

HOUSE BILL NO. 605

INTRODUCED BY G. HERTZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FINANCIAL BENEFITS TO CERTAIN BUSINESSES;
5 PROVIDING TAX BENEFITS TO A NEW OR EXPANDED BUSINESS ON OR ADJACENT TO A MONTANA
6 INDIAN RESERVATION; PROVIDING A TAX CREDIT FOR A PORTION OF GROSS WAGES PAID BY A NEW
7 OR EXPANDED BUSINESS ON OR ADJACENT TO A MONTANA INDIAN RESERVATION, WITH AN
8 INCREASED AMOUNT FOR EMPLOYING AN ENROLLED MEMBER OF A TRIBE OR A VETERAN;
9 PROVIDING FOR A SMALL BUSINESS INVESTMENT TAX CREDIT; REVISING THE BIG SKY ECONOMIC
10 DEVELOPMENT PROGRAM; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 90-1-201 AND
11 90-1-204, MCA; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

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

14
15 NEW SECTION. **Section 1. Montana Indian reservation economic development individual income**
16 **tax credit.** There is a credit against taxes otherwise imposed by this chapter for wages paid by a new or
17 expanded business on or adjacent to a Montana Indian reservation. The credit must be computed and
18 administered as provided in [section 2].

19
20 NEW SECTION. **Section 2. Montana Indian reservation economic development tax credit. (1)**
21 There is allowed as a credit against the tax imposed by chapter 30 or this chapter a percentage of the amount
22 of wages paid by a new or expanded business on or adjacent to a Montana Indian reservation.

- 23 (2) The wage paid to an employee must be greater than or equal to \$15 an hour to qualify for the credit.
24 (3) The amount of the credit is:
25 (a) 20% of gross wages paid per employee who is:
26 (i) an enrolled member of a state-recognized or federally recognized Indian tribe; or
27 (ii) a veteran;
28 (b) 5% of gross wages paid per employee to all other employees.
29 (4) The maximum credit that may be claimed under this section in a year is \$2,000 per employee.
30 (5) The credit allowed under this section may not exceed the taxpayer's income tax liability. The unused

1 portion of a credit may be carried forward for 7 succeeding tax years.

2 (6) The credit provided for in this section may be claimed only for the first 3 tax years of operation or
3 expansion of the business.

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

5 (a) "Adjacent" means within 10 miles of the exterior boundaries of a Montana Indian reservation.

6 (b) "Expanded" means that the business has invested at least \$50,000 in the business in the first tax year
7 in which the credit is claimed or in the preceding tax year.

8 (c) "New" means that the business is new to the Indian reservation or adjacent area and has invested
9 at least \$125,000 in the business in the first tax year in which the credit is claimed or in the preceding tax year.

10
11 **NEW SECTION. Section 3. Small business investment tax credit -- definitions -- rulemaking.** (1)

12 For tax years 2018 through 2028, there is allowed as a credit against taxes otherwise imposed by this chapter
13 a percentage of investments made by the taxpayer during the year in a qualifying business on or adjacent to an
14 Indian reservation.

15 (2) The amount of the credit is 30% of the total investments, and the minimum investment to qualify for
16 the credit is \$10,000.

17 (3) A credit of up to \$50,000 may be claimed in a year. If the credit calculated as provided in subsection
18 (2) exceeds \$50,000, the unused portion may be carried forward to a subsequent tax year but the total credit
19 claimed in all years may not exceed \$500,000.

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

22 (5) The credit may not be claimed by a principal or officer.

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

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

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

29 (a) "Adjacent" means within 10 miles of the exterior boundaries of a Montana Indian reservation.

30 (b) "Principal" or "officer" means an employee of a business who holds a management-level position and

1 receives wages for services performed.

2 (c) "Qualifying business" means a business on or adjacent to a Montana Indian reservation that uses
3 the investments provided for in this section to perform daily functions of the business, including but not limited
4 to expanding office or manufacturing facilities, buying equipment, and hiring employees, or to qualify for loans
5 from a financial institution.

6

7 **Section 4.** Section 90-1-201, MCA, is amended to read:

8 **"90-1-201. Big sky economic development program -- definitions.** (1) (a) There is a big sky economic
9 development program that consists of:

10 (i) the big sky economic development fund established in 17-5-703; and

11 (ii) the economic development special revenue account provided for in 90-1-205.

12 (b) Interest and income from the big sky economic development fund may be used to administer the big
13 sky economic development program and to provide financial assistance for qualified economic development
14 purposes under this part.

15 (2) As used in this part, the following definitions apply:

16 (a) "Certified regional development corporation" has the meaning provided in 90-1-116.

17 (b) "Department" means the department of commerce provided for in 2-15-1801.

