HOUSE BILL NO. 166

INTRODUCED BY GOOD, VINCENT, STRIZICH, GIACOMETTO, REAM, MERCER, WYATT, MOORE, O'CONNELL, MCDONOUGH, REHBERG, MCCORMICK, WALKER

IN THE HOUSE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
JANUARY 14, 1989	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 2, 1989	PRINTING REPORT.
MARCH 3, 1989	SECOND READING, DO PASS.
MARCH 4, 1989	ENGROSSING REPORT.
MARCH 6, 1989	THIRD READING, PASSED. AYES, 92; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 7, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 22, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 27, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
MARCH 31, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

House BILL NO. 166

INTRODUCED BY Vincent

Mercer Moore Rehberg Ream Wyatt O'Connell

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A CREDIT AGAINST MONTANA INDIVIDUAL INCOME TAX FOR CERTAIN EXPENSES INCURRED IN THE CARE OF CERTAIN ELDERLY FAMILY MEMBERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Credit for expense of caring for certain elderly family members.** (1) There is a credit against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of a qualifying family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 70 years of age;

(ii) is diagnosed by a physician as having senile dementia of the Alzheimer type; or

(iii) is disabled within the meaning of section 216(i) of the federal Social Security Act, as it read on January 1, 1989; and

(c) has a family income of $15,000 or less for the taxable year.

(3) For purposes of this section, "family income" means, in the case of an individual who is not married, the adjusted gross income of the individual or, in the case of a married individual, the adjusted gross income of the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for home health agency services provided by an organization certified by the federal health care financing administration, homemaker services, adult day care, respite care, or health-care equipment and supplies:

(i) provided to the qualifying family member;

(ii) provided by an organization or individual not related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) subject to the limitations in subsection (4)(a), payments by the taxpayer for nursing home care of an individual who is diagnosed by a physician as having senile dementia of the Alzheimer type.

(5) The percentage amount of credit allowable under this section is:

(a) for a taxpayer whose adjusted gross income does not exceed $25,000, 30% of qualified elderly care expenses; or

(b) for a taxpayer whose adjusted gross income exceeds

$25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each $2,000 or fraction thereof by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

(6) The dollar amount of credit allowable under this section is:

(a) reduced by $1 for each dollar of the adjusted gross income over $50,000 for a taxpayer whose adjusted gross income exceeds $50,000;

(b) limited to $5,000 per qualifying family member in a taxable year and to $10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has

no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections.

NEW SECTION. **Section 2.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 4.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB166 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to allow a credit against Montana Individual Income Tax for certain expenses incurred in the care of certain elderly family members; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. There are approximately 65,000 elderly over the age of 70 in the state of Montana. (Bureau of Census, U.S. Department of Commerce)
2. Alzheimer's disease and other organic mental disorders effect about 6% of the elderly nationwide or about 3,900 over the age of 70 in Montana.(Aging America Trends and Projections, 1987-88 Edition, U.S. Department of Health and Human Services)
3. About 50% of the elderly households nationwide have incomes of less than $15,000 per year, or about 1,950 qualifying family units. Approximately 90% will not be eligible for Medicaid, or 1,755 elderly. (Aging America)
4. A personal care attendant will cost about $3,000 per year if visiting the home for one to two hours per day at $8 per hour. (Home Services Continuum Chart, Department of Family Services)
5. One-third of the cost of the required care will be paid for by the qualified taxpayer, or about $1,000 per year. (Department of Revenue)
6. Based on the 1986 income tax returns eighty percent of taxpayers will qualify for the maximum credit of 30%, fifteen percent of the taxpayers will qualify for the 20% tax credit, and 5% of the taxpayers will not qualify for the tax credit. (Montana Income Tax Analysis)
7. The total tax credit taxpayers will qualify for is:
   $5,265,000 * 33% paid by taxpayer * 80% full credit * 30% credit = $417,000
   $5,265,000 * 33% paid by taxpayer * 15% reduced tax credit * 20% credit = $52,000
8. Individual income tax receipts are estimated to be $239,124,000 in FY90 and $254,428,000 in FY91. (Revenue Estimating Advisory Council-REAC)
9. The credit will require the addition of one line on income tax forms and additional data processing costs. It is estimated that the change will increase Department of Revenue expenditures by $17,430 in FY90 and $2,920 in FY91 and subsequent years.

