

HOUSE BILL NO. 40  
INTRODUCED BY D. GALLIK, EBINGER  
BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE BIG SKY ON THE BIG SCREEN ACT; BY REMOVING THE \$1 MILLION LIMITATION ON THE AMOUNT OF CREDITS ALLOWED; STANDARDIZING THE APPLICATION FEE FOR TAX CREDITS; INCREASING PERCENTAGES FOR MONTANA LABOR AND FOR QUALIFIED MONTANA EXPENDITURES TO DETERMINE THE AMOUNT OF ALLOWABLE CREDITS; REQUIRING THAT ALL PURCHASES MADE BY A TAXPAYER IN CONNECTION WITH A STATE-CERTIFIED PRODUCTION MUST BE PAID IN FULL BEFORE THE CREDIT FOR QUALIFYING EXPENDITURES MAY BE CLAIMED; AMENDING SECTIONS 15-31-906, 15-31-907, 15-31-908, AND 15-31-911, MCA; REPEALING SECTION 15-31-909, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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

**Section 1.** Section 15-31-906, MCA, is amended to read:

**"15-31-906. (Temporary) Application for tax credit -- fee.** (1) To receive the tax credits under 15-31-907 and 15-31-908 for a state-certified production, a production company shall apply to the department on a form prescribed by the department. The form must be accompanied by an application fee. The application must be made and the fee paid at the time the production company files its tax return.

(2) The application fee is ~~determined as follows~~:

~~— (a) if the total compensation paid to Montana residents for the production is less than or equal to \$30,000, the application fee is \$500;~~

~~— (b) if the total compensation paid to Montana residents for the production is more than \$30,000, the application fee is \$75 for each resident employed by the production company; or~~

~~— (c) if the production company is applying only for the qualified expenditure tax credit, the application fee is \$500.~~

(3) The fee must be deposited in the state special revenue account. The fee is statutorily appropriated, as provided in 17-7-502, in equal amounts to the department of revenue and the department of commerce to administer the provisions of 15-31-906 through 15-31-908, 15-31-910, and 15-31-911. (Terminates January 1,

2010--sec. 17, Ch. 593, L. 2005.)"

**Section 2.** Section 15-31-907, MCA, is amended to read:

**"15-31-907. (Temporary) Employment production tax credit.** (1) ~~Subject to 15-31-909, a~~ A production company that has submitted an application for a tax credit and paid the fee as required under 15-31-906 is allowed a tax credit against the taxes imposed by chapter 30 or 31 for the employment of residents of this state in connection with a state-certified production in the state. Except as provided in subsection (4)(b), the credit is equal to credit carryovers and the credit for the tax year.

(2) The aggregate of the credit allowed under this section for a production occurring in the production company's tax year is equal to the sum of ~~12%~~ 15% 14% of the first \$50,000 or less of actual compensation paid to each Montana resident employed in connection with the state-certified production during the tax year.

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

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

(a) the credit may be refunded; or

(b) the credit may be carried forward against the taxes imposed by chapter 30 or 31 for the 4 succeeding tax years. ~~However, the credit may not be carried forward to the extent that the credit in the tax year in which the credit is received exceeds the limitation under 15-31-909.~~

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

(6) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the compensation upon which the amount of the credit was computed as a deduction under 15-30-121 or 15-31-114.

(7) If any application of this section is held invalid, this section applies to other situations or persons in a manner that is not included in the invalid application. (Terminates January 1, 2010--sec. 17, Ch. 593, L. 2005.)"

**Section 3.** Section 15-31-908, MCA, is amended to read:

**"15-31-908. (Temporary) Tax credit for qualified expenditures.** (1) ~~Subject to 15-31-909, a~~ A

production company that has submitted an application and paid the fee as required under 15-31-906 is allowed a tax credit against the taxes imposed by chapter 30 or 31 for qualified expenditures in this state made in connection with a state-certified production in the state. The credit allowed under this section is equal to ~~8%~~ ~~10%~~ 9% of the total qualified expenditures incurred in connection with the state-certified production during the tax year.

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

(B) THE TAXPAYER SHALL CERTIFY IN WRITING TO THE DEPARTMENT, UNDER PENALTY OF FALSE SWEARING AS PROVIDED IN 45-7-202, THAT THE TAXPAYER HAS PAID IN FULL TO EACH VENDOR IN MONTANA FOR ALL GOODS AND SERVICES PURCHASED BY THE TAXPAYER IN CONNECTION WITH THE STATE-CERTIFIED PRODUCTION DURING THE TAX YEAR. A CREDIT UNDER THIS SECTION MAY NOT BE CLAIMED UNLESS THE TAXPAYER HAS PAID IN FULL FOR ALL PURCHASES OF GOODS AND SERVICES FROM MONTANA VENDORS.

(3) The credit allowed under this section must be refunded if a taxpayer has tax liability less than the amount of the credit.

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

(5) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the qualified expenditure upon which the amount of the credit was computed as a deduction under 15-30-121 or 15-31-114. (Terminates January 1, 2010--sec. 17, Ch. 593, L. 2005.)"

**Section 4.** Section 15-31-911, MCA, is amended to read:

**"15-31-911. (Temporary) Rules.** (1) The department of revenue shall adopt rules that are necessary to implement and administer 15-31-906 through ~~15-31-911~~ 15-31-908, 15-31-910, and this section. The department shall, in consultation with the department of commerce, develop procedures for determining compensation paid to residents and qualified expenditures for the credits allowed under 15-31-907 and 15-31-908 and for taxpayer compliance with the provisions of 15-31-904.

(2) The department and the department of commerce shall jointly adopt rules related to the definitions in 15-31-903. (Terminates January 1, 2010--sec. 17, Ch. 593, L. 2005.)"

NEW SECTION. **Section 5. Repealer.** Section 15-31-909, MCA, is repealed.

NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 8. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2006.

NEW SECTION. **Section 9. Termination -- carryforward.** [Sections 1 through 4] terminate January 1, 2010, but an unused credit under 15-31-907 may be carried forward for use on returns for tax years beginning before January 1, 2014, subject to use, limitations on the amount of the credit, carryforward, and recapture provisions of the credit effective on December 31, 2009.

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