

QUALIFIED ENDOWMENT CREDIT

REVENUE INTERIM COMMITTEE
MEGAN MOORE - MARCH 2024

Tax Type	Individual/Corporate	Refundable	No
Enacted	1997	Carryover	No
Terminates	N/A	Revenue Impact (6-Year Average) - Individual	\$2,849,331
MCA Sections	15-1-230 , 15-30-2327 , 15-30-2328 , 15-30-2329 , 15-31-161 , 15-31-162	Revenue Impact (6-Year Average) - Corporate	\$26,787

EXPLANATION OF CREDIT

The qualified endowment credit is available to individual income and corporate income taxpayers for charitable donations made to a qualified endowment. A **qualified endowment** is a permanent, irrevocable fund held by a Montana tax-exempt organization or a bank or trust holding the fund on behalf of a tax-exempt organization.

The credit is calculated differently depending on whether the donation is a planned gift or an outright gift.

The credit for an **individual or estate** that makes a **planned gift** is **40% of the present value** of the aggregate amount of the charitable gift portion of the planned gift.

The credit for a **corporation, small business corporation, partnership, limited liability company, or estate** that makes an **outright gift** is **20%** of the charitable donation.

The maximum credit for any taxpayer is \$15,000 and the credit must be claimed in the year of the donation. The credit may not be refunded or carried to another tax year.

STATUTE LISTS PLANNED GIVING FINANCIAL TECHNIQUES

An outright gift is a one-time charitable donation deposited in a qualified endowment, while a planned gift must use one of nine financial techniques specified in [15-30-2327](#). The financial techniques take three general forms.¹

- **Donor receives income from donated asset for fixed term or life, then qualified endowment receives the asset at the end of the term or life.** Includes charitable remainder unitrust, charitable remainder annuity trust, charitable gift annuity, deferred charitable gift annuity, pooled income fund, and charitable life estate agreement.
- **Qualified endowment receives income from donated asset for a fixed term, then asset reverts to donor or donor's heir.** Includes charitable lead unitrust and charitable lead annuity trust.

¹ "Form QEC Instructions," Montana Department of Revenue, available from: <https://mtrevenue.gov/publications/qualified-endowment-credit-form-qec/>, accessed Feb. 26, 2024.

- **Paid-up life insurance.** Qualified endowment is the owner and beneficiary of a life insurance policy for which all premiums are paid.

CREDIT MUST BE REPAID FOR RECOVERED DONATION

A taxpayer that recovers a charitable gift eligible for the qualified endowment credit must increase taxes due in the year the credit was taken by the amount of the credit and include as income any amount deducted attributable to the charitable gift if it reduced taxes due.

PURPOSE

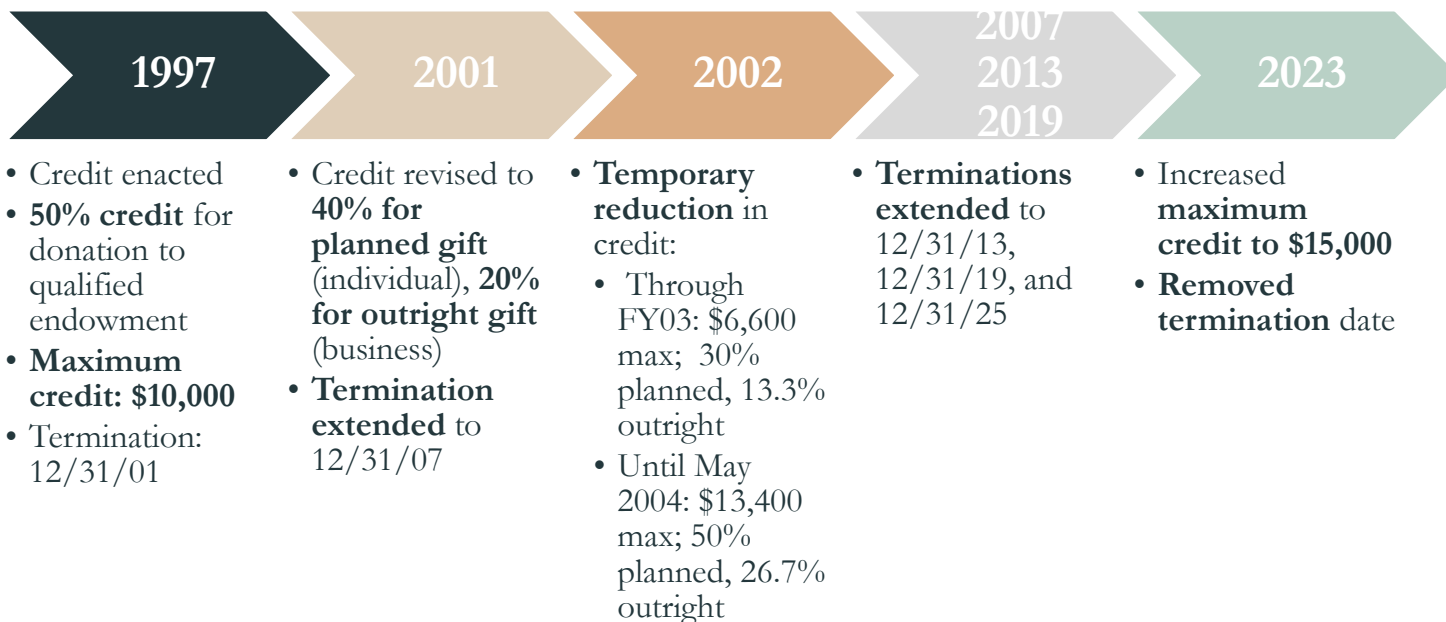
The legislation enacting the credit did not include a purpose statement but did contain 14 “Whereas” clauses outlining support for the credit. The clauses identified a “weak tradition” of planned giving in Montana that could be bolstered with a tax incentive.