Ray Shackleford 1/21/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

M Good 1/23/89
SUSAN M. GOOD, PRIMARY SPONSOR DATE

Fiscal Note for HB166, as introduced

HB166

Fiscal Impact:

Individual Income Tax	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
	$239,124,000	$238,655,000	($469,000)	$254,428,000	$253,959,000	($469,000)

Fund Information:

	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
General Fund	$139,170,168	$138,897,210	($272,958)	$148,077,096	$147,804,138	($272,958)
Foundation Program	76,041,432	75,892,290	(149,142)	80,908,104	80,758,962	(149,142)
Sinking Fund	23,912,400	23,865,500	(46,900)	25,442,800	25,395,900	(46,900)
Total	$239,124,000	$238,655,000	($469,000)	$254,428,000	$253,959,000	($469,000)

Expenditure Impact:

General Fund	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
Personal Services	$ 0	$ 12,140	$ 12,140	$ 0	$ 2,150	$ 2,150
Operating Expense	0	5,290	5,290	0	770	770
Total	$ 0	$ 17,430	$ 17,430	$ 0	$ 2,920	$ 2,920

Long-Range Effects of Proposed Legislation:

The provision of an individual income tax credit for families to provide financial assistance to maintain their elderly family members in their own home may reduce the need to build new nursing home beds. The Department of Health estimates that by 1990 an additional 400-500 nursing home beds will be needed across the State.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Revised Fiscal Note for HB166 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to allow a credit against Montana Individual Income Tax for certain expenses incurred in the care of certain elderly family members; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. There are approximately 65,000 elderly over the age of 70 in the state of Montana. (Bureau of Census, U.S. Department of Commerce)
2. Alzheimer's disease and other organic mental disorders effect about 6% of the elderly nationwide or about 3,900 over the age of 70 in Montana.(Aging America Trends and Projections, 1987-88 Edition, U.S. Department of Health and Human Services)
3. About 50% of the elderly households nationwide have incomes of less than $15,000 per year, or about 1,950 qualifying family units. Approximately 90% will not be eligible for Medicaid, or 1,755 elderly. (Aging America)
4. A personal care attendant will cost about $3,000 per year if visiting the home for one to two hours per day at $8 per hour. (Home Services Continuum Chart, Department of Family Services)
5. One-third of the cost of the required care will be paid for by the qualified taxpayer, or about $1,000 per year. (Department of Revenue)
6. Based on the 1986 income tax returns eighty percent of taxpayers will qualify for the maximum credit of 30%, fifteen percent of the taxpayers will qualify for the 20% tax credit, and 5% of the taxpayers will not qualify for the tax credit. (Montana Income Tax Analysis)
7. The total tax credit taxpayers will qualify for is:
   $5,265,000 * 33% paid by taxpayer * 80% full credit * 30% credit = $417,000
   $5,265,000 * 33% paid by taxpayer * 15% reduced tax credit * 20% credit = $52,000
8. Individual income tax receipts are estimated to be $239,124,000 in FY90 and $254,428,000 in FY91. (Revenue Estimating Advisory Council-REAC)
9. The credit will require the addition of one line on income tax forms and additional data processing costs. It is estimated that the change will increase Department of Revenue expenditures by $17,430 in FY90 and $2,920 in FY91 and subsequent years.
10. Nursing home occupancy rate is 91%.
11. If a person were cared for in the home, the nursing home bed would be filled with another person.
12. If a person is not eligible for medicaid when they enter the nursing home, their resources are usually depleted quickly and then they are eligible.

Ray Shackleford 1/30/89

RAY SHACKLEFORD, BUDGET DIRECTOR DATE

OFFICE OF BUDGET AND PROGRAM PLANNING

2/09/89

SUSAN M. GOOD, PRIMARY SPONSOR DATE

Fiscal Impact:

Individual	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
Income Tax	$239,124,000	$238,655,000	($469,000)	$254,428,000	$253,959,000	($469,000)

Fund Information:

	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
General Fund	$139,170,168	$138,897,210	($272,958)	$148,077,096	$147,804,138	($272,958)
Foundation Program	76,041,432	75,892,290	(149,142)	80,908,104	80,758,962	(149,142)
Sinking Fund	23,912,400	23,865,500	(46,900)	25,442,800	25,395,900	(46,900)
Total	$239,124,000	$238,655,000	($469,000)	$254,428,000	$253,959,000	($469,000)

Expenditure Impact:

General Fund	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
Personal Services	$ 0	$ 12,140	$ 12,140	$ 0	$ 2,150	$ 2,150
Operating Expense	0	5,290	5,290	0	770	770
Total	$ 0	$ 17,430	$ 17,430	$ 0	$ 2,920	$ 2,920

Long-Range Effects of Proposed Legislation:

The provision of an individual income tax credit for families to provide financial assistance to maintain their elderly family members in their own home may reduce the need to build new nursing home beds. The Department of Health estimates that by 1990 an additional 400-500 nursing home beds will be needed across the State.

