

SENATE BILL NO. 307

Introduced: 01/27/83

Referred to Committee on Taxation: 01/27/83

Hearing: 2/14/83

Report: 02/23/83, Do Not Pass. Report Adopted.
Bill Killed.

SENATE
BILL NO. 307

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN INCOME TAX
CREDIT FOR CHARITABLE CONTRIBUTIONS TO NONPROFIT
INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION
15-30-121, MCA."

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

NEW SECTION. Section 1. Contributions to institutions
of higher education. There is allowed a credit against the
tax imposed by 15-30-103 in an amount equal to 50% of the
contribution made to a qualified institution of higher
education.

NEW SECTION. Section 2. Qualified institution of
higher education. For the purposes of [sections 1 through 7]
a "qualified institution of higher education" means a unit
of the Montana university system as listed in 20-25-201 or
an institution designated as such by the department under
[section 3].

NEW SECTION. Section 3. Designation as qualified
institution of higher education. (1) An institution of
higher education may apply to the department to be
designated a qualified institution of higher education so
that contributions made to that institution will qualify for

the credit provided for in [section 1].

(2) The department shall designate the applicant a
qualified institution of higher education if it finds the
applicant is a nonprofit institution, is located in Montana,
awards credits for its curriculum that are transferable to
any units of the Montana university system, and has not had
its designation as a "qualified institution of higher
education" revoked under [section 4] during the last 5
years.

NEW SECTION. Section 4. Limitation on use of
contributions — effect of failure to comply. (1)
Contributions made to an institution of higher education for
which a tax credit is received under [section 1] may be used
only for secular purposes and may not be a payment in lieu
of tuition. The institution of higher education receiving a
contribution for which a credit is taken under [section 1]
must provide the department with the information requested
by the department to assure that the contributions are used
for secular purposes and that they are not made as a payment
in lieu of tuition.

(2) If the institution of higher education fails to
provide the department with the information requested under
subsection (1) or if the department finds that the
contributions were used for other than secular purposes or
were a payment in lieu of tuition, the department may:

-2- INTRODUCED BILL

SP 207

(a) disallow the credit for the contribution that was improperly used;

(b) revoke the "qualified institution of higher education" designation granted by the department under [section 3]; or

(c) both disallow such credit and revoke such designation.

NEW SECTION. Section 5. Limitation on credit. The credit allowed by [section 1] must be taken in the taxable year the contribution is made and may not exceed 20% of the taxpayer's tax liability for that year.

NEW SECTION. Section 6. Credit allowed in lieu of deduction. A taxpayer who is allowed a credit under [section 1] for a contribution to a qualified institution of higher education may not claim a deduction for the contribution under 15-30-121.

NEW SECTION. Section 7. Statute of limitation on revocation. If the department revokes the designation of "qualified institution of higher education" under [section 4] because a contribution was improperly used, the revocation must be made within 3 years of the date that the contribution was made.

Section 8. 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 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be 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) contributions for which a credit is taken under [section 1];

(2) federal income tax paid within the taxable year;

(3) child and dependent care expenses determined in accordance with the provisions of section 214 of the Internal Revenue Code of 1954 that were in effect for the taxable year that began January 1, 1974. However, the limitation set forth in section 214(e)(4) of the Internal Revenue Code of 1954 as that section was in effect for the taxable year that began January 1, 1974, applies only to payments made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and to payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) to the taxpayer or the taxpayer's spouse.

(4) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that

1 were in effect for the taxable year ended December 31, 1978;
2 (5) that portion of expenses for organic fertilizer
3 allowed as a deduction under 15-32-303 which was not
4 otherwise deducted in computing taxable income;
5 (6) light vehicle license fees, as provided by
6 61-3-532, paid during the taxable year."
7 NEW SECTION. Section 9. Codification instruction.
8 Sections 1 through 7 are intended to be codified as an
9 integral part of Title 15, chapter 30, and the provisions of
10 Title 15, chapter 30, apply to sections 1 through 7.

-End-

STATE OF MONTANA

REQUEST NO. 276-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 307 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

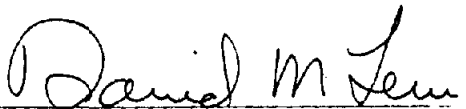
DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 307 creates an income tax credit for charitable contributions to nonprofit institutions of higher education.

FISCAL IMPACT:

There is no data available to provide a reliable estimate of the fiscal impact of this proposal. However, if one assumed that there would be 3,500 claimants for the higher education contribution credit, that the average gift is \$50, and that the marginal tax rate of such taxpayers is 8%, then the fiscal impact of the proposed legislation would be a \$73,500 reduction in individual income tax collections, annually.

FISCAL NOTE 10:K/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-83