

HOUSE BILL 293

Introduced by Cohen, et al.

1/18	Introduced
1/19	Referred to Taxation
1/20	Fiscal Note Requested
1/26	Fiscal Note Received
1/28	Fiscal Note Printed
2/02	Hearing
3/16	Committee Report--Bill Passed as Amended
3/22	Fiscal Note Requested on 2nd Reading Version
3/22	Fiscal Note Received
3/28	Fiscal Note Printed
3/29	2nd Reading Passed
3/30	3rd Reading Passed

Transmitted to Senate

3/31	Referred to Taxation
4/05	Hearing
	Died in Committee

1 ~~House~~ BILL NO. 293  
 2 INTRODUCED BY John Vincent  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX  
 5 CREDIT FOR HOUSEHOLD AND DEPENDENT CARE SERVICES BASED ON  
 6 THE INTERNAL REVENUE CODE; AMENDING SECTION 15-30-121, MCA;  
 7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
 8 APPLICABILITY DATE."

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

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

12 "15-30-121. Deductions allowed in computing net  
 13 income. In computing net income, there are allowed as  
 14 deductions:

15 (1) 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, subject to the following  
 18 exceptions which are not deductible:

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

20 (b) state income tax paid;

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

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

1 (a) expenses for household and dependent care services  
 2 necessary for gainful employment incurred for:  
 3 (i) a dependent under 15 years of age for whom an  
 4 exemption can be claimed;  
 5 (ii) a dependent as allowable under 15-30-12(5),  
 6 except that the limitations for age and gross income do not  
 7 apply, who is unable to care for himself because of physical  
 8 or mental illness; and  
 9 (iii) a spouse who is unable to care for himself  
 10 because of physical or mental illness;  
 11 (b) employment related expenses incurred for the  
 12 following services, but only if such expenses are incurred  
 13 to enable the taxpayer to be gainfully employed:  
 14 (i) household services which are attributable to the  
 15 care of the qualifying individual; and  
 16 (ii) care of an individual who qualifies under  
 17 subsection (3)(a);  
 18 (c) expenses incurred in maintaining a household if  
 19 over half of the cost of maintaining the household is  
 20 furnished by an individual or, if the individual is married  
 21 during the applicable period, is furnished by the individual  
 22 and his spouse;  
 23 (d) the amounts deductible in subsection (3)(a)  
 24 through (3)(c) are subject to the following limitations:  
 25 (i) a deduction is allowed under subsection (3)(a) for

1 employment-related expenses incurred during the year only to  
 2 the extent such expenses do not exceed \$4,800;  
 3 (ii) expenses for services in the household are  
 4 deductible under subsection (3)(a) for employment-related  
 5 expenses only if they are incurred for services in the  
 6 taxpayer's household, except that employment-related  
 7 expenses incurred for services outside the taxpayer's  
 8 household are deductible, but only if incurred for the care  
 9 of a qualifying individual described in subsection (3)(a)(i)  
 10 and only to the extent such expenses incurred during the  
 11 year do not exceed:  
 12 (A) \$2,400 in the case of one qualifying individual;  
 13 (B) \$3,600 in the case of two qualifying individuals;  
 14 and  
 15 (C) \$4,800 in the case of three or more qualifying  
 16 individuals;  
 17 (e) if the combined adjusted gross income of the  
 18 taxpayers exceeds \$18,000 for the taxable year during which  
 19 the expenses are incurred, the amount of the  
 20 employment-related expenses incurred must be reduced by  
 21 one-half of the excess of the combined adjusted gross income  
 22 over \$18,000;  
 23 (f) for purposes of this subsection (3):  
 24 (i) married couples shall file a joint return or file  
 25 separately on the same form;