Taken together, the clauses point to a purpose of encouraging planned giving that supports community organizations serving local needs.

LEGISLATIVE HISTORY

Within 5 years of enactment of the qualified endowment credit in 1997, the Legislature amended the credit percentages, but most changes since then have extended the termination date of the credit.

MAJOR CHANGES TO QUALIFIED ENDOWMENT CREDIT



1997: CREDIT ENACTED AS 50% OF DONATION TO A QUALIFIED ENDOWMENT

The qualified endowment credit was a proposal from Governor Racicot’s Task Force on Endowments and Philanthropy. By 1997, the Legislature had considered and failed to pass an endowment tax credit in two prior legislative sessions.²

The original credit was equal to 50% of the donation to a qualified endowment, up to a maximum credit of \$10,000. The legislation enacting the credit terminated after 6 years.

2001: CREDIT LOWERED, PLANNED GIFTS RECEIVE HIGHER CREDIT PERCENTAGE

With the credit scheduled to terminate at the end of the year, the 2001 Legislature lowered the credit percentage and extended the credit for six years, until 2007. The new credit amounts were 40% for a planned gift made by an individual or an estate and 20% for an outright gift made by a business or an estate.

Department of Revenue Director Kurt Alme captured the reasons for revising the credit in his testimony on [House Bill 377](#). He said the credit “is doing so much good for Montana communities,” with the caveat that the loss of revenue needed to “be worked into the budget.”³

2002: TEMPORARY CHANGES TO CREDIT FOR BUDGET REASONS

The reduction to the credit percentages enacted by the 2001 Legislature were in effect for 8 months when Gov. Judy Martz [called the Legislature](#) into special session to address expected revenue shortfalls.

During the special session, the Legislature passed legislation to help balance the general fund by temporarily decreasing the qualified endowment credit in FY 2003, and then temporarily increasing it for most of FY 2004.⁴ The credit amounts were as follows:

- Aug. 28, 2002 - June 30, 2003: maximum credit of \$6,600, credit equal to 30% of a planned gift or 13.3% of an outright gift;
- July 1, 2003 - April 30, 2004: maximum credit of \$13,400, credit equal to 50% of a planned gift or 26.7% of an outright gift.

2005: CREDIT RECOVERY PROCESS ENACTED

The Department of Revenue (DOR) requested legislation in 2005 to outline a process for recovery of a qualified endowment donation. In the House hearing, DOR staff described an instance of a building donated to a qualified endowment that was subsequently returned to the estate.⁵ The legislation requires the taxpayer to pay back the credit and include as income any amount deducted that reduced taxes.

² Testimony of House Bill 434 sponsor, Rep. Chase Hibbard, Senate Taxation Committee, March 20, 1997.

³ Testimony of Kurt Alme, House Taxation Committee, Jan. 26, 2001.

⁴ Testimony of Sen. John Cobb, Senate Committee of Finance, Aug. 6, 2002.

⁵ Testimony of Shona McHugh, House Taxation Committee, Jan. 12, 2005.

