

SENATE BILL NO. 259

INTRODUCED BY M. DUNWELL, M. FOX, S. O'BRIEN, C. POPE, A. OLSEN, D. HAYMAN, E.

MCCLAFFERTY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SMALL BUSINESS EMPLOYER TAX CREDIT FOR THE EXPENSE ASSOCIATED WITH PAYING A LIVING WAGE TO A QUALIFYING EMPLOYEE IN AN ELIGIBLE PROFESSION; PROVIDING THAT THE CREDIT BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Tax credit for paying living wage – rulemaking. (1) Subject to the provisions of this section, a small business employer is allowed a credit against the tax imposed by chapter 31 or this chapter for expenses incurred in paying a living wage to a qualifying employee for at least 60 days during the tax year.

(2) The credit is equal to \$1,000 for each qualifying employee paid a living wage by a small business employer. The credit for each qualifying employee may not exceed the amount of the living wage paid to the qualifying employee during the tax year. A small business employer's total credit allowed under subsection (1) during a tax year may not exceed \$25,000.

(3) The credit may not exceed the small business employer's tax liability and may not be carried forward or carried back.

(4) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this credit. The rules may include additional eligible professions beyond those listed in subsection (5)(a) and adopt government statistics for the purpose of determining which professions qualify for the credit. The legislature intends that the department implement this credit in a manner that encourages a small business employer to pay a living wage in a broad range of professions in which statewide average pay for an employee

1 is less than \$15 an hour.

2 (5) For the purposes of this section, the following definitions apply:

3 (a) "Eligible profession" means:

4 (i) bakers;

5 (ii) cashiers;

6 (iii) child-care providers;

7 (iv) cleaners of vehicles and equipment;

8 (v) cooks;

9 (vi) dining room and cafeteria attendants and bartender helpers;

10 (vii) dishwashers;

11 (viii) entertainment attendants and related workers;

12 (ix) food preparation and serving workers, including fast food workers;

13 (x) hairdressers, hairstylists, and cosmetologists;

14 (xi) hand packers and packagers;

15 (xii) hotel, motel, and resort desk clerks;

16 (xiii) hosts and hostesses at a restaurant, lounge, or coffee shop;

17 (xiv) laundry and dry cleaning workers;

18 (xv) maids and housekeepers;

19 (xvi) miscellaneous agricultural workers;

20 (xvii) miscellaneous personal appearance workers, including those who work in nail salons and other

21 personal care services;

22 (xviii) nursing, psychiatric, and home health aides;

23 (xix) nonrestaurant food servers, including hospital cafeteria and hotel workers;

24 (xx) packaging and filling machine operators and tenders;

25 (xxi) personal care aides;

26 (xxii) refuse and recyclable material collectors;

27 (xxiii) sewing machine operators; and

28 (xxiv) waiters and waitresses.

1 (b) "Living wage" means an hourly payment of wage income to an employee for services
2 performed in the state that is equal to or greater than \$15 an hour.

3 (c) "Qualifying employee" means an employee that works in an eligible profession in the state.

4 (d) "Small business employer" means an employer that employs an average of 30 or fewer
5 employees in the state during the tax year.

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7 **NEW SECTION. Section 2. Corporate income tax credit for paying living wage.** (1) There is a
8 small business employer tax credit against the taxes otherwise imposed by 15-31-101, 15-31-121, and 15-31-
9 122 that is allowable in the amount established pursuant to [section 1] for expenses incurred in paying a living
10 wage to a qualifying employee for at least 7 months during the tax year. The credit is administered as provided
11 in [section 1] and this section.

12 (2) If the credit allowed under [section 1] and this section is claimed by a small business
13 corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to
14 shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

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16 **Section 3.** Section 15-30-2303, MCA, is amended to read:

17 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
18 must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10
19 years thereafter:

20 (a) the credit for contractor's gross receipts provided for in 15-50-207; and

21 (b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

22 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and
23 during each biennium commencing 10 years thereafter:

24 (a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-
25 30-3110, and 15-31-158; ~~and~~

26 (b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-
27 30-3111, and 15-31-159; and

28 (c) the small business employer tax credit for paying a living wage to a qualifying employee

1 provided for in [sections 1 and 2].

2 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and
3 during each biennium commencing 10 years thereafter:

4 (a) the credit for infrastructure use fees provided for in 17-6-316;

5 (b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
6 2329, 15-31-161, and 15-31-162; and

7 (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,
8 chapter 32, part 6.

9 (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and
10 during each biennium commencing 10 years thereafter:

11 (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

12 (b) the credit for unlocking state lands provided for in 15-30-2380;

13 (c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

14 (d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

15 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and
16 during each biennium commencing 10 years thereafter:

17 (a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
18 and 15-31-173;

19 (b) the earned income tax credit provided for in 15-30-2318; and

20 (c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

21 (6) The revenue interim committee shall review the tax credits scheduled for review and make
22 recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about
23 whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date
24 or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or
25 terminate.

26 (7) The revenue interim committee shall review the credits using the following criteria:

27 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions
28 that may have been made regardless of the existence of the tax credit;

- 1 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;
- 2 (c) whether the credit has out-of-state beneficiaries;
- 3 (d) the timing of costs and benefits of the credit and how long the credit is effective;
- 4 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
- 5 elimination outweigh adverse impacts; and
- 6 (f) the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)
- 7 terminates December 31, 2026--sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028--
- 8 sec. 24(1), Ch. 550, L. 2021.)"

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10 **NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an

11 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section

12 1].

13 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the

14 provisions of Title 15, chapter 31, part 1, apply to [section 2].

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16 **NEW SECTION. Section 5. Effective date.** [This act] is effective January 1, 2024.

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18 **NEW SECTION. Section 6. Applicability.** [This act] applies to income tax years beginning after

19 December 31, 2023.

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