

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; REQUIRING A PERFORMANCE AUDIT BY THE LEGISLATIVE AUDITOR; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN APPLICABILITY DATE AND ~~A TERMINATION DATE~~ TERMINATION DATES."

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~~ AN INDIVIDUAL 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.



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

2 ~~(A) "PRINCIPAL" OR "OFFICER" MEANS AN EMPLOYEE OF A BUSINESS WHO HOLDS A MANAGEMENT-LEVEL~~
3 ~~POSITION.~~

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

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

12 ~~(c)(D)~~ (i) "Qualifying business" means a business:

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

15 (I) using proprietary technology to add value to a product, process, or service in a qualified field; or

16 (II) researching, developing, or producing a proprietary product, process, or service in a qualified field;

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

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

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

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

22 (I) has fewer than 25 employees;

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

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

25 (IV) has assets totaling less than \$10 million-; AND

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

29 (ii) The term does not include, other than the activities specifically listed in subsection ~~(8)(c)(i)(A)~~
30 (8)(D)(i)(A), a business engaged in real estate development, insurance, banking, lending, lobbying, political

1 consulting, information technology consulting, wholesale or retail trade, leisure, ~~hospitality, transportation,~~
 2 construction, or professional services provided by attorneys, accountants, business consultants, physicians, or
 3 health care consultants.

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

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 7 **NEW SECTION. SECTION 2. LEGISLATIVE PERFORMANCE AUDIT REQUIRED. (1) BY JUNE 30, 2022, THE**
 8 **LEGISLATIVE AUDITOR SHALL PRESENT A PERFORMANCE AUDIT REPORT TO THE LEGISLATIVE AUDIT COMMITTEE AND THE**
 9 **REVENUE AND TRANSPORTATION INTERIM COMMITTEE EVALUATING THE RESULTS OF THE BUSINESS INVESTMENT TAX**
 10 **CREDIT PROGRAM IN [SECTION 1].**

11 **(2) THE LEGISLATIVE AUDIT REPORT MUST INCLUDE BUT IS NOT LIMITED TO:**

12 **(A) THE NUMBER OF TAXPAYERS CLAIMING THE CREDIT AND THE CORRESPONDING CREDIT AMOUNTS;**

13 **(B) THE TYPES OF INVESTMENTS MADE BY THE CREDIT RECIPIENTS;**

14 **(C) THE FINANCIAL IMPACT OF THE INVESTMENTS;**

15 **(D) WHETHER THE CREDIT MATERIALLY AFFECTED THE AMOUNT AND TYPE OF INVESTMENTS MADE AND THE**
 16 **SUCCESS OF THOSE INVESTMENTS, WITH PARTICULAR ATTENTION TO WHETHER THE CREDIT ENCOURAGED INVESTORS TO**
 17 **INVEST IN PROJECTS WITH A LOWER LIKELIHOOD OF FINANCIAL SUCCESS;**

18 **(E) THE AMOUNT OF ECONOMIC ACTIVITY, INCLUDING THE NUMBER OF JOBS AND WAGES OF THOSE JOBS**
 19 **GENERATED BY THE INVESTMENTS;**

20 **(F) THE INCREMENTAL CHANGE IN MONTANA STATE AND LOCAL TAXES PAID AS A RESULT OF THE ALLOWANCE OF**
 21 **THE CREDIT;**

22 **(G) STATE AND LOCAL REVENUE GENERATED BY THE INVESTMENTS; AND**

23 **(H) ADDITIONAL STATE AND LOCAL COSTS ATTRIBUTABLE TO THE INVESTMENTS.**

24 **(3) THE DEPARTMENT OF REVENUE SHALL WORK CLOSELY WITH THE LEGISLATIVE AUDITOR TO PROVIDE**
 25 **INFORMATION NECESSARY TO COMPLETE THE AUDIT REPORT.**

26 **(4) FOLLOWING COMPLETION OF THE LEGISLATIVE AUDIT, THE REVENUE AND TRANSPORTATION INTERIM**
 27 **COMMITTEE SHALL PRESENT A RECOMMENDATION TO THE LEGISLATURE MEETING IN THE 2023 REGULAR SESSION**
 28 **RECOMMENDING WHETHER THE TAX CREDIT PROGRAM IN [SECTION 1] SHOULD BE:**

29 **(A) IMMEDIATELY TERMINATED;**

30 **(B) EXTENDED FOR A PERIOD OF UP TO 6 YEARS; OR**

