEW SECTION. SECTION 2. COORDINATION INSTRUCTIONS. IF BOTH HOUSE BILL NO. 107**
 13 **AND [THIS ACT] ARE PASSED AND APPROVED, THEN:**

14 **(1) HOUSE BILL NO. 107 IS VOID;**

15 **(2) SECTION 1 IN [THIS ACT] IS TO READ AS FOLLOWS:**

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

17 "**15-30-121. Deductions allowed in computing net income.** In computing net income, there are
 18 allowed as deductions:

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

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

23 (b) state income tax paid;

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

25 **(d) long-term care insurance premium payments as provided in subsection (7)(b);**

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

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

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

1 for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
2 extent that they are a direct result of the employment; or
- 3 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);
- 4 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
5 separate maintenance may not be considered as married;
- 6 (iv) the deduction for employment-related expenses must be divided equally between the spouses
7 when filing separately on the same form;
- 8 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
9 year and payments made to an individual with respect to whom a deduction is allowable under
10 15-30-112(5) are not deductible as employment-related expenses;
- 11 (4) in the case of an individual, political contributions determined in accordance with the provisions
12 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
13 31, 1978;
- 14 (5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 that was
15 not otherwise deducted in computing taxable income;
- 16 (6) contributions to the child abuse and neglect prevention program provided for in 41-3-701,
17 subject to the conditions set forth in 15-30-156;
- 18 (7) ~~one-half of the entire amount of premium payments made by the taxpayer, except premiums~~
19 ~~deducted in determining Montana adjusted gross income or for which a credit was claimed under~~
20 ~~15-30-128, for:~~
- 21 (a) ~~insurance for medical care, as defined in 26 U.S.C. 213(d), made directly by the taxpayer for~~
22 ~~coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer;~~
23 and
- 24 (b) ~~long-term care insurance with benefits that meet or exceed the minimum standards as~~
25 ~~established by the state insurance commissioner~~ long-term care insurance policies or certificates that
26 provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:
- 27 (i) the benefit of the taxpayer for tax years beginning after December 31, 1994; or
- 28 (ii) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the
29 taxpayer for tax years beginning after December 31, 1996; 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.)"

15 (3) SECTION 3 IN [THIS ACT] IS TO READ AS FOLLOWS:

16 "NEW SECTION. Section 3. Effective date -- retroactive applicability. (1) Except as provided in
 17 subsection (2), [this act] is effective on passage and approval and applies retroactively, within the meaning
 18 of 1-2-109, to tax years beginning after December 31, 1996.

19 (2) [Section 1(7)(b)(i)] applies retroactively, within the meaning of 1-2-109, to tax years beginning
 20 after December 31, 1994."

21

22 NEW SECTION. Section 3. Effective date -- retroactive applicability. ~~[This act] (1) EXCEPT AS~~
 23 PROVIDED IN SUBSECTION (2), [THIS ACT] is effective on passage and approval and applies retroactively,
 24 within the meaning of 1-2-109, to tax years beginning after December 31, 1996.

25 (2) SECTION 15-30-121(8) APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO
 26 TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.

27

-END-