HB 166- Revised

SPONSOR'S FISCAL NOTE

Form BD-15S

There is hereby submitted a Sponsor's Fiscal Note for: HB 166, Version:

ASSUMPTIONS:

1. There are 4000 nursing home admissions in a given year.
2. Of that number 2400 are eligible for Medicaid.
3. 10% or 240 individuals will delay admission to nursing homes for 6 months.
4. The state portion of Medicaid obligation is $11.00 per day.
5. 180 days x $11.00 = $1,980.00.
6. $1980.00 x 240 = $475,200.00 annually.

UNDER ASSUMPTION 2

1985	3,334 Medicaid eligible
1986	3,347 Medicaid eligible
1987	3,502 Medicaid eligible
1988	3,606 Medicaid eligible

M Susan Good March 2 '89

PRIMARY SPONSOR DATE

Fiscal Note for: HB 166 Version:

HB 166

APPROVED BY COMMITTEE
ON TAXATION

House BILL NO. 166

INTRODUCED BY [illegible] Vincent [illegible]
[illegible] Mercer Moore [illegible] Rehberg [illegible]
[illegible] Wyatt O'Connell [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A CREDIT AGAINST MONTANA INDIVIDUAL INCOME TAX FOR CERTAIN EXPENSES INCURRED IN THE CARE OF CERTAIN ELDERLY FAMILY MEMBERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1.** **Credit for expense of caring for certain elderly family members.** (1) There is a credit against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of a qualifying family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 70 years of age;

(ii) is diagnosed by a physician as having senile dementia of the Alzheimer type; or

(iii) is disabled within the meaning of section 216(i) of the federal Social Security Act, as it read on January 1, 1989; and

(c) has a family income of $15,000 or less for the taxable year.

(3) For purposes of this section, "family income" means, in the case of an individual who is not married, the adjusted gross income of the individual or, in the case of a married individual, the adjusted gross income of the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for home health agency services provided by an organization certified by the federal health care financing administration, homemaker services, adult day care, respite care, or health-care equipment and supplies:

(i) provided to the qualifying family member;

(ii) provided by an organization or individual not related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) subject to the limitations in subsection (4)(a), payments by the taxpayer for nursing home care of an individual who is diagnosed by a physician as having senile dementia of the Alzheimer type.

(5) The percentage amount of credit allowable under this section is:

(a) for a taxpayer whose adjusted gross income does not exceed $25,000, 30% of qualified elderly care expenses; or

(b) for a taxpayer whose adjusted gross income exceeds

SECOND READING
HB 166

$25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each $2,000 or fraction thereof by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

(6) The dollar amount of credit allowable under this section is:

(a) reduced by $1 for each dollar of the adjusted gross income over $50,000 for a taxpayer whose adjusted gross income exceeds $50,000;

(b) limited to $5,000 per qualifying family member in a taxable year and to $10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has

no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections.

NEW SECTION. **Section 2.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 4.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

-End-

House BILL NO. 166

INTRODUCED BY Merrill Vincent Mercer Moore Rehberg Ream Wyatt O'Connell

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A CREDIT AGAINST MONTANA INDIVIDUAL INCOME TAX FOR CERTAIN EXPENSES INCURRED IN THE CARE OF CERTAIN ELDERLY FAMILY MEMBERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Credit for expense of caring for certain elderly family members.** (1) There is a credit against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of a qualifying family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 70 years of age;

(ii) is diagnosed by a physician as having senile dementia of the Alzheimer type; or

(iii) is disabled within the meaning of section 216(i) of the federal Social Security Act, as it read on January 1, 1989; and

(c) has a family income of $15,000 or less for the taxable year.

(3) For purposes of this section, "family income" means, in the case of an individual who is not married, the adjusted gross income of the individual or, in the case of a married individual, the adjusted gross income of the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for home health agency services provided by an organization certified by the federal health care financing administration, homemaker services, adult day care, respite care, or health-care equipment and supplies:

(i) provided to the qualifying family member;

(ii) provided by an organization or individual not related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) subject to the limitations in subsection (4)(a), payments by the taxpayer for nursing home care of an individual who is diagnosed by a physician as having senile dementia of the Alzheimer type.

