

HOUSE BILL NO. 480

INTRODUCED BY C. EDMUNDS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TAX CREDITS FOR FILM PRODUCTION IN THE STATE;
5 INCREASING THE TAX CREDITS FOR EMPLOYMENT OF STATE RESIDENTS AND QUALIFIED
6 EXPENDITURES; PROVIDING AN ADDITIONAL INCREASE IN THE TAX CREDIT FOR PRODUCTIONS THAT
7 MEET CERTAIN REQUIREMENTS; REPEALING THE TERMINATION DATES FOR THE TAX CREDITS;
8 AMENDING SECTIONS 15-31-903, 15-31-905, 15-31-907, AND 15-31-908, MCA; REPEALING SECTION 17,
9 CHAPTER 593, LAWS OF 2005, SECTION 9, CHAPTER 367, LAWS OF 2007, AND SECTIONS 1 AND 2,
10 CHAPTER 186, LAWS OF 2009; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
11 APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 15-31-903, MCA, is amended to read:

16 **"15-31-903. (Temporary) Definitions.** As used in this part, unless the context requires otherwise, the
17 following definitions apply:

18 (1) "Compensation" means salary, wages, or other compensation, including related benefits paid to a
19 Montana resident.

20 (2) "Montana production budget" means qualified expenditures and compensation paid to Montana
21 resident employees as included on the form required by 15-31-907(3).

22 ~~(2)~~(3) (a) "Production" means a nationally or regionally distributed feature-length film, short film,
23 documentary, television series or segment, television pilot, magazine advertising, other than advertising for
24 tobacco products, or commercial made in Montana, in whole or in part, for theatrical, television, video, internet,
25 or other viewing.

26 (b) The term does not include the production of television coverage of news and athletic events or a film,
27 video, internet production, television series, magazine advertising, or commercial that:

- 28 (i) contains any obscene material or performance as described in 45-8-201(2); or
- 29 (ii) is produced in whole or in part with money received for tobacco product placement, advertisement,
30 or other tobacco use in the production.

1 ~~(3)~~(4) (a) "Production company" means a company engaged in the business of producing nationally or
2 regionally distributed productions.

3 (b) The term does not include a company owned, affiliated, or controlled by, in whole or in part, a
4 company or person that is in default on a loan made by this state or a loan guaranteed by this state or a company
5 or person that has filed for bankruptcy.

6 ~~(4)~~(5) (a) "Qualified expenditures" means expenditures in Montana made by a production company that
7 are directly related to a state-certified production. The term includes expenditures for lodging expenses,
8 restaurant and food expenses, location fees, lumber and construction materials, rental of production equipment
9 and vehicles, and supplies and materials that will be used in the production.

10 (b) The term does not include expenditures made for goods and services obtained out of state.

11 ~~(5)~~(6) "Resident" or "Montana resident", for the purpose of determining eligibility for the tax credit
12 provided under 15-31-907, has the meaning provided in 15-30-2101.

13 ~~(6)~~(7) "State-certified production" means a production certified by the department of commerce as
14 provided in 15-31-904 and produced by a production company that has a national or regional distribution plan,
15 including but not limited to a major theatrical exhibition, film festival, television network, cable television
16 programming, magazine advertising, or video or internet distribution. ~~(Terminates January 1, 2015--sec. 17, Ch.~~
17 ~~593, L. 2005; sec. 1, Ch. 186, L. 2009.)"~~

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19 **Section 2.** Section 15-31-905, MCA, is amended to read:

20 "**15-31-905. (Temporary) Submission of costs.** Within 60 days of completion of principal photography,
21 the production company shall submit a statement of all qualified expenditures and compensation paid to Montana
22 residents to the department. ~~(Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 1, Ch. 186, L. 2009.)"~~

23

24 **Section 3.** Section 15-31-907, MCA, is amended to read:

25 "**15-31-907. (Temporary) Employment production tax credit.** (1) A production company that has
26 submitted an application for a tax credit and paid the fee as required under 15-31-906 is allowed a tax credit
27 against the taxes imposed by chapter 30 or 31 for the employment of residents of this state in connection with
28 a state-certified production in the state. Except as provided in subsection (4)(b), the credit is equal to credit
29 carryovers and the credit for the tax year.

