Montana Department of Revenue

Dan Bucks
Director

Brian Schweitzer
Governor

February 16, 2006

Senator Jim Elliott - Chair
Revenue and Transportation Interim Committee
100 Trout Creek Rd
Trout Creek, MT 59874-8609

Subject: Charitable Endowment Credit Legislative History and Use

Dear Senator Elliott:

Pursuant to section 15-1-230, MCA, the Department of Revenue is providing the 2005 report on the Charitable Endowment Credit Legislative History and Use.

We are pleased to respond to any questions or comments the Revenue and Transportation Interim Committee may have.

Sincerely,

Dan Bucks
Director
PO Box 5805
Helena, MT 59604-5805

Revenue & Transportation Committee Meeting
February 16 & 17, 2006

Exhibit #12

Montana Department of
REVENUE

Charitable Endowment Credit
Legislative History and Use

Prepared for Revenue and Transportation Legislative Interim Committee, as required by 15-1-203, MCA

December 2, 2005

Charitable Endowment Credit
Legislative History and Use

Section 15-1-230, MCA, provides that the department shall report to the Interim Revenue and Transportation Committee, at least once each year, the number and type of taxpayers claiming the charitable endowment tax credit, the total amount of the credit claimed, and the department's cost associated with administering the credit.

Legislative History

HB434 (1997 legislative session) provided for a credit against individual income and corporation license taxes for planned gifts made by the taxpayer during the year to any "qualified endowment." The credit was made available to individual taxpayers, corporations, small business corporations, partnerships, limited liability companies, and estates. Whereas individual taxpayers could make only "planned" gifts (i.e., gifts of a noncash nature), other types of taxpayers were allowed to make "outright" gifts (i.e., the gift could be in the form of cash).

In general, HB434 provided for a credit equal to 50% of the present value of qualifying contributions, up to a maximum credit of $10,000 per year, per taxpayer. Married couples filing separate tax returns could each claim a credit of up to $10,000; providing for a maximum credit per household of $20,000. The legislation further provided that:

- the credit was to be nonrefundable (that is, it could not exceed the taxpayer's tax liability);
- no credit could be claimed if the taxpayer included the full amount of the contribution as a deduction (however, contributions in excess of the amount used to calculate the credit could be applied as a deduction on the taxpayer's return); and
- no carryback or carryforward of the credit would be allowed, with the credit to be applied only to the tax year in which the contribution was made.

HB434 further provided that the credit would terminate December 31, 2001.

HB377 (2001 legislative session) extended the termination date for the credit to December 31, 2007. However, budgetary concerns about the historically rapid growth of the credit also resulted in changes to the amount of credit that could be claimed. The credit for a planned gift made by individual income taxpayers (or estates) was reduced from 50% of the value of any planned gift to 40% of the value. The credit for outright gifts made by corporations and other types of businesses was reduced from 50% of the value of any outright gift to 20% of the value. In all cases, the maximum credit allowable remained at $10,000.

These changes applied to contributions to qualified endowments made after December 31, 2001 (tax year 2002).

SB15 (2002 August Special Session) further modified the percentage and maximum credit amounts as follows:

For the period beginning on the date of passage and approval of SB15 (August 28, 2002) through June 30, 2003:

	Percentage	Maximum Credit
Planned Gift	30.0%	$6,600
Outright Gift	13.3%	$6,600

For the period beginning July 1, 2003 through April 30, 2004:

	Percentage	Maximum Credit
Planned Gift	50.0%	$13,400
Outright Gift	26.7%	$13,400

For the period beginning May 1, 2004 through the December 31, 2007 termination date, the credit would have reverted to its prior levels of:

	Percentage	Maximum Credit
Planned Gift	40%	$10,000
Outright Gift	20%	$10,000

HB616 (2003 Session) once again modified the parameters of this credit by eliminating the SB15 changes scheduled for the July 1, 2003 through April 30, 2004 period, and returned the parameters to the pre-SB15 levels beginning July 1, 2003:

	Percentage	Maximum Credit
Planned Gift	40%	$10,000
Outright Gift	20%	$10,000

There were no changes to the percentage or maximum credit parameters for this credit during the 2005 legislative session, and the credit is scheduled to terminate December 31, 2007.

Charitable Endowment Credit Use

Table 1 shows the number of tax returns claiming the credit, the total credit claimed, and the average credit claimed for the past several years, for both the individual income tax and the corporation license tax.

Table 1

Charitable Endowment Credit

INDIVIDUAL INCOME TAX

Tax Year	Number of Returns	% Change	Total Credit	% Change	Average Credit
1997	386		$1,332,693		$3,453
1998	890	131%	$3,288,234	147%	$3,695
1999	1,307	47%	$5,660,049	72%	$4,331
2000	1,765	35%	$7,121,923	26%	$4,035
2001	1,956	11%	$7,550,411	6%	$3,860
2002	709	-64%	$1,694,781	-78%	$2,390
2003	734	4%	$2,179,696	29%	$2,970
2004	879	20%	$2,585,041	19%	$2,941

CORPORATION LICENSE TAX

Fiscal Year	Number of Returns	% Change	Total Credit	% Change	Average Credit
1998	16		$73,749		$4,609
1999	58	263%	$313,675	325%	$5,408
2000	102	76%	$472,252	51%	$4,630
2001	127	25%	$703,420	49%	$5,539
2002	125	-2%	$622,099	-12%	$4,977
2003	79	-37%	$427,915	-31%	$5,417
2004	52	-34%	$112,747	-74%	$2,168
2005	32	-38%	$104,710	-7%	$3,272

Individual Income Tax

The number of individual income tax returns claiming the credit increased from 386 returns in tax year 1997 to a high of 1,956 returns in tax year 2001, before dropping back down to 709 returns for tax year 2002. The total amount of credit claimed increased from $1.3 million in tax year 1997 to a high of $7.6 million in tax year 2001, before dropping to $1.7 million in tax year 2002. Since then, both

the number of taxpayers taking the credit, and the total amount of credit taken has begun to gradually rise again.

The average credit has varied from a high of $4,331 in tax year 1999, to a low of $2,390 in tax year 2002; by tax year 2004 this average had risen to $2,941.

Corporation License Tax

The number of corporate income tax returns claiming the credit increased from 16 returns in fiscal 1998, to about 125 returns in both fiscal 2001 and 2002, before dropping back to 79 returns in fiscal 2003. The number of taxpayers claiming this credit has declined steadily to a total of 32 for fiscal 2005.

The total amount of credit claimed increased from $73,749 in fiscal 1998 to a high of $703,420 in fiscal 2001. The total amount of credit claimed dropped slightly in fiscal 2002 to $622,099; but has continued to decline since then to just $104,710 in fiscal 2005.

The *average* corporate credit remained fairly stable over the period fiscal 1998 to 2003, averaging about $5,000 a year; but has decreased considerably in the last two fiscal years.

Cost of Administration

Department of Revenue costs associated with administering this credit are minimal.