

## HOUSE BILL NO. 340

INTRODUCED BY W. GALT, G. HERTZ, C. KNUDSEN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA ECONOMIC DEVELOPMENT INDUSTRY ADVANCEMENT ACT FILM TAX INCENTIVES; ~~REVISING ELIGIBLE PRODUCTIONS TO INCLUDE NONSCRIPTED PRODUCTIONS; REVISING THE CALCULATION OF THE MEDIA PRODUCTION CREDIT; EXPANDING THE POSTPRODUCTION CREDIT TO APPLY TO QUALIFIED POSTPRODUCTION ACTIVITIES; REMOVING REVISING THE LIMIT ON CREDITS CLAIMED; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS SECTION 15-31-1003, 15-31-1004, 15-31-1005, 15-31-1006, 15-31-1007, 15-31-1009, 15-31-1010, 15-31-1011, AND 15-31-1012, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE DATES, AND A RETROACTIVE APPLICABILITY DATE DATES, AND TERMINATION DATES.~~"

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

(Refer to Yellow Bill – HB340.2)

Strike everything after the enacting clause and insert:

**Section 1.** Section 15-31-1010, MCA, is amended to read:

**"15-31-1010. Limitation of tax credits.** (1) (a) The department of commerce may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

(b) The authorization by the department of commerce to apply for a credit does not guarantee the credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the requirements of 15-31-1005 through 15-31-1009 and subsection (2) of this section.

(c) The department of commerce shall make reasonable efforts to post on its website the amount of tax credits available and not yet allocated.

(2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed ~~\$40~~ \$12 million per calendar year.

1 (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is  
2 disallowed because the calendar year limit has been reached may use the credit in the next calendar year but  
3 the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-  
4 31-1007(5) or 15-31-1009(4).

5 (c) If a claim is disallowed because the calendar year limit has been reached, the department of  
6 revenue may waive penalties and interest pursuant to 15-1-216.

7 (d) The department of revenue shall make reasonable efforts to post on its website the amount of  
8 credits available and not yet claimed."

9

10 **Section 2.** Section 15-31-1010, MCA, is amended to read:

11 **"15-31-1010. Limitation of tax credits.** (1) (a) The department of commerce may grant to applicants  
12 pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

13 (b) The authorization by the department of commerce to apply for a credit does not guarantee the  
14 credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the  
15 requirements of 15-31-1005 through 15-31-1009 and subsection (2) of this section.

16 (c) The department of commerce shall make reasonable efforts to post on its website the amount of  
17 tax credits available and not yet allocated.

18 (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed  
19 ~~\$40~~\$12 million per calendar year.

20 (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is  
21 disallowed because the calendar year limit has been reached may use the credit in the next calendar year but  
22 the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-  
23 31-1007(5) or 15-31-1009(4).

24 (c) If a claim is disallowed because the calendar year limit has been reached, the department of  
25 revenue may waive penalties and interest pursuant to 15-1-216.

26 (d) The department of revenue shall make reasonable efforts to post on its website the amount of  
27 credits available and not yet claimed."

28

1           **Section 3.** Section 15-31-1010, MCA, is amended to read:

2           **"15-31-1010. Limitation of tax credits.** (1) (a) The department of commerce may grant to applicants  
3 pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

4           (b) The authorization by the department of commerce to apply for a credit does not guarantee the  
5 credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the  
6 requirements of 15-31-1005 through 15-31-1009 and subsection (2) of this section.

7           (c) The department of commerce shall make reasonable efforts to post on its website the amount of  
8 tax credits available and not yet allocated.

9           (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed  
10 ~~\$40~~ \$12 million per calendar year.

11           (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is  
12 disallowed because the calendar year limit has been reached may use the credit in the next calendar year but  
13 the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-  
14 31-1007(5) or 15-31-1009(4).

15           (c) If a claim is disallowed because the calendar year limit has been reached, the department of  
16 revenue may waive penalties and interest pursuant to 15-1-216.

17           (d) The department of revenue shall make reasonable efforts to post on its website the amount of  
18 credits available and not yet claimed."

19

20           **Section 4.** Section 15-31-1010, MCA, is amended to read:

21           **"15-31-1010. Limitation of tax credits.** (1) (a) The department of commerce may grant to applicants  
22 pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

23           (b) The authorization by the department of commerce to apply for a credit does not guarantee the  
24 credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the  
25 requirements of 15-31-1005 through 15-31-1009 and subsection (2) of this section.

26           (c) The department of commerce shall make reasonable efforts to post on its website the amount of  
27 tax credits available and not yet allocated.

28           (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed

1     ~~\$40~~ \$12 million per calendar year.

2           (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is  
3 disallowed because the calendar year limit has been reached may use the credit in the next calendar year but  
4 the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-  
5 31-1007(5) or 15-31-1009(4).

6           (c) If a claim is disallowed because the calendar year limit has been reached, the department of  
7 revenue may waive penalties and interest pursuant to 15-1-216.

