

House BILL NO. *417*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY *Oliver*

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR THE FULL DEDUCTIBILITY FOR STATE INDIVIDUAL INCOME TAX PURPOSES OF CERTAIN CHILD-CARE EXPENSES REGARDLESS OF TAXPAYER INCOME; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN 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 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;
- (c) one-half of premium payments for medical care as provided in subsection (9);

(2) federal income tax paid within the tax 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 provide self-care because of physical or mental illness; and
- (iii) a spouse who is unable to provide self-care because of physical or mental illness;

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

- 1 (i) household services that are attributable to the care of the qualifying individual; and
- 2 (ii) care of an individual who qualifies under subsection (3)(a);
- 3 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
- 4 household is furnished by an individual or, if the individual is married during the applicable period, is
- 5 furnished by the individual and the individual's spouse;
- 6 (d) the amounts deductible in subsections (3)(a) through (3)(c), subject to the following limitations:
- 7 (i) a deduction is allowed under subsection (3)(a)(ii) or (3)(a)(iii) for employment-related expenses
- 8 incurred during the year only to the extent that the expenses do not exceed \$4,800;
- 9 (ii) expenses for services in the household are deductible under subsection (3)(a) for
- 10 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
- 11 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
- 12 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) ~~and only to the extent~~
- 13 ~~that the expenses incurred during the year do not exceed:~~
- 14 ~~(A) \$2,400 in the case of one qualifying individual;~~
- 15 ~~(B) \$3,600 in the case of two qualifying individuals; and~~
- 16 ~~(C) \$4,800 in the case of three or more qualifying individuals;~~
- 17 (e) except as provided in subsection (3)(f)(vi), if the combined adjusted gross income of the
- 18 taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the
- 19 employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted
- 20 gross income over \$18,000;
- 21 (f) for purposes of this subsection (3):
- 22 (i) married couples shall file a joint return or file separately on the same form;
- 23 (ii) if the taxpayer is married during any period of the tax year, employment-related expenses
- 24 incurred are deductible only if:
- 25 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
- 26 extent that they are a direct result of the employment; or
- 27 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);
- 28 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
- 29 separate maintenance may not be considered as married;
- 30 (iv) the deduction for employment-related expenses must be divided equally between the spouses

1 when filing separately on the same form;

2 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
3 year and payments made to an individual with respect to whom a deduction is allowable under
4 15-30-112(5) are not deductible as employment-related expenses;

5 (vi) the income threshold and reduction in the amount of the employment-related expenses incurred
6 do not apply for the dependent care expenses incurred for a dependent described in subsection (3)(a)(i);

7 (4) in the case of an individual, political contributions determined in accordance with the provisions
8 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
9 31, 1978;

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

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

14 (7) one-half of premium payments, except premiums deducted in determining Montana adjusted
15 gross income, for:

16 (a) insurance for medical care made directly by the taxpayer; and

17 (b) long-term care insurance with benefits that meet or exceed the minimum standards as
18 established by the state insurance commissioner; and

19 (8) contributions to the Montana drug abuse resistance education program provided for in
20 44-2-702, subject to the conditions set forth in 15-30-159.

21 (9) For the purpose of subsection (7)(a), deductible medical insurance premiums are those
22 premiums that provide payment for medical care as defined by 26 U.S.C. 213(d).

23 (10) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care
24 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
25 own child and at least one unrelated child in the ordinary course of business may deduct
26 employment-related expenses considered to have been paid for the care of the child.

27 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is
28 equal to the amount that the taxpayer charges for the care of a child of the same age for the same number
29 of hours of care. The employment-related expenses apply regardless of whether any expenses actually have
30 been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0417, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing for the full deductibility for state individual income tax purposes of certain child-care expenses regardless of taxpayer income; and providing an applicability date.

ASSUMPTIONS:

1. Tax year 1998 (FY99) is the first full year with a negative revenue impact.
2. The limits on the amount of dependent care expenses that are deductible and household adjusted gross income only apply to the deduction for mentally or physically ill dependents over 15 years of age. These deductions make up a small portion of all child/dependent care deductions claimed.
3. Under current law, 1,822 households deducted \$2,365,406 for child/dependent care expenses in tax year 1995, for an average deduction of approximately \$1,300 per household. The Department of Revenue is projecting a revenue loss associated with the current law deduction of \$62,500 for fiscal years 1998 and 1999 (DOR Biennial Report 1994-1996).
4. Under this proposal the following types of households would not use the deduction: taxpayers who file as single or married filing separately on separate forms; retiree households; households without dependents. Using tax year 1995 data, this leaves approximately 59,000 households that could potentially use the deduction.
5. In tax year 1995, 15% of households not listed in assumption #4 and having adjusted gross income under \$18,000 used the child/dependent care deduction. (Under current law, \$18,000 is the level of adjusted gross income where the phaseout of the deduction begins.) Applying this percentage to the total number of eligible households in assumption #4 gives 8,850 households that are expected to use the deduction as proposed.
6. The average marginal tax rate for the 8,850 household from assumption #5 is 6%.
7. Because of the removal of the cap on deductible child care expenses for dependents under 15 years of age, the average deduction is expected to increase. The average deduction is expected to range from \$1,500 (slightly above the current average) to \$2,500.
8. Because there is already a line on the income tax form for a child/dependent care deduction, administrative costs will be minimal.
9. Given the above assumptions, the net revenue loss from this proposal is expected to be between \$734,000 and \$1,265,000 annually.

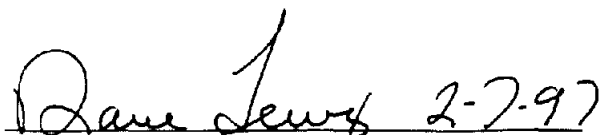
$$(8,850) (\$1,500) (.06) - \$62,500 = \$ 734,000$$

$$(8,850) (\$2,500) (.06) - \$62,500 = \$1,265,000$$

FISCAL IMPACT:

Revenues: (General Fund)

Income Tax - Beginning in FY99 a loss of revenue between \$734,000 to \$1,265,000 yearly (see assumption #9).


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JON ELLINGSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0417, as introduced

HB 417