(5) The percentage amount of credit allowable under this section is:

(a) for a taxpayer whose adjusted gross income does not exceed $25,000, 30% of qualified elderly care expenses; or

(b) for a taxpayer whose adjusted gross income exceeds

THIRD READING

HB 166

$25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each $2,000 or fraction thereof by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

(6) The dollar amount of credit allowable under this section is:

(a) reduced by $1 for each dollar of the adjusted gross income over $50,000 for a taxpayer whose adjusted gross income exceeds $50,000;

(b) limited to $5,000 per qualifying family member in a taxable year and to $10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has

no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections.

NEW SECTION. **Section 2.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. **Section 3.** **Extension of authority.** Any existing authority to make rules on the subje[illegible] the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 4.** **Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

-End-

SENATE STANDING COMMITTEE REPORT

March 22, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 166 (third reading copy -- blue), respectfully report that HB 166 be amended and as so amended be concurred in:

Sponsor: Good (Walker)

1. Page 1, line 18.
Following: "age;"
Insert: "or"

2. Page 1, line 20.
Strike: "or"
Insert: "and"

3. Page 1, lines 21 through 23.
Strike: subsection (iii) in its entirety

AND AS AMENDED BE CONCURRED IN

Signed: Bob Brown
Bob Brown, Chairman

SENATE
HB 166

HOUSE BILL NO. 166

INTRODUCED BY GOOD, VINCENT, STRIZICH,

GIACOMETTO, REAM, MERCER, WYATT, MOORE, O'CONNELL,

MCDONOUGH, REHBERG, MCCORMICK, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A CREDIT AGAINST MONTANA INDIVIDUAL INCOME TAX FOR CERTAIN EXPENSES INCURRED IN THE CARE OF CERTAIN ELDERLY FAMILY MEMBERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Credit for expense of caring for certain elderly family members.** (1) There is a credit against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of a qualifying family member during the taxable year.

(2) A qualifying family member is an individual who:

(a) is related to the taxpayer by blood or marriage;

(b) (i) is at least 70 years of age; OR

(ii) is diagnosed by a physician as having senile dementia of the Alzheimer type; ~~or~~ AND

~~(iii)-is--disabled-within-the-meaning-of-section-216(i) of-the-federal-Social-Security-Act,-as-it-read-on-January-1, 1989;-and~~

(c) has a family income of $15,000 or less for the taxable year.

(3) For purposes of this section, "family income" means, in the case of an individual who is not married, the adjusted gross income of the individual or, in the case of a married individual, the adjusted gross income of the individual and the individual's spouse.

(4) Qualified elderly care expenses include:

(a) payments by the taxpayer for home health agency services provided by an organization certified by the federal health care financing administration, homemaker services, adult day care, respite care, or health-care equipment and supplies:

(i) provided to the qualifying family member;

(ii) provided by an organization or individual not related to the taxpayer or the qualifying family member; and

(iii) not compensated for by insurance or otherwise;

(b) subject to the limitations in subsection (4)(a), payments by the taxpayer for nursing home care of an individual who is diagnosed by a physician as having senile dementia of the Alzheimer type.

(5) The percentage amount of credit allowable under this section is:

(a) for a taxpayer whose adjusted gross income does not exceed $25,000, 30% of qualified elderly care expenses;

REFERENCE BILL

AS AMENDED

or

(b) for a taxpayer whose adjusted gross income exceeds $25,000, the greater of:

(i) 20% of qualified elderly care expenses; or

(ii) 30% of qualified elderly care expenses, less 1% for each $2,000 or fraction thereof by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

(6) The dollar amount of credit allowable under this section is:

(a) reduced by $1 for each dollar of the adjusted gross income over $50,000 for a taxpayer whose adjusted gross income exceeds $50,000;

(b) limited to $5,000 per qualifying family member in a taxable year and to $10,000 total for two or more family members in a taxable year;

(c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the same qualified family member in a taxable year in the same proportion that their contributions bear to the total qualified elderly care expenses paid by those taxpayers for that qualified family member.

(7) A deduction or credit is not allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under this section. The credit

allowed under this section may not be claimed as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

(8) In the case of a married individual filing a separate return, the percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated in those subsections.

NEW SECTION. **Section 2.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 4.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

-End-