

HOUSE BILL 451

Introduced by Addy, et al.

1/26	Introduced
1/27	Referred to Taxation
1/28	Fiscal Note Requested
2/02	Hearing
2/03	Fiscal Note Received
2/07	Fiscal Note Printed
3/17	Tabled in Committee

1 *House* BILL NO. *451* *Raney* *Connelly*  
 2 INTRODUCED BY *Archie Marko Wright* *James Russell*  
 3 *Whalen* *Stacy* *Brinkley* *DeLoach* *Boyd* *Brady*  
 4 *Vogel* *Stacy* *Brinkley* *DeLoach* *Boyd* *Brady*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL  
 6 TO CLAIM BOTH THE STANDARD DEDUCTION AND THE DEDUCTION FOR  
 7 EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES, FOR  
 8 MONTANA INDIVIDUAL INCOME TAX PURPOSES; INCREASING THE  
 9 ADJUSTED GROSS INCOME LIMITATION FROM \$18,000 TO \$25,000;  
 10 AMENDING SECTIONS 15-30-121 AND 15-30-122, MCA; AND  
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
 12 APPLICABILITY DATE."

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

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

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

18 (1) the items referred to in sections 161 and 211 of  
 19 the Internal Revenue Code of 1954, or as sections 161 and  
 20 211 shall be labeled or amended, subject to the following  
 21 exceptions which are not deductible:

- 22 (a) items provided for in 15-30-123;  
 23 (b) state income tax paid;  
 24 (2) federal income tax paid within the taxable year;  
 25 (3) expenses of household and dependent care services

1 as outlined in subsections (3)(a) through (3)(c) and subject  
 2 to the limitations and rules as set out in subsections  
 3 (3)(d) through (3)(f) as follows:

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

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

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

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

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

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

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

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

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

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

7 (ii) expenses for services in the household are  
 8 deductible under subsection (3)(a) for employment-related  
 9 expenses only if they are incurred for services in the  
 10 taxpayer's household, except that employment-related  
 11 expenses incurred for services outside the taxpayer's  
 12 household are deductible, but only if incurred for the care  
 13 of a qualifying individual described in subsection (3)(a)(i)  
 14 and only to the extent such the expenses incurred during the  
 15 year do not exceed:

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

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

18 and

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

21 (e) if the combined adjusted gross income of the  
 22 taxpayers exceeds ~~\$18,000~~ \$25,000 for the taxable year  
 23 during which the expenses are incurred, the amount of the  
 24 employment-related expenses incurred must be reduced by  
 25 one-half of the excess of the combined adjusted gross income

1 over ~~\$18,000~~ \$25,000;

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

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

5 (ii) if the taxpayer is married during any period of  
 6 the taxable year, employment-related expenses incurred are  
 7 deductible only if:

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

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

13 (iii) an individual legally separated from his spouse  
 14 under a decree of divorce or of separate maintenance may not  
 15 be considered as married;

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

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

24 (4) in the case of an individual, political  
 25 contributions determined in accordance with the provisions

of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year ended December 31, 1978;

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

(6) 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."

**Section 2.** Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) In the case of a resident individual, a standard deduction equal to 20% of adjusted gross income shall be allowed if elected by the taxpayer on his return. ~~The Except as provided in subsection (3),~~ the standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be \$1,500, as adjusted under the provisions of subsection (2), except that in the case of a single joint return of husband and wife or in the case of a single individual who qualifies to file as a head of household on his federal income tax return, the maximum standard deduction shall be \$3,000, as adjusted under the provisions of subsection (2). The standard deduction ~~shall~~ may not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination

of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2) By November 1 of each year, the department shall multiply the maximum standard deduction for single returns by the inflation factor for that taxable year and round the product to the nearest \$10. The standard deduction for joint returns and qualified head of household returns shall be twice the amount for single returns. The resulting adjusted deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.

(3) In addition to the standard deduction allowed under this section, an individual may claim a deduction for expenses for household and dependent care services as provided in 15-30-121."

**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 HB451, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing an individual to claim both the standard deduction and the deduction for expenses for household and dependent care services, for Montana individual income tax purposes; increasing the adjusted gross income limitation from \$18,000 to \$25,000; 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. Increasing the dependent care deduction threshold from \$18,000 to \$25,000 will cause an additional 100 returns to use the deduction. These returns will take the 1987 average deduction of \$975. and will face an average marginal tax rate of 6%.
3. Currently, 40,340 married couples filing jointly take the standard deduction; 25,277 couples filing separately take the standard deduction; and 11,900 heads of households take the standard deduction. Four percent (4%) of these returns will utilize the additional deduction for child and dependent care expense allowed under the proposal. These returns will also take the average deduction of \$975 and will face an average marginal tax rate of 5%.
4. Administrative expenses will be increased \$17,440 in FY90, and \$2,930 in FY91.

FISCAL IMPACT:Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Ind. Income Tax	\$239,124,000	\$238,967,000	(\$157,000)	\$254,428,000	\$254,271,000	(\$157,000)
<u>Fund Information:</u>						
General Fund	\$139,170,168	\$139,078,794	(\$91,374)	\$148,077,096	\$147,985,722	(\$91,374)
Foundation Program	76,041,432	75,991,506	(49,926)	80,908,104	80,858,178	(49,926)
Sinking Fund	23,912,400	23,896,700	(15,700)	25,442,800	25,427,100	(15,700)
Total	\$239,124,000	\$238,967,000	(\$157,000)	\$254,428,000	\$254,271,000	(\$157,000)
<u>Expenditure Impact:</u>						
Personal Services	\$ 0	\$ 12,150	\$ 12,150	\$ 0	\$ 2,160	\$ 2,160
Operating Expense	0	5,290	5,290	0	770	770
Total	\$ 0	\$ 17,440	\$ 17,440	\$ 0	\$ 2,930	\$ 2,930

Ray Shackelford 2/3/89  
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
 OFFICE OF BUDGET AND PROGRAM PLANNING

Kelly Addy Feb 6, 1989  
 KELLY ADDY, PRIMARY SPONSOR DATE

Fiscal Note for HB451, as introduced

**HB 451**