1 (ii) if the taxpayer is married during any period of  
 2 the taxable year, employment-related expenses incurred are  
 3 deductible only if:  
 4 (A) both spouses are gainfully employed, in which case  
 5 the expenses are deductible only to the extent that they are  
 6 a direct result of the employment; or  
 7 (B) the spouse is a qualifying individual described in  
 8 subsection (3)(a)(iii);  
 9 (iii) an individual legally separated from his spouse  
 10 under a decree of divorce or of separate maintenance may not  
 11 be considered as married;  
 12 (iv) the deduction for employment-related expenses must  
 13 be divided equally between the spouses when filing  
 14 separately on the same form;  
 15 (v) payment made to a child of the taxpayer who is  
 16 under 19 years of age at the close of the taxable year and  
 17 payments made to an individual with respect to whom a  
 18 deduction is allowable under 15-30-112(5) are not deductible  
 19 as employment-related expenses;  
 20 (4)(3) in the case of an individual, political  
 21 contributions determined in accordance with the provisions  
 22 of section 218(a) and (b) of the Internal Revenue Code that  
 23 were in effect for the taxable year ended December 31, 1978;  
 24 (5)(4) that portion of expenses for organic fertilizer  
 25 allowed as a deduction under 15-32-303 which was not

1 otherwise deducted in computing taxable income; and

2 ~~f6~~(5) contributions to the child abuse and neglect  
3 prevention program provided for in 41-3-701, subject to the  
4 conditions set forth in 15-30-156."

5 NEW SECTION. **Section 2.** Credit for household and  
6 dependent care services. There is a credit for the expenses  
7 of household and dependent care services equal to 25% of the  
8 credit allowed in section 21 of the Internal Revenue Code of  
9 1954 or as that section may be labeled or amended.

10 NEW SECTION. **Section 3.** Codification instruction.  
11 [Section 2] is intended to be codified as an integral part  
12 of Title 15, chapter 30, and the provisions of Title 15,  
13 chapter 30, apply to [section 2].

14 NEW SECTION. **Section 4.** Extension of authority. Any  
15 existing authority to make rules on the subject of the  
16 provisions of [this act] is extended to the provisions of  
17 [this act].

18 NEW SECTION. **Section 5.** Effective date -- retroactive  
19 applicability. [This act] is effective on passage and  
20 approval and applies retroactively, within the meaning of  
21 1-2-109, to tax 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 HB293, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing an income tax credit for household and dependent care services based on the Internal Revenue Code; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections will be \$239,124,000 in FY90, and \$254,428,000 in FY91 (REAC).
2. Total U.S. child care credits will be \$3,946,298,000 in CY89, and \$4,137,556,000 in CY90. (Based on actual CY86 credits of \$3,493,653,000; and Consumer Price Indices of 109.6 in CY86, 123.8 in 1989, and 129.8 in 1990.)
3. Montana's share of total U.S. child care credits will be \$9,518,000 in CY89 (FY90), and \$9,980,000 in CY90 (FY91). (Based on historical Montana share of 0.2412 percent from IRS data.)
4. Twenty-five (25) percent of the nonrefundable credit used at the federal level will be used at the state level.
5. Revenue loss attributable to the current child care deduction is \$210,000 in FY90, and \$219,000 in FY91 (MDOR Tax Expenditure Report).
6. Passage of this proposal would require adding an additional line to the income tax form, requiring one-time development costs of \$14,510.

FISCAL IMPACT:Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Ind. Income Tax	\$239,124,000	\$236,954,500	(\$2,169,500)	\$254,428,000	\$252,152,000	(\$2,276,000)

Fund Information:

General Fund	\$139,170,168	\$137,907,519	(\$1,262,649)	\$148,077,096	\$146,752,464	\$1,324,632)
Foundation Program	76,041,432	75,351,531	(689,901)	80,908,104	80,184,336	(723,768)
Sinking Fund	23,912,400	23,695,450	(216,950)	25,442,800	25,215,200	(227,600)
Total	\$239,124,000	\$236,954,500	(\$2,169,500)	\$254,428,000	\$252,152,000	(\$2,276,000)

Expenditure Impact:

(General Fund)

Personal Services	\$ 0	\$ 9,990	\$ 9,990	\$ 0	\$ 0	\$ 0
Operating Expense	0	4,520	4,520	0	0	0
Total	\$ 0	\$ 14,510	\$ 14,510	\$ 0	\$ 0	\$ 0

Ray Shackleford 1/26/89  
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
 OFFICE OF BUDGET AND PROGRAM PLANNING

BEN COHEN, PRIMARY SPONSOR

1/27/89  
 DATE

Fiscal Note for HB293, as introduced

**HB 293**

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB293, on second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