2007, 2013, 2019: TERMINATION DATE EXTENSIONS

The Legislature extended the termination date three times after the 2002 extension: in 2007, 2013, and 2019. Each extension was for 6 years.

2023: INCREASED MAXIMUM CREDIT, REMOVAL OF TERMINATION

The most recent change to the qualified endowment credit was in the 2023 legislative session. [Senate Bill 506](#) provided for an increase in the maximum credit to \$15,000 beginning in 2024 and removed the credit's termination date.

TAXPAYER USE OF CREDIT

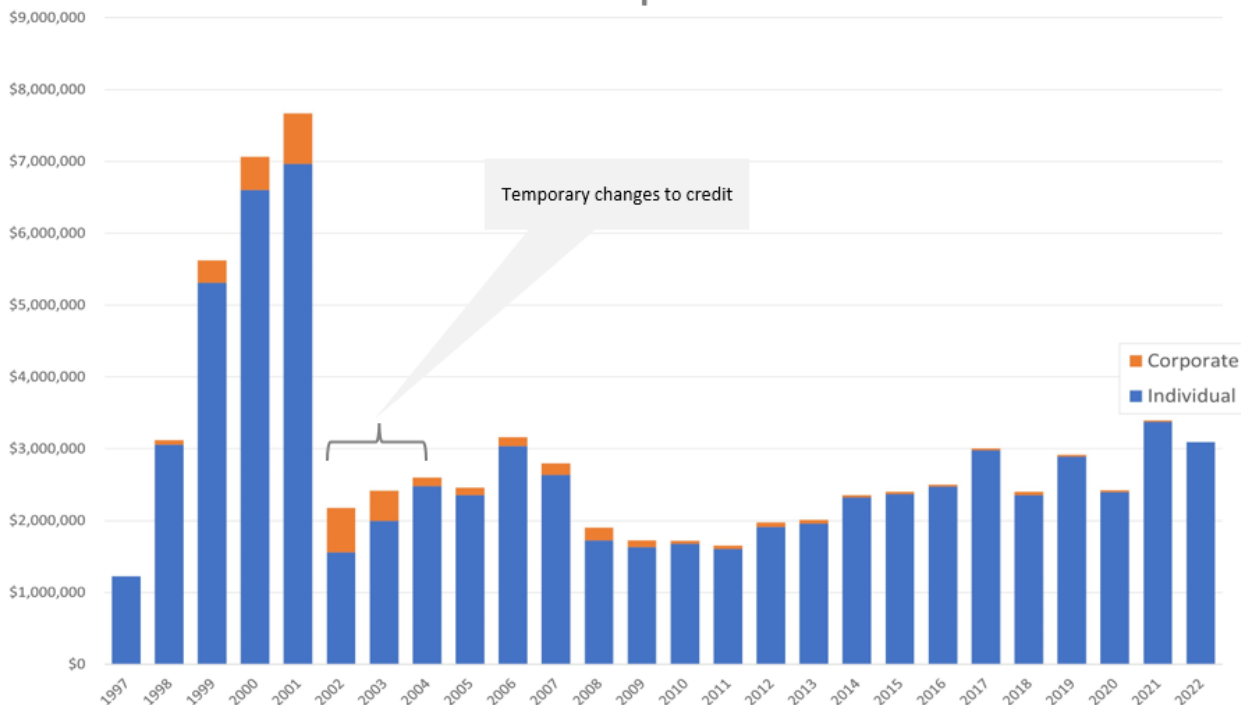
Claims for the qualified endowment credit exceeded \$7 million per year in 2000 and 2001 but have totaled less than \$3 million in most recent years. The credits were likely higher in the first 5 years after enactment because the credit was calculated as 50% of the donation and an individual donation was not required to be a planned gift. Since 2002, when the Legislature reduced the credit percentage to 40% for individuals and 20% for businesses and required individual donations to be in the form of planned gifts, credits totaled less than \$3.5 million per year.⁶

After the reduction in the credit for businesses, most of the credits were claimed as individual income tax credits. Since 2004, more than 90% of the credit dollars have been individual income tax credits. Over the last 6 years, the individual share of credits was more than 98% per year.

