

1 House BILL NO. 783
 2 INTRODUCED BY Bradley-----
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW HOUSEHOLD AND
 5 DEPENDENT CARE SERVICES INCURRED AS EMPLOYMENT-RELATED
 6 EXPENSES TO BE DEDUCTED IN COMPUTING STATE INCOME TAXES;
 7 AMENDING SECTION 84-4906, R.C.M. 1947."

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

10 Section 1. Section 84-4906, R.C.M. 1947, is amended to
 11 read as follows:

12 "84-4906. Deductions allowed in computing net income.
 13 In computing net income, there shall be allowed as
 14 deductions:

15 (a) The items referred to in sections 161 and 211 of
 16 the Internal Revenue Code of 1954, or as sections 161 and
 17 211 shall be labeled or amended, except that state income
 18 tax paid shall not be deductible and also subject to the
 19 exceptions provided in section 84-4909, relating to items
 20 not deductible.

21 (b) Federal income tax paid within the taxable year.

22 (c) Expenses for household and dependent care services
 23 claimed by a qualified individual as employment-related
 24 expenses, as defined and limited in [section 2 of this
 25 act]."

1 Section 2. There is a new R.C.M. section that reads as
 2 follows:

3 Deduction of household and dependent care services --
 4 definitions -- limitations -- special rules. (1) In
 5 determining the deduction allowed for household and
 6 dependent care expenses, the following definitions apply
 7 unless the context clearly indicates otherwise:

8 (a) "Qualified individual" means a taxpayer who
 9 maintains a household that includes one or more qualified
 10 dependents or a qualified spouse.

11 (b) "Qualified dependent" means a dependent of the
 12 taxpayer who is under the age of 10 or who is physically or
 13 mentally incapable of caring for himself.

14 (c) "Qualified spouse" means a spouse who is
 15 physically or mentally incapable of taking care of himself.

16 (d) "Employment-related expenses" means expenses
 17 actually incurred for household services for or care of
 18 qualified dependents or a qualified spouse made necessary by
 19 the gainful employment of the qualified taxpayer.

20 (e) "Gainful employment" means any employment, whether
 21 part-time or full-time, for which the taxpayer earns a wage
 22 or salary.

23 (f) "Disability payments" means a payment made because
 24 of the physical or mental condition of an individual that is
 25 not included in gross income.

1 (g) "Part-time employment" means more than 16 and less
2 than 30 hours of employment per week, arranged in any
3 manner.

4 (2) An individual is considered to maintain a
5 household for the purposes of this act if he furnishes over
6 one-half the cost of maintaining the household or, if
7 married, he and his spouse furnish over one-half the cost of
8 maintaining the household.

9 (3) The amount a qualified individual may deduct for
10 household and dependent care services may not exceed:

11 (a) \$400 a month if the expense is incurred within the
12 taxpayer's household;

13 (b) \$200 a month if one qualified dependent or spouse
14 is cared for outside the taxpayer's household;

15 (c) \$300 a month if two qualified dependents or a
16 qualified dependent and a spouse are cared for outside the
17 taxpayer's household;

18 (d) \$400 a month if three or more qualified dependents
19 or two or more qualified dependents and a qualified spouse
20 are cared for outside the taxpayer's household.

21 (4) If the taxpayer is married and living with the
22 spouse during any part of the taxable year and their
23 combined gross income exceeds \$18,000 for the taxable year
24 or the taxpayer is a head of household for federal income
25 tax purposes and his adjusted gross income exceeds \$18,000

1 for the taxable year, then the total yearly deduction
2 allowed for household and dependent care services shall be
3 reduced by one-half the excess of the adjusted gross income
4 over \$18,000.

5 (5) To be eligible for this deduction, a taxpayer who
6 was married at the close of the taxable year must file a
7 joint return with his spouse.

8 (6) If the taxpayer is married for any period during
9 the taxable year, the deduction shall be allowed during any
10 month only if both spouses were gainfully employed or the
11 taxpayer's spouse was qualified as defined in [section 2 of
12 this act].

13 (7) No deduction may be claimed for payment to a
14 member of the taxpayer's family related by blood or marriage
15 to the second degree.

16 (8) The deduction allowed for household and dependent
17 care services expenses incurred during any taxable year for
18 the care of:

19 (a) a qualified dependent shall be reduced by the sum
20 of the dependent's adjusted gross income for such taxable
21 year and the disability payments received by such individual
22 during such year minus \$750;

23 (b) a qualified spouse shall be reduced by the sum of
24 the spouse's disability payments received during that
25 taxable year minus \$750.

-End-

STATE OF MONTANA

REQUEST NO. 583-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, _____, 19 77, there is hereby submitted a Fiscal Note for House Bill 783 pursuant to Chapter 53, Session Laws - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Department of Administration, Budget Bureau, to members of the Legislative Assembly upon request.

DESCRIPTION

This bill allows a deduction in computing taxable income for child care services incurred as employment related expenses.

FISCAL IMPACT

With a few minor exceptions this bill is identical to H.B. 47 (see fiscal note request number 8-77), which embodied provisions of the Internal Revenue Code relating to deductions for child care expenses incurred by working people. The state, by administrative rule, had incorporated the deduction but it has since been eliminated by the changes made in Federal law by the 1976 Tax Reform Act.

Comparison of this bill with H.B. 47 reveals that while the latter bill contained no provision for those having part-time employment, the age limit on dependents was 15 rather than 10 as in this bill (section 2 (b)) and those who are self-employed appear to be ineligible (section 2(e)) under this bill.

It was estimated that because H.B. 47 placed in law that which the Department of Revenue had been doing by administrative rule, there would be no demonstrable impact. The present bill appears to be so closely related to H.B. 47 that it should also produce no measurable impact.

TECHNICAL NOTE

If it is the intent that this bill be effective for this and subsequent years an additional section, stating: "This act is effective on passage and approval for all tax years beginning after December 31, 1976." should be added.

Richard L. Zeman
CHIEF, BUDGET BUREAU

Department of Administration

Date: 2-22-77