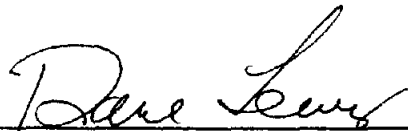
An act providing an income tax credit for household and dependent care services based on the Internal Revenue Code; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections will be \$256,617,000 in FY90, and \$274,732,000 in FY91 (HJR13).
2. Total U.S. child care credits will be \$3,946,298,000 in CY89, and \$4,137,556,000 in CY90. (Based on actual CY86 credits of \$3,493,653,000; and Consumer Price Indices of 109.6 in CY86, 123.8 in CY89, and 129.8 in CY90.)
3. Montana's share of total U.S. child care credits will be \$9,518,000 in CY89 (FY90), and \$9,980,000 in CY90 (FY91). (Based on historical Montana share of 0.2412 percent from IRS data.)
4. Twenty-five (25) percent of the nonrefundable credit used at the federal level will be used at the state level.
5. The proportion of credits attributable to married filers with a combined earned income of \$40,000 or less and individuals or heads of households with earned income of \$25,000 or less is .6946. (Congressional Budget Office Tax Expenditure Report, Fiscal Years 1989-1993, March 8, 1988.)
6. Revenue loss attributable to the current child care deduction is \$210,000 in FY90, and \$219,000 in FY91 (MDOR Tax Expenditure Report).
7. Passage of this proposal would require adding an additional line to the income tax form, requiring one-time development costs of \$14,510.

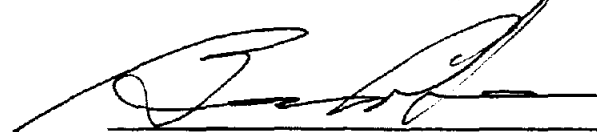
FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
<u>Revenue Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual						
Income Tax	\$256,617,000	\$255,174,199	(\$1,442,801)	\$274,732,000	\$273,217,973	(\$1,514,027)
<u>Fund Information:</u>						
General Fund	\$149,351,094	\$148,511,384	(\$ 839,710)	\$159,894,024	\$159,012,860	\$ 881,164)
Foundation Program	81,604,206	81,145,395	(458,811)	87,364,776	86,883,316	(481,460)
Sinking Fund	25,661,700	25,517,420	(144,280)	27,473,200	27,321,797	(151,403)
Total	\$256,617,000	\$255,174,199	(\$1,442,801)	\$274,732,000	\$273,217,973	(\$1,514,027)
<u>Expenditure Impact:</u>						
(General Fund)						
Personal Services	\$ 0	\$ 9,990	\$ 9,990	\$ 0	\$ 0	\$ 0
Operating Expense	0	4,520	4,520	0	0	0
Total	\$ 0	\$ 14,510	\$ 14,510	\$ 0	\$ 0	\$ 0



DATE 3/22/89

DAVE LEWIS, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 3/22/89

BEN COHEN, PRIMARY SPONSOR

Fiscal Note for HB293, on second reading

**HB 293**

APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 293

INTRODUCED BY COHEN, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX CREDIT FOR HOUSEHOLD AND DEPENDENT CARE SERVICES BASED ON THE INTERNAL REVENUE CODE; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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

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

(1) the items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, subject to the following exceptions which are not deductible:

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

(b) state income tax paid;

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

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

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

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

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

(iii) a spouse who is unable to care for himself because of physical or mental illness;

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

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

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

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

(d) the amounts deductible in subsection (3)(a) through (3)(c) are subject to the following limitations:

(i) a deduction is allowed under subsection (3)(a) for

1 employment-related expenses incurred during the year only to  
 2 the extent such expenses do not exceed \$4,800;  
 3 (ii) expenses for services in the household are  
 4 deductible under subsection (3)(a) for employment-related  
 5 expenses only if they are incurred for services in the  
 6 taxpayer's household, except that employment-related  
 7 expenses incurred for services outside the taxpayer's  
 8 household are deductible, but only if incurred for the care  
 9 of a qualifying individual described in subsection (3)(a)(i)  
 10 and only to the extent such expenses incurred during the  
 11 year do not exceed:  
 12 (A) \$2,400 in the case of one qualifying individual;  
 13 (B) \$3,600 in the case of two qualifying individuals;  
 14 and  
 15 (C) \$4,800 in the case of three or more qualifying  
 16 individuals;  
 17 (e) if the combined adjusted gross income of the  
 18 taxpayers exceeds \$18,000 for the taxable year during which  
 19 the expenses are incurred, the amount of the  
 20 employment-related expenses incurred must be reduced by  
 21 one-half of the excess of the combined adjusted gross income  
 22 over \$18,000;  
 23 (f) for purposes of this subsection (3):  
 24 (i) married couples shall file a joint return or file  
 25 separately on the same form;

