

1 SENATE BILL NO. 350

2 INTRODUCED BY J. ELLINGSON, BOHLINGER, ERICKSON, FRANKLIN, HALLIGAN, PEASE, TOOLE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A TAX CREDIT FOR DONATIONS TO THE
 5 AFFORDABLE HOUSING REVOLVING LOAN ACCOUNT BY INDIVIDUAL AND CORPORATE TAXPAYERS;
 6 PROVIDING THAT THE CREDIT IS ~~EQUAL TO 50 PERCENT~~ A PERCENTAGE OF THE AMOUNT OF THE
 7 DONATION, ~~BUT~~ AND MAY NOT EXCEED \$10,000; PROVIDING FOR THE ALLOCATION OF THE CREDIT
 8 FOR SMALL BUSINESS CORPORATIONS AND PARTNERSHIPS; PROVIDING THAT FOR THE PURPOSES
 9 OF THE QUALIFIED ENDOWMENT CREDIT UNDER STATE TAX LAW, THE AFFORDABLE HOUSING
 10 REVOLVING LOAN ACCOUNT IS A QUALIFIED ENDOWMENT; AMENDING SECTION 15-30-165, MCA;
 11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE ~~AND~~, A RETROACTIVE APPLICABILITY DATE, AND
 12 A TERMINATION DATE."

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

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16 NEW SECTION. **Section 1. Credit for contributions to affordable housing revolving loan account.**

17 (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-103 or 15-31-101 in an amount
 18 equal to ~~50% 40% 20%~~ of the amount donated by the taxpayer AN INDIVIDUAL TAXPAYER OR 20% 10% OF
 19 THE AMOUNT DONATED BY A TAXPAYER UNDER TITLE 15, CHAPTER 31, during the year to the affordable housing
 20 revolving loan account established in 90-6-133. The maximum credit that may be claimed by a taxpayer
 21 is \$10,000. The credit allowed under this section may not exceed the taxpayer's income tax liability.

22 (2) The credit allowed under this section may not be claimed by ~~an individual~~ A taxpayer if the
 23 taxpayer has included the full amount of the contribution upon which the amount of the credit was
 24 computed as a deduction under 15-30-121(1) ~~or~~, 15-30-136(2), OR 15-31-114.

25 (3) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE CLAIMED BY A TAXPAYER IF THE TAXPAYER HAS
 26 CLAIMED A CREDIT FOR A CONTRIBUTION TO A QUALIFIED ENDOWMENT UNDER THE PROVISIONS OF 15-30-165 THROUGH
 27 15-30-167, 15-31-161, OR 15-31-162 FOR A CONTRIBUTION TO THE AFFORDABLE HOUSING REVOLVING LOAN
 28 ACCOUNT.

29 ~~(3)~~(4) There is no carryback or carryforward of the credit permitted under this section, and the
 30 credit must be applied to the tax year in which the contribution is made.

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2 NEW SECTION. Section 2. Credit for contributions to affordable housing revolving loan account.

3 (1) A CONTRIBUTION TO THE AFFORDABLE HOUSING REVOLVING LOAN ACCOUNT AS PROVIDED IN [SECTION 1] BY A SMALL
 4 BUSINESS CORPORATION, AS DEFINED IN 15-31-201, A PARTNERSHIP, OR A LIMITED LIABILITY COMPANY, AS DEFINED IN
 5 35-8-102, CARRYING ON ANY TRADE OR BUSINESS FOR WHICH DEDUCTION WOULD BE ALLOWED UNDER SECTION 162
 6 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 162, OR CARRYING ON ANY RENTAL ACTIVITY QUALIFIES FOR THE CREDIT
 7 PROVIDED IN [SECTION 1].

8 (2) If contributions to the affordable housing revolving loan account are claimed as a credit under
 9 [section 1] by a small business corporation, as defined in 15-31-201, or a partnership, the credit must be
 10 attributed to shareholders or partners, using the same proportion used to report the corporation's or
 11 partnership's income or loss for Montana income tax purposes.

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13 SECTION 3. SECTION 15-30-165, MCA, IS AMENDED TO READ:

14 **"15-30-165. (Temporary) Qualified endowments credit -- definitions.** For the purposes of
 15 15-30-166, the following definitions apply:

16 (1) "Planned gift" means an irrevocable contribution to a permanent endowment held by a
 17 tax-exempt organization, or for a tax-exempt organization, when the contribution uses any of the following
 18 techniques that are authorized under the Internal Revenue Code:

- 19 (a) charitable remainder unitrusts, as defined by 26 U.S.C. 664;
 20 (b) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;
 21 (c) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);
 22 (d) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
 23 (e) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
 24 (f) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
 25 (g) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
 26 (h) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);
 27 (i) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

28 (2) (a) "Qualified endowment" means a permanent, irrevocable fund that is held by a Montana
 29 incorporated or established organization that:

30 ~~(a)~~(i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or

1 ~~(b)(ii)~~ is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund
2 on behalf of a tax-exempt organization.

3 **(b) For the purposes of sections 15-30-165 through 15-30-167, the affordable housing revolving**
4 **loan account established in 90-6-133 is considered qualified endowment. (Terminates December 31,**
5 **2001--sec. 9, Ch. 537, L. 1997.)"**

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7 **NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as
8 an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

9 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, and the
10 provisions of Title 15, chapter 31, apply to [section 2].

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12 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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14 **NEW SECTION. Section 6. Retroactive applicability.** [This act] applies retroactively, within the
15 meaning of 1-2-109, to tax years beginning after December 31, 2000.

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17 **NEW SECTION. SECTION 7. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2004.**

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