

**Amendment - 1st Reading/2nd House-blue - Requested by: Jim Hamilton - (H)
Appropriations**

68th Legislature

Drafter: Megan Moore, 406-444-4496

SB0014.003.002

1 SENATE BILL NO. 14
2 INTRODUCED BY G. HERTZ
3 BY REQUEST OF THE REVENUE INTERIM COMMITTEE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA ECONOMIC DEVELOPMENT
6 INDUSTRY ADVANCEMENT ACT; INCREASING THE LIMIT ON MONTANA ECONOMIC DEVELOPMENT
7 INDUSTRY ADVANCEMENT ACT FILM TAX CREDITS; PROVIDING AN INCREASED CREDIT FOR HIRING
8 VETERANS AND ENROLLED TRIBAL MEMBERS; EXTENDING THE CREDIT THROUGH 2033;
9 ALLOCATING THE CREDIT TO CERTAIN ENTITIES; PROVIDING A DEFINITION; AMENDING SECTION
10 SECTIONS 15-31-1003, 15-31-1004, 15-31-1007, 15-31-1009, AND 15-31-1010, MCA; REPEALING
11 SECTIONS 1 THROUGH 9, CHAPTER 509, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE
12 DATE AND A RETROACTIVE APPLICABILITY DATE."

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

15
16 **SECTION 1. SECTION 15-31-1003, MCA, IS AMENDED TO READ:**

17 **"15-31-1003. Definitions.** As used in this part, unless the context requires otherwise, the following
18 definitions apply:

19 (1) "Affiliate" means a subsidiary of which more than 50% of the voting stock is owned directly by the
20 parent corporation or another member of the Montana combined group.

21 (2) "Base investment" means the amount expended by a production company as production
22 expenditures and compensation incurred in this state that are directly used in a state-certified production.

23 (3) (a) "Compensation" means Montana wages, salaries, commissions, payments to a loan-out
24 company subject to the provisions of subsection (3)(c), union benefits, fringe benefits, and any other form of
25 remuneration paid to employees for personal services performed in this state.

26 (b) The term does not include compensation paid that is less than the minimum wage described in 39-
27 3-409.

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- 1 (b) the amount of the tax credit previously claimed;
- 2 (c) the amount of the tax credit carried over from a previous tax year; and
- 3 (d) the amount of the tax credit to be carried over to a subsequent tax year.
- 4 (6) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided
- 5 in subsection (6)(b).
- 6 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on
- 7 its corporate income tax return.
- 8 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
- 9 income tax return.
- 10 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member
- 11 or partner returns as follows:
- 12 (A) corporate partners or members shall claim their share of the credit on their corporate income
- 13 tax returns;
- 14 (B) individual partners or members shall claim their share of the credit on their individual income
- 15 tax returns; and
- 16 (C) partners or members that are estates or trusts shall claim their share of the credit on their
- 17 fiduciary income tax returns.
- 18 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of
- 19 credits through partnership and membership agreements may not be recognized unless they have a substantial
- 20 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.
- 21 (7) A postproduction company may not claim a credit under this section for production
- 22 expenditures for which the media production credit provided for in 15-31-1007 is claimed."
- 23

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

25 "~~15-31-1010. (Temporary) Limitation of tax credits. (1) (a) The department of commerce may~~

26 ~~grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007~~

27 ~~and 15-31-1009.~~

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

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

6 ~~(2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed~~
7 ~~[\$12 million] per calendar year.~~

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

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

14 ~~(d) The department of revenue shall make reasonable efforts to post on its website the amount of~~
15 ~~credits available and not yet claimed. (Bracketed language is temporarily amended to "\$10 million" on~~
16 ~~occurrence of contingency for income tax years 2022, 2023, 2024, and 2025 until July 1, 2025—secs. 7(6), 9,~~
17 ~~Ch. 509, L. 2021—see compiler's comment.)~~

18 **15-31-1010. (Effective July 1, 2025) Limitation of tax credits.** (1) (a) The department of commerce
19 may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-
20 1007 and 15-31-1009.

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

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

26 (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed
27 \$12 ~~\$30~~ ~~\$20~~ ~~\$24~~ ~~\$30~~ million per calendar year, 25% OF WHICH MUST BE GRANTED TO A DOMICILED COMPANY FOR

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1 MEDIA PRODUCTION CREDITS DERIVED FROM ANY PORTION OF BASE INVESTMENT RELATED TO THE RENTAL COST OF
2 QUALIFIED MONTANA FACILITIES.

3 (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit
4 is disallowed because the calendar year limit has been reached may use the credit in the next calendar year
5 but the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in
6 15-31-1007(5) or 15-31-1009(4).

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

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

11 (3) (A) (i) BEGINNING IN 2023, BY DECEMBER 31 OF EACH YEAR, THE DEPARTMENT OF REVENUE SHALL
12 DETERMINE IF 90% OF THE LIMIT PROVIDED FOR IN SUBSECTION (2)(A) IN TAX CREDITS WAS CLAIMED. IF THIS CONDITION
13 IS SATISFIED, THE LIMIT MUST BE INCREASED BY 10% FOR THE SUCCEEDING TAX YEARS.

14 (ii) IF THE LIMIT IS INCREASED IN ANY TAX YEAR, THE DEPARTMENT OF REVENUE SHALL USE THE NEW LIMIT
15 AS THE BASE LIMIT FOR SUCCEEDING TAX YEARS UNTIL A NEW LIMIT IS ESTABLISHED UNDER THE PROVISIONS OF
16 SUBSECTION (3)(A).

17 (B) THE LIMIT UNDER THIS SUBSECTION (3) APPLIES TO THE YEAR IN WHICH THE CREDIT IS AUTHORIZED
18 REGARDLESS OF WHETHER THE FULL CREDIT IS CLAIMED IN THAT TAX YEAR OR CARRIED FORWARD."

19
20 NEW SECTION. Section 6. Repealer. Sections 1 through 9, Chapter 509, Laws of 2021, are
21 repealed.

22
23 NEW SECTION. SECTION 7. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
24 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
25 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
26 APPLICATIONS.

27