1 (ii) if the taxpayer is married during any period of  
 2 the taxable year, employment-related expenses incurred are  
 3 deductible only if:  
 4 (A) both spouses are gainfully employed, in which case  
 5 the expenses are deductible only to the extent that they are  
 6 a direct result of the employment; or  
 7 (B) the spouse is a qualifying individual described in  
 8 subsection (3)(a)(iii);  
 9 (iii) an individual legally separated from his spouse  
 10 under a decree of divorce or of separate maintenance may not  
 11 be considered as married;  
 12 (iv) the deduction for employment-related expenses must  
 13 be divided equally between the spouses when filing  
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 16 under 19 years of age at the close of the taxable year and  
 17 payments made to an individual with respect to whom a  
 18 deduction is allowable under 15-30-112(5) are not deductible  
 19 as employment-related expenses;  
 20 (4)(3) in the case of an individual, political  
 21 contributions determined in accordance with the provisions  
 22 of section 218(a) and (b) of the Internal Revenue Code that  
 23 were in effect for the taxable year ended December 31, 1978;  
 24 (5)(4) that portion of expenses for organic fertilizer  
 25 allowed as a deduction under 15-32-303 which was not



otherwise deducted in computing taxable income; and

~~†6†~~(5) contributions to the child abuse and neglect prevention program provided for in 41-3-701, subject to the conditions set forth in 15-30-156."

**NEW SECTION. Section 2.** Credit for household and dependent care services -- **LIMITATIONS.** (1) There is a credit for the expenses of household and dependent care services equal to 25% of the credit allowed in section 21 of the Internal Revenue Code of 1954 or as that section may be labeled or amended.

(2) FOR PURPOSES OF SUBSECTION (1), THE CREDIT MAY BE CLAIMED BY:

(A) A MARRIED COUPLE WHOSE COMBINED ADJUSTED GROSS INCOME IS \$40,000 OR LESS FOR THE TAXABLE YEAR DURING WHICH THE EXPENSES ARE INCURRED; OR

(B) AN INDIVIDUAL OR A HEAD OF HOUSEHOLD WHOSE ADJUSTED GROSS INCOME IS \$25,000 OR LESS FOR THE TAXABLE YEAR DURING WHICH THE EXPENSES ARE INCURRED.

**NEW SECTION. Section 3.** Codification instruction. [Section 2] 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 2].

**NEW SECTION. Section 4.** 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 5.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1988.

-End-

## HOUSE BILL NO. 293

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

(b) state income tax paid;

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~~{3}--expenses--of-household-and-dependent-care-services as outlined in subsections {3}{a} through {3}{c} and subject to the limitations and rules as set out in subsections {3}{d} through {3}{f} as follows:~~

~~{a}--expenses-for-household-and-dependent-care-services necessary-for-gainful-employment-incurred-for:~~

~~{i}--a--dependent--under--15--years--of-age-for-whom-an exemption-can-be-claimed;~~

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

~~{iii}--a-spouse--who--is--unable--to--care--for--himself because-of-physical-or-mental-illness;~~

~~{b}--employment-related--expenses--incurred--for--the following-services, but-only-if-such-expenses--are--incurred to-enable-the-taxpayer-to-be-gainfully-employed;~~

~~{i}--household--services--which-are-attributable-to-the care-of-the-qualifying-individual; and~~

~~{ii}--care--of--an--individual--who--qualifies--under subsection-{3}{a};~~

~~{c}--expenses--incurred--in--maintaining-a-household-if over-half-of--the--cost--of--maintaining--the--household--is furnished--by-an-individual-or, if-the-individual-is-married during-the-applicable-period, is-furnished-by-the-individual and-his-spouse;~~

~~{d}--the--amounts--deductible--in--subsection--{3}{a} through-{3}{c}--are-subject-to-the-following-limitations:~~

~~{i}--a-deduction-is-allowed-under-subsection-{3}{a}-for~~

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 2 the extent such expenses do not exceed \$4,800;  
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