8           (d) The department of revenue shall make reasonable efforts to post on its website the amount of  
9 credits available and not yet claimed."

10

11           **Section 5.** Section 15-31-1010, MCA, is amended to read:

12           "**15-31-1010. Limitation of tax credits.** (1) (a) The department of commerce may grant to applicants  
13 pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

14           (b) The authorization by the department of commerce to apply for a credit does not guarantee the  
15 credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the  
16 requirements of 15-31-1005 through 15-31-1009 and subsection (2) of this section.

17           (c) The department of commerce shall make reasonable efforts to post on its website the amount of  
18 tax credits available and not yet allocated.

19           (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed  
20 ~~\$40~~ \$12 million per calendar year.

21           (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is  
22 disallowed because the calendar year limit has been reached may use the credit in the next calendar year but  
23 the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-  
24 31-1007(5) or 15-31-1009(4).

25           (c) If a claim is disallowed because the calendar year limit has been reached, the department of  
26 revenue may waive penalties and interest pursuant to 15-1-216.

27           (d) The department of revenue shall make reasonable efforts to post on its website the amount of  
28 credits available and not yet claimed."

1

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

5

6           NEW SECTION. **Section 7. Effective dates -- applicability.** (1) Except as provided in subsections  
7 (2) through (6), [this act] is effective July 1, 2021.

8           (2) [Section 1] is effective January 1, 2022, and applies to the income tax year beginning after  
9 December 31, 2021.

10           (3) [Section 2] is effective January 1, 2023, and applies to the income tax year beginning after  
11 December 31, 2022.

12           (4) [Section 3] is effective January 1, 2024, and applies to the income tax year beginning after  
13 December 31, 2023.

14           (5) [Section 4] is effective January 1, 2025, and applies to the income tax year beginning after  
15 December 31, 2024.

16           (6) [Section 5] is effective July 1, 2025, and applies to income tax years beginning after June 30,  
17 2025.

18

19           NEW SECTION. **Section 8. Termination.** (1) [Section 1] terminates December 31, 2022.

20           (2) [Section 2] terminates December 31, 2023.

21           (3) [Section 3] terminates December 31, 2024.

22           (4) [Section 4] terminates December 31, 2025.

23           (5) [Section 9] terminates January 1, 2025.

24

25           NEW SECTION. **Section 9. Contingent termination -- legislative intent -- specific findings --**  
26 **report to legislative finance committee.** (1) The legislature intends to provide the tax relief provided by [this  
27 act] while also preventing the loss of federal funds that are available to the state as part of the recently enacted  
28 American Rescue Plan Act, Public Law 117-2. The contingent termination provisions in subsections (2) through

1 (5) are limited to the duration of time established by each subsection and are necessary based on the lack of  
2 information available to the legislature from the federal government at the time of enactment of [this act].

3 (2) [Section 1] terminates on the date that the budget director provides the certification provided for in  
4 subsection (7). In order to be effective, the certification must be made in calendar year 2021.

5 (3) [Section 2] terminates on the date that the budget director provides the certification provided for in  
6 subsection (7). In order to be effective, the certification must be made between October 1, 2022, and December  
7 31, 2022.

8 (4) [Section 3] terminates on the date that the budget director provides the certification provided for in  
9 subsection (7). In order to be effective, the certification must be made between October 1, 2023, and December  
10 31, 2023.

11 (5) [Section 4] terminates on the date that the budget director provides the certification provided for in  
12 subsection (7). In order to be effective, the certification must be made between October 1, 2024, and December  
13 31, 2024.

14 (6) (a) The budget director shall continually evaluate whether implementation of a section of [this act]  
15 will:

16 (i) result in a reduction of funds from the American Rescue Plan Act; or

17 (ii) require the state to repay or refund to the federal government pursuant to the American Rescue  
18 Plan Act.

19 (b) The budget director shall consider guidance from:

20 (i) the federal government about the American Rescue Plan Act;

21 (ii) court decisions about the American Rescue Plan Act;

22 (iii) amendments to the American Rescue Plan Act;

23 (iv) any information provided by the attorney general; and

24 (v) other relevant information about the American Rescue Plan Act.

25 (c) If the budget director determines that the implementation of a section of [this act] may satisfy the  
26 criteria in subsection (6)(a) based on the guidance in subsection (6)(b), the budget director shall notify the  
27 legislative finance committee of the preliminary determination. The budget director's notification of the  
28 preliminary determination may occur after January 1 but no later than December 10 of each of the calendar

1 years 2021, 2022, 2023, and 2024. Within 20 days of notification, the legislative finance committee shall  
2 provide the budget director with any recommendations concerning the preliminary determination. The budget  
3 director shall consider any recommendations of the legislative finance committee.

4 (7) If the budget director determines that the implementation of a section of [this act] would more likely  
5 than not satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b) and the  
6 recommendations of the legislative finance committee in subsection (6)(c), the budget director shall provide  
7 certification in writing to the legislative finance committee and the code commissioner of the occurrence of the  
8 relevant contingency provided for in subsections (2) through (5).

9 - END -