

HOUSE BILL NO. 505

INTRODUCED BY COCCHIARELLA, SCHYE, RYAN,
SQUIRES, DRISCOLL, TUSS, PAVLOVICH,
HALLIGAN, FRITZ

IN THE HOUSE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 13, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 15, 1993	PRINTING REPORT.
MARCH 16, 1993	SECOND READING, DO PASS.
MARCH 17, 1993	ENGROSSING REPORT.
MARCH 18, 1993	THIRD READING, PASSED. AYES, 72; NOES, 25.
MARCH 19, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 3, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 12, 1993	SECOND READING, CONCURRED IN AS AMENDED.
APRIL 13, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 3.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
----------------	---

APRIL 16, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *505*
 2 INTRODUCED BY *Paulaulla* *John W. Ryan*
 3 *James Russell* *Arnold Hallgren*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL
 5 INCOME TAX DEDUCTION FOR EMPLOYMENT-RELATED EXPENSES
 6 CONSIDERED TO HAVE BEEN PAID FOR A CHILD CARED FOR AT A
 7 LICENSED DAY-CARE HOME OPERATED BY THE CHILD'S PARENT;
 8 AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE
 9 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

12 **Section 1.** Section 15-30-121, MCA, is amended to read:
 13 "15-30-121. Deductions allowed in computing net income.

14 In computing net income, there are allowed as deductions:

15 (1) the items referred to in sections 161, including
 16 the contributions referred to in 33-15-201(5)(b), and 211 of
 17 the Internal Revenue Code of 1954, or as sections 161 and
 18 211 ~~shall--be~~ are labeled or amended, subject to the
 19 following exceptions which are not deductible:

20 (a) items provided for in 15-30-123;
 21 (b) state income tax paid;
 22 (2) federal income tax paid within the taxable year;
 23 (3) expenses of household and dependent care services
 24 as outlined in subsections (3)(a) through (3)(c) and (9) and
 25 subject to the limitations and rules as set out in

1 subsections (3)(d) through (3)(f) as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

(f) For purposes of this subsection (3):

(i) married couples shall file a joint return or file

separately on the same form;

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

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

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

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

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

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

(4) in the case of an individual, political 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

1 allowed as a deduction under 15-32-303 which was not
2 otherwise deducted in computing taxable income;

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

6 (7) premium payments for long-term care insurance with
7 benefits that meet or exceed the minimum standards as
8 established by the state insurance commissioner; and

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

12 (9) (a) Subject to the conditions of subsection (3), a
13 taxpayer who operates a family day-care home or a group
14 day-care home, as these terms are defined in 52-2-703, and
15 who cares for the taxpayer's own child in the ordinary
16 course of business may deduct employment-related expenses
17 considered to have been paid for the care of the child.

18 (b) The amount of employment-related expenses
19 considered to have been paid by the taxpayer is equal to the
20 amount the taxpayer charges for the care of a child of the
21 same age for the same number of hours of care. The
22 employment-related expenses apply regardless of whether any
23 expenses actually have been paid. Employment-related
24 expenses may not exceed the amounts specified in subsection
25 (3)(d)(ii).

1 (c) Only a day-care operator who is licensed and
2 registered as required in 53-2-721 is allowed the deduction
3 under this subsection (9). (Subsection (8) terminates on
4 occurrence of contingency--sec. 12, Ch. 808, L. 1991.)"

5 NEW SECTION. Section 2. Effective date -- retroactive
6 applicability date. [This act] is effective on passage and
7 approval and applies retroactively, within the meaning of
8 1-2-109, to tax years beginning after December 31, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0505, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing an individual income tax deduction for employment-related expenses considered to have been paid for a child cared for at a licensed day-care home operated by the child's parent; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. There are 494 registered group day-care homes (MDFS) providing care to an average of 9 children (as defined in MCA 52-2-703) in Montana (MDOR).
2. There are 1,048 registered family day-care homes (MDFS) providing care to an average of 5 children (as defined in MCA 52-2-703) in Montana (MDOR).
3. There are 174 licensed day-care centers (MDFS) providing care to an average of 20 children (as defined in MCA 52-2-703) in Montana (MDOR).
4. Assumptions 1 to 3 result in an estimated total of 13,166 children currently being cared for in day-care homes and centers.
5. Each parent-operated day care home has one qualifying child of the operator (MDOR).
6. The tax expenditure resulting from the current law child care deduction is \$61,000 in FY94 and \$52,000 in FY95 (MDOR Tax Expenditure Report, FY94 and FY95, pg. 50).
7. The total tax expenditure under the proposal will increase by the ratio of total children in day-care homes to the total number of children in day-care homes exclusive of operators' children (1.1171).

FISCAL IMPACT:Expenditures:

There is no impact on expenditures under the proposed legislation.

Revenues:

	<u>FY '94</u>			<u>FY '95</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	328,943,000	328,936,000	7,000	339,696,000	339,690,000	6,000

David Lewis 2-10-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Vicki Cocchiarella 2-11-93
 VICKI COCCHIARELLA, PRIMARY SPONSOR DATE

Fiscal Note for HB0505, as introduced

HB 505

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 505

INTRODUCED BY COCCHIARELLA, SCHYE, RYAN,

SQUIRES, DRISCOLL, TUSS, PAVLOVICH,

HALLIGAN, FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL INCOME TAX DEDUCTION FOR EMPLOYMENT-RELATED EXPENSES CONSIDERED TO HAVE BEEN PAID FOR A CHILD CARED FOR AT A LICENSED DAY-CARE HOME OPERATED BY THE CHILD'S PARENT; 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, 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 ~~shall be~~ 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;

(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 (9) 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 to provide self-care because of physical or mental illness; and