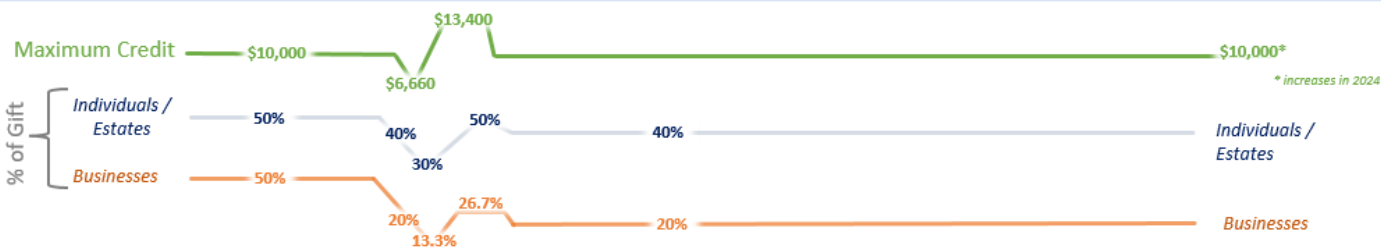
The number of credits claimed by both individuals and corporations has also declined since the credit percentage reductions. Individual credits peaked at 1,654 in 2001 and totaled in the 600 to mid-700 range over the last 6 years. Corporate income tax credits numbered 127 in 2001. The most corporate credits claimed in the last 6 years was 13 claimed in 2018.

⁶ The Legislature temporarily decreased the credit percentage and maximum credit for parts of 2002 and 2003 and temporarily increased the credit percentage and maximum credit for parts of 2003 and 2004. See p. 3 for a summary of those changes.

General Fund Impact of Tax Credit



Maximum Credit and Credit Percentages



CREDIT ADMINISTRATION

The Department of Revenue does not have any significant compliance concerns about the qualified endowment credit.

The agency is considering recommending changes to [15-30-2327\(4\)](#), which requires the adoption of rules with life expectancy tables and results in a 17-page [administrative rule](#). The statute could be revised to allow publication of the tables on the DOR website.

DOR has a reporting requirement for the credit: [15-1-230](#) requires a biennial report to the Revenue Interim Committee on the number and type of taxpayers claiming the credit, the total amount claimed and recaptured, and the cost associated with administering the credit.

QUALIFIED ENDOWMENT CREDITS CLAIMED, 1997-2010

Individual Income Credits												Corporate Income Credits	
Tax Year	Credit %	Resident		Non-resident		Part-year Resident		Total Claimed		Total Used	Total Used		
		#	\$	#	\$	#	\$	#	\$	\$	#	\$	
1997	50%	338	\$1,303,654	*	\$12,630	*	\$16,409	>338	\$1,332,693	\$1,224,011	Not available		
1998	50%	732	\$3,191,545	24	\$93,210	*	\$3,479	>756	\$3,288,234	\$3,056,461	15	\$63,516	
1999	50%	1,045	\$5,547,290	34	\$109,278	*	\$3,481	>1,079	\$5,660,049	\$5,307,865	58	\$313,675	
2000	50%	1,419	\$6,960,128	37	\$137,312	*	\$24,483	>1,456	\$7,121,923	\$6,601,067	100	\$462,002	
2001	50%	1,593	\$7,410,957	44	\$101,607	17	\$37,847	1,654	\$7,550,411	\$6,963,726	127	\$703,420	
2002	Varies	560	\$1,610,509	29	\$79,871	*	\$4,401	>589	\$1,694,781	\$1,557,227	125	\$622,099	
2003	Varies	603	\$2,138,607	23	\$41,028	*	\$61	>626	\$2,179,696	\$1,993,317	77	\$425,846	
2004	Varies	720	\$2,502,605	30	\$56,390	*	\$26,046	>750	\$2,585,041	\$2,479,694	52	\$117,618	
2005	40%/20%	742	\$2,489,262	31	\$50,348	*	\$18,723	>773	\$2,558,333	\$2,352,843	38	\$106,490	
2006	40%/20%	870	\$3,164,764	26	\$62,330	*	\$17,932	>896	\$3,245,026	\$3,038,197	45	\$121,753	
2007	40%/20%	741	\$2,786,993	24	\$60,164	*	\$11,678	>765	\$2,858,835	\$2,634,033	50	\$160,667	
2008	40%/20%	532	\$1,919,025	18	\$60,943	*	\$866	>550	\$1,980,834	\$1,726,676	46	\$174,337	
2009	40%/20%	508	\$1,746,260	25	\$62,183	0	\$0	533	\$1,808,443	\$1,630,230	30	\$94,889	
2010	40%/20%	536	\$1,737,766	14	\$59,121	*	\$30,294	>550	\$1,827,181	\$1,675,483	14	\$42,830	

