

HOUSE BILL NO. 398  
INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; PROVIDING THAT FOR THE PURPOSES OF THE QUALIFIED ENDOWMENT CREDIT, A STUDENT SCHOLARSHIP PROGRAM OR OTHER STUDENT FINANCIAL ASSISTANCE PROGRAM OF A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY SCHOOL OR HIGH SCHOOL IS A QUALIFIED ENDOWMENT; PROVIDING THAT ANY CONTRIBUTION TO A STUDENT SCHOLARSHIP PROGRAM OR OTHER STUDENT FINANCIAL ASSISTANCE PROGRAM OF A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY SCHOOL OR HIGH SCHOOL IS A PLANNED GIFT; ELIMINATING THE TEMPORARY INCREASES OF THE TAX CREDITS FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT ENACTED BY CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; MAINTAINING THE TEMPORARY DECREASES OF THE TAX CREDITS FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT ENACTED BY CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; AMENDING SECTION 15-30-165, MCA, AND SECTION 10, CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; REPEALING SECTIONS 2, 4, 6, 8, AND 11, CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-30-165, MCA, is amended to read:

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

(1) Subject to ~~subsection~~ subsections (3) and (4), "planned gift" means an irrevocable contribution to a permanent endowment held by a tax-exempt organization, or for a tax-exempt organization, when the contribution uses any of the following techniques that are authorized under the Internal Revenue Code:

- (a) charitable remainder unitrusts, as defined by 26 U.S.C. 664;
- (b) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;
- (c) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);
- (d) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
- (e) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);

- (f) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- (g) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- (h) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);
- (i) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

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

- (i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or
- (ii) is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on behalf of a tax-exempt organization.

(b) For the purposes of ~~sections~~ 15-30-165 through 15-30-167, the affordable housing revolving loan account established in 90-6-133 is considered to be a qualified endowment.

(c) For the purposes of 15-30-165 through 15-30-167, a student scholarship program or other student financial assistance program of a public or private, nonprofit elementary school or high school in Montana is considered to be a qualified endowment.

(3) (a) A contribution using a technique described in subsection (1)(a) or (1)(b) is not a planned gift unless the trust agreement provides that the trust may not terminate and the beneficiaries' interest in the trust may not be assigned or contributed to the qualified endowment sooner than the earlier of:

- (i) the date of death of the beneficiaries; or
- (ii) 5 years from the date of the contribution.

(b) A contribution using the technique described in subsection (1)(g) is not a planned gift unless the payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables adopted by rule by the department in effect on the date of the contribution.

(c) A contribution using a technique described in subsection (1)(f) or (1)(g) is not a planned gift unless the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be assigned to the qualified endowment sooner than the earlier of:

- (i) the date of death of the annuitant or annuitants; or
- (ii) 5 years after the date of the contribution.

(4) For the purposes of 15-30-165 through 15-30-167, any form of contribution to a student scholarship program or other student financial assistance program described in subsection (2)(c) is considered a planned gift.

~~(4)~~(5) The department shall adopt rules to prepare life expectancy tables that are derived from the actuarial tables contained in the most recent Publication 1457 by the internal revenue service. (Subsection (2)(b) terminates December 31, 2004--sec. 7, Ch. 411, L. 2001; section terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

**Section 2.** Section 10, Chapter 24, Special Laws of August 2002, is amended to read:

**"Section 10. Applicability.** (1) [Sections 1, 3, 5, and 7] apply to charitable gifts made on or after [the effective date of this act].

~~(2) [Sections 2, 4, 6, and 8] apply to charitable gifts made on or after July 1, 2003."~~

NEW SECTION. **Section 3. Repealer.** Sections 2, 4, 6, 8, and 11, Chapter 24, Special Laws of August 2002, are repealed.

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2003.

NEW SECTION. **Section 5. Applicability.** [This act] applies to charitable gifts made on or after July 1, 2003.

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