18 (c) "Economic development organization" means:

19 (i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation
20 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

21 (B) an entity certified by the department under 90-1-116; or

22 (C) an entity established by a local government; or

23 (ii) an entity actively engaged in economic development and business assistance work in a region of the
24 state.

25 (d) "Employee benefits" means health, welfare, and pension contributions that meet the requirements
26 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

27 (e) "High-poverty county" means a county in this state in which 14% or more of people of all ages are
28 in poverty as determined by the U.S. bureau of the census estimates for the most current year available.

29 (f) "Local government" means a county, consolidated government, city, town, or district or local public
30 entity with the authority to spend or receive public funds.

1 (g) "Tribal government" means any one of the seven federally recognized tribal governments of Montana
2 and the Little Shell band of Chippewa Indians.

3 (h) "Veteran" has the meaning provided in 39-29-101.

4 (i) "Veteran-owned business" means a business for which a veteran owns at least 51% of the business
5 and actively participates in the business."

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7 **Section 5.** Section 90-1-204, MCA, is amended to read:

8 **"90-1-204. Priorities for funding -- rulemaking.** (1) Under the big sky economic development program
9 provided for in 90-1-201, the department must receive proposals for grants and loans from local governments
10 and tribal governments. A local government shall work with an economic development organization on a proposal.
11 The department shall work with the local government and the economic development organization or with an
12 applicant tribal government in preparing cost estimates for a proposed project. In reviewing proposals, the
13 department may consult with other state agencies with expertise pertinent to the proposal.

14 (2) (a) The department shall adopt rules necessary to implement the big sky economic development
15 program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment
16 program and other similar state programs. To the extent feasible, the department shall make the rules compatible
17 with those other programs. To the extent feasible, the department shall employ an approach pertaining to the use
18 of funds so that, except as provided in subsection (2)(b), the needs of rural areas are balanced with the needs
19 of the state's urban centers.

20 (b) For high-poverty counties, the department shall employ an approach pertaining to the use of funds
21 that is intended to lower poverty levels in the county to a percentage at which the county no longer is defined as
22 a high-poverty county.

23 (c) The rules must provide for the types of uses of funds available under the big sky economic
24 development program. The types of uses of funds by:

25 (i) local governments and tribal governments include but are not limited to:

26 (A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;

27 (B) a grant or low-interest loan for relocation expenses for a basic sector company; and

28 (C) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector
29 company;

30 (ii) a certified regional development corporation or a tribal government include:

- 1 (A) support for business improvement districts and central business district redevelopment;
 2 (B) industrial development;
 3 (C) feasibility studies;
 4 (D) creation and maintenance of baseline community profiles; and
 5 (E) matching funds for federal funds, including but not limited to brownfields funds and natural resource
 6 damage funds.

7 (d) (i) The rules must provide for distribution methods for financial assistance available to local
 8 governments and tribal governments. The rules must provide for distribution based upon the number of jobs
 9 expected to be created because of the funding.

10 (ii) Funding may not exceed \$5,000 for each expected job, except that:

- 11 (A) funding for a project in a high-poverty county may not exceed \$7,500 for each expected job; and
 12 (B) funding for a project by a veteran-owned business may receive an additional \$2,000 per expected
 13 job.

14 (iii) The rules must require equal matching funds for a grant or loan, except that the rules for a grant or
 15 a loan in a high-poverty county may allow a 50% to 100% match requirement for the high-poverty county.

16 (e) The rules may provide for greater incentives for a high-poverty county.

17 (f) The rules must provide for the full or partial repayment of a grant if the new jobs or some of the new
 18 jobs for which a grant is given are not created.

19 (g) A grant or loan under the big sky economic development program may be made only for a new job
 20 that has an average weekly wage that meets or exceeds the lesser of 170% of Montana's current minimum wage
 21 or the current average weekly wage of the county in which the employees are to be principally employed. For
 22 purposes of this subsection (2)(g) and subject to subsection (2)(h), the department may consider the value of
 23 employee benefits in determining whether the wage requirements have been met.

24 (h) Nothing in subsection (2)(g) exempts an employer from minimum wage requirements."
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26 **NEW SECTION. Section 6. Notification to tribal governments.** The secretary of state shall send a
 27 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 28 Chippewa tribe.

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 30 **NEW SECTION. Section 7. Codification instruction.** (1) [Sections 1 and 3] are intended to be codified

1 as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to
2 [sections 1 and 3].

3 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the
4 provisions of Title 15, chapter 31, part 1, apply to [section 2].

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6 NEW SECTION. **Section 8. Applicability.** [This act] applies to tax years beginning after December 31,
7 2017.

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9 NEW SECTION. **Section 9. Termination.** [Section 3] terminates December 31, 2035.

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