QUALIFIED ENDOWMENT CREDITS CLAIMED, 2011-2022

Tax Year	Credit %	Individual Income Credits								Corporate Income Credits		
		Resident		Non-resident		Part-year Resident		Total Claimed		Total Used	Total Used	
		#	\$	#	\$	#	\$	#	\$	\$	#	\$
2011	40%/20%	501	\$1,755,033	10	\$24,621	*	\$5,063	>511	\$1,784,717	\$1,604,117	15	\$45,913
2012	40%/20%	578	\$2,049,386	10	\$23,368	0	\$0	588	\$2,072,754	\$1,914,564	20	\$60,406
2013	40%/20%	587	\$2,073,344	*	\$25,526	*	\$25,509	>587	\$2,124,379	\$1,959,610	26	\$50,704
2014	40%/20%	613	\$2,471,140	10	\$30,592	*	\$9,279	>623	\$2,511,011	\$2,320,790	17	\$32,561
2015	40%/20%	616	\$2,461,321	*	\$24,060	*	\$9,545	>616	\$2,494,926	\$2,371,255	15	\$31,436
2016	40%/20%	641	\$2,708,754	*	\$32,071	*	\$2,046	>641	\$2,742,871	\$2,472,963	11	\$25,130
2017	40%/20%	728	\$3,157,163	15	\$58,607	*	\$10,020	>743	\$3,225,790	\$2,981,018	11	\$26,225
2018	40%/20%	597	\$2,528,221	*	\$53,395	*	\$908	>597	\$2,582,524	\$2,357,044	13	\$41,806
2019	40%/20%	665	\$3,007,492	11	\$77,440	*	\$6,497	>676	\$3,091,429	\$2,892,497	*	\$23,756
2020	40%/20%	618	\$2,676,780	*	\$53,909	*	\$9,889	>618	\$2,740,578	\$2,397,594	*	\$24,626
2021	40%/20%	654	\$3,577,812	10	\$50,961	*	\$10,031	>664	\$3,638,804	\$3,375,898	*	\$19,176
2022	40%/20%	632	\$3,372,075	*	\$25,981	*	\$750	>632	\$3,398,806	\$3,091,935	Not available	

*Number not disclosed due to confidentiality concerns

CREDITS IN OTHER STATES

While other states offer tax credits for charitable donations to endowments, Montana is the only state that requires individual donations to be planned gifts to qualify for the credit.

Montana is also the only state that does not allow a carryforward of unused credit and one of two states that does not limit total credits claimed.

State	Credit Percentage	Maximum Credit	Aggregate Limit	Carryforward
Iowa ⁷	25% of donation	\$100,000	\$6 million; 10% reserved for donations of less than \$30,000 ⁸	5 years
Kentucky ⁹	20% of donation	\$10,000	\$1 million	5 years
Maryland ¹⁰	25% of donation (minimum \$500 donation)	\$50,000	\$250,000 ¹¹ ; 10% reserved for donations of \$30,000 or less	5 years
Mississippi ¹²	25% of donation (minimum \$1,000 donation)	\$125,000	\$1 million	5 years
Montana	40% of planned gift; 20% of outright gift	\$15,000	N/A	None
North Dakota ¹³	40% of donation	\$10,000	N/A	3 years

⁷ Endow Iowa, Iowa Economic Development, available from: <https://www.iowaeda.com/endow-iowa/>, accessed March 7, 2024.

⁸ Iowa Council of Foundations and Iowa Economic Development Authority, "Endow Iowa Tax Credit and County Endowment Fund Programs – 2023: A Report to the Governor and the Iowa Legislature," p. 3.

⁹ Endow Kentucky Tax Credit, Kentucky Department of Revenue, available from: <https://revenue.ky.gov/Business/Pages/Endow-Kentucky-Tax-Credit.aspx>, accessed March 7, 2024.

¹⁰ Tax Credits, Comptroller of Maryland, available from: <https://www.marylandtaxes.gov/tax-credits.php>, accessed March 7, 2024.

¹¹ Maryland General Code [10-736](#).

¹² Endow Mississippi, available from: <https://endowms.org/>, accessed March 7, 2024.

¹³ Individual Income Tax Credits, North Dakota Tax, available from <https://www.tax.nd.gov/tax-exemptions-credits/income-tax-exemptions-credits>, accessed March 7, 2024.