30 (2) ~~The~~ (a) Except as provided in subsection (2)(b), the aggregate of the credit allowed under this

1 section for a production occurring in the production company's tax year is equal to the sum of ~~44%~~ 20% of the
2 first \$50,000 or less of actual compensation paid to each Montana resident employed in connection with the
3 state-certified production during the tax year.

4 (b) The aggregate of the credit allowed under this section for a production occurring in the production
5 company's tax year is equal to the sum of 25% of the first \$50,000 or less of actual compensation paid to each
6 Montana resident employed in connection with the state-certified production during the tax year if the Montana
7 production budget exceeds \$1 million and 20% or more of those employed in connection with the production
8 during the tax year are Montana residents.

9 (3) The taxpayer is required to provide to the department, on a form prescribed by the department, a list
10 of all cast and crew participating in the production and the amount of compensation paid to each Montana
11 resident. The form returned by the taxpayer must include the certification number provided for in 15-31-904.

12 (4) If the credit exceeds the taxpayer's tax liability, the taxpayer shall make a one-time election to claim
13 the credit for each state-certified production allowed under this section as follows:

14 (a) the credit may be refunded; or

15 (b) the credit may be carried forward against the taxes imposed by chapter 30 or 31 for the 4 succeeding
16 tax years.

17 (5) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this
18 section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the
19 shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes.

20 (6) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included
21 the amount of the compensation upon which the amount of the credit was computed as a deduction under
22 15-30-2131 or 15-31-114.

23 (7) If any application of this section is held invalid, this section applies to other situations or persons in
24 a manner that is not included in the invalid application. (~~Terminates January 1, 2015 -- sec. 17, Ch. 593, L. 2005;~~
25 ~~sec. 9, Ch. 367, L. 2007; secs. 1, 2, Ch. 186, L. 2009.~~)"

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27 **Section 4.** Section 15-31-908, MCA, is amended to read:

28 **"15-31-908. (Temporary) Tax credit for qualified expenditures.** (1) A production company that has
29 submitted an application and paid the fee as required under 15-31-906 is allowed a tax credit against the taxes
30 imposed by chapter 30 or 31 for qualified expenditures in this state made in connection with a state-certified

1 production in the state. ~~The~~

2 ~~(2)~~ (a) Except as provided in subsection ~~(2)~~(b), the credit allowed under this section is equal to ~~9%~~ 20%
3 of the total qualified expenditures incurred in connection with the state-certified production during the tax year.

4 ~~(b)~~ The credit allowed under this section is equal to 25% of the total qualified expenditures incurred in
5 connection with the state-certified production during the tax year if the Montana production budget exceeds \$1
6 million and 20% or more of those employed in connection with the production during the tax year are Montana
7 residents.

8 ~~(2)~~(3) (a) The taxpayer is required to provide to the department, on a form prescribed by the department,
9 the amount of qualified expenditures. The form returned by the taxpayer must include the certification number
10 provided for in 15-31-904. The taxpayer shall also provide other information required by the department to verify
11 the accuracy of the qualified expenditures.

12 (b) The taxpayer shall certify in writing to the department, under penalty of false swearing as provided
13 in 45-7-202, that the taxpayer has paid in full to each vendor in Montana for all goods and services purchased
14 by the taxpayer in connection with the state-certified production during the tax year. A credit under this section
15 may not be claimed unless the taxpayer has paid in full for all purchases of goods and services from Montana
16 vendors.

17 ~~(3)~~(4) The credit allowed under this section may be refunded if a taxpayer has tax liability less than the
18 amount of the credit.

19 ~~(4)~~(5) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under
20 this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the
21 shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes.

22 ~~(5)~~(6) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
23 included the amount of the qualified expenditure upon which the amount of the credit was computed as a
24 deduction under 15-30-2131 or 15-31-114.

25 (7) The total amount claimed by all production companies for the qualified expenditures tax credit may
26 not exceed \$10 million annually. (~~Terminates January 1, 2015--sec. 17, Ch. 593, L. 2005; sec. 9, Ch. 367, L.~~
27 ~~2007; secs. 1, 2, Ch. 186, L. 2009.~~)"

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29 **NEW SECTION. Section 5. Repealer.** Section 17, Chapter 593, Laws of 2005, section 9, Chapter 367,
30 Laws of 2007, and sections 1 and 2, Chapter 186, Laws of 2009, are repealed.