(iii) a spouse who is unable to-care-for-himself to provide self-care 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~~ the individual's spouse;

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

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

6 (ii) expenses for services in the household are
 7 deductible under subsection (3)(a) for employment-related
 8 expenses only if they are incurred for services in the
 9 taxpayer's household, except that employment-related
 10 expenses incurred for services outside the taxpayer's
 11 household are deductible, but only if incurred for the care
 12 of a qualifying individual described in subsection (3)(a)(i)
 13 and only to the extent such the expenses incurred during the
 14 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;

17 and

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

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

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

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

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

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

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

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

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

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

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

(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;

(7) premium payments for long-term care insurance with benefits that meet or exceed the minimum standards as established by the state insurance commissioner; and

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

(9) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child AND AT LEAST ONE UNRELATED CHILD in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any

expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

(c) Only a day-care operator who is licensed and registered as required in 53-2-721 is allowed the deduction under this subsection (9). (Subsection (8) terminates on occurrence of contingency--sec. 12, Ch. 808, L. 1991.)"

NEW SECTION. Section 2. Effective date -- retroactive applicability date. [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, 1992.

-End-

HOUSE BILL NO. 505

INTRODUCED BY COCCHIARELLA, SCHYE, RYAN,
SQUIRES, DRISCOLL, TUSS, PAVLOVICH,
HALLIGAN, FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL
INCOME TAX DEDUCTION FOR EMPLOYMENT-RELATED EXPENSES
CONSIDERED TO HAVE BEEN PAID FOR A CHILD CARED FOR AT A
LICENSED DAY-CARE HOME OPERATED BY THE CHILD'S PARENT;
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, 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 ~~shall--be~~ 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;
- (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 (9) 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 to provide self-care
because of physical or mental illness; and

(iii) a spouse who is unable to--care--for--himself to
provide self-care 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~~ the individual's 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 employment-related expenses incurred during the year only to the extent such the expenses do not exceed \$4,800;

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

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

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

and

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

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

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

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

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

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

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

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

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

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

(4) in the case of an individual, political 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;

(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;

(7) premium payments for long-term care insurance with benefits that meet or exceed the minimum standards as established by the state insurance commissioner; and

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

(9) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child AND AT LEAST ONE UNRELATED CHILD in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any

expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

(c) Only a day-care operator who is licensed and registered as required in 53-2-721 is allowed the deduction under this subsection (9). (Subsection (8) terminates on occurrence of contingency--sec. 12, Ch. 808, L. 1991.)"

NEW SECTION. Section 2. Effective date -- retroactive applicability date. [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, 1992.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 505 (third reading copy -- blue), respectfully report that House Bill No. 505 be amended as follows and as so amended be concurred in.

Signed:


Senator Mike Halligan, Chair

That such amendments read:

1. Page 6, line 5.
Strike: "53-2-721"
Insert: "52-2-721"

-END-

M- Amd. Coord.
W Sec. of Senate

Halligan
Senator Carrying Bill

SENATE
HB 505
741605SC.Sma

SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 6, 1993 11:04 am

Mr. Chairman: I move to amend House Bill No. 505 (third reading copy -- blue).

ADOPT

REJECT

Signed: _____



Senator Thomas "Tom" Towe

That such amendments read:

1. Page 6, line 8.

Following: line 7

Insert: "NEW SECTION. Section 2. Coordination instruction --
contingent termination. (1) If House Bill No. 671 is passed
and approved and it repeals 15-30-121, then [this act] is
void.

(2) If Senate Bill No. 235 is passed and approved by the
electors of Montana and it repeals 15-30-121 and if House Bill
No. 671 is not passed and approved, then [this act] terminates
December 31, 1993."

Renumber: subsequent section

-END-

SENATE

HB 505

HOUSE BILL NO. 505

INTRODUCED BY COCCHIARELLA, SCHYE, RYAN,
SQUIRES, DRISCOLL, TUSS, PAVLOVICH,
HALLIGAN, FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL
INCOME TAX DEDUCTION FOR EMPLOYMENT-RELATED EXPENSES
CONSIDERED TO HAVE BEEN PAID FOR A CHILD CARED FOR AT A
LICENSED DAY-CARE HOME OPERATED BY THE CHILD'S PARENT;
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, 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 ~~shall--be~~ 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;
- (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 (9) 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 to provide self-care
because of physical or mental illness; and

(iii) a spouse who is unable to--care--for--himself to
provide self-care 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~~ the individual's 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 employment-related expenses incurred during the year only to the extent such the expenses do not exceed \$4,800;

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

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

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

and

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

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

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

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

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

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

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

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

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

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

(4) in the case of an individual, political 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;

(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;

(7) premium payments for long-term care insurance with benefits that meet or exceed the minimum standards as established by the state insurance commissioner; and

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

(9) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child AND AT LEAST ONE UNRELATED CHILD in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any

expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

(c) Only a day-care operator who is licensed and registered as required in 53-2-721 52-2-721 is allowed the deduction under this subsection (9). (Subsection (8) terminates on occurrence of contingency--sec. 12, Ch. 808, L. 1991.)"

NEW SECTION. SECTION 2. COORDINATION INSTRUCTION -- CONTINGENT TERMINATION. (1) IF HOUSE BILL NO. 671 IS PASSED AND APPROVED AND IT REPEALS 15-30-121, THEN [THIS ACT] IS VOID.

(2) IF SENATE BILL NO. 235 IS PASSED AND APPROVED BY THE ELECTORS OF MONTANA AND IT REPEALS 15-30-121 AND IF HOUSE BILL NO. 671 IS NOT PASSED AND APPROVED, THEN [THIS ACT] TERMINATES DECEMBER 31, 1993.

NEW SECTION. Section 3. Effective date -- retroactive applicability date. [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, 1992.

-End-