

## HOUSE BILL NO. 187

INTRODUCED BY J. HAMILTON

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A SMALL BUSINESS INVESTMENT TAX CREDIT; DESCRIBING ELIGIBLE INVESTMENTS IN QUALIFYING BUSINESSES AND QUALIFYING FUNDS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Small business investment tax credit -- definitions -- rulemaking.** (1)

For tax years 2018 through 2023, there is allowed as a credit against taxes otherwise imposed by this chapter a percentage of investments made by the taxpayer during the year to a qualifying business or a qualifying fund.

(2) The amount of the credit is 30% of the total investments, and the minimum investment to qualify for the credit is \$50,000.

~~(3) The credit is limited to \$75,000 in a year and to a total of \$750,000 in all years for which the credit is claimed.~~

(3) A CREDIT OF UP TO \$75,000 MAY BE CLAIMED IN A YEAR. IF THE CREDIT CALCULATED AS PROVIDED IN SUBSECTION (2) EXCEEDS \$75,000, THE UNUSED PORTION MAY BE CARRIED FORWARD TO A SUBSEQUENT TAX YEAR BUT THE TOTAL CREDIT CLAIMED IN ALL YEARS MAY NOT EXCEED \$750,000.

(4) The credit allowed under this section may not exceed the taxpayer's income tax liability. The unused portion of a credit may be carried forward for 7 succeeding tax years.

(5) The credit may not be claimed by a principal or officer of a qualifying fund if the principal or officer is also a principal or officer of a qualifying business in which the qualifying fund invests.

(6) The department shall adopt rules to implement this section. The rules must include a process for the department to certify qualifying businesses and qualifying funds.

(7) Pursuant to 5-4-104, the legislature finds that the purpose of the tax credit provided for in this section is to encourage investment in small businesses and to increase the number of high-wage jobs in Montana.

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

(A) "PRINCIPAL" OR "OFFICER" MEANS AN EMPLOYEE OF A BUSINESS WHO HOLDS A MANAGEMENT-LEVEL

1 POSITION.

2 ~~(a)~~(B) "Proprietary technology" means the technical innovations that are unique and legally owned or  
3 licensed by a business and includes, without limitation, innovations that are patented, patent pending, a subject  
4 of trade secrets, or copyrighted.

5 ~~(b)~~(C) "Qualified field" means the field of aerospace, agriculture, renewable energy, energy efficiency  
6 and conservation, environmental engineering, food technology, information technology, materials science  
7 technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals,  
8 diagnostics, biologicals, chemistry, veterinary science, tourism, forestry, mining, manufacturing, PHOTONICS, or  
9 transportation ~~or a similar field~~.

10 ~~(e)~~(D) (i) "Qualifying business" means a business:

11 (A) engaged in or committed to engage in innovation in Montana in one of the following as its primary  
12 business activity:

13 (I) using proprietary technology to add value to a product, process, or service in a qualified field; or  
14 (II) researching, developing, or producing a proprietary product, process, or service in a qualified field;

15 (B) ~~domiciled in~~ THAT CONDUCTS A SUBSTANTIAL AMOUNT OF ITS BUSINESS FROM Montana;

16 (C) with A MINIMUM OF THREE EMPLOYEES AND at least 65% of the business's employees employed in  
17 Montana;

18 (D) with AT LEAST 65% of the business's total payroll paid or incurred in Montana; ~~and~~

19 (E) that meets at least three of the following requirements:

20 (I) has fewer than 25 employees;

21 (II) has been in operation fewer than 5 years;

22 (III) had previous equity infusions of less than \$2 million;

23 (IV) has assets totaling less than \$10 million; ~~;~~ AND

24 (F) THAT USES THE INVESTMENTS PROVIDED FOR IN THIS SECTION TO PERFORM DAILY FUNCTIONS OF THE  
25 BUSINESS, INCLUDING BUT NOT LIMITED TO EXPANDING OFFICE OR MANUFACTURING FACILITIES, BUYING EQUIPMENT, AND  
26 HIRING EMPLOYEES, OR TO QUALIFY FOR LOANS FROM A FINANCIAL INSTITUTION.

27 (ii) The term does not include, other than the activities specifically listed in subsection ~~(8)(c)(i)(A)~~  
28 ~~(8)(D)(i)(A)~~, a business engaged in real estate development, insurance, banking, lending, lobbying, political  
29 consulting, information technology consulting, wholesale or retail trade, leisure, ~~hospitality, transportation,~~  
30 construction, or professional services provided by attorneys, accountants, business consultants, physicians, or

1 health care consultants.

2 ~~(d)~~(E) "Qualifying fund" means a fund comprising cash, securities, or other investment assets based in  
3 Montana that makes 75% or more of its investments in qualifying businesses.

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5 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
6 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section  
7 1].

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9 NEW SECTION. **Section 3. Applicability.** [This act] applies to tax years beginning after December 31,  
10 2017.

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12 NEW SECTION. **Section 4. Termination.** [This act] terminates December 31, 2030.

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