

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.
- 28 (c) The term includes payments to a loan-out company by a production company if the production

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1 company withheld and remitted Montana income tax at the rate of 6.9% on all payments to the loan-out
2 company for services performed in this state. The amount withheld is considered to have been withheld by the
3 loan-out company on wages paid to its employees for services performed in this state. The amounts withheld
4 must be allocated to the loan-out company's employees based on the payments made to the loan-out
5 company's employees for services performed in Montana. For purposes of this chapter, loan-out company
6 nonresident employees performing services in this state must be considered taxable nonresidents and the loan-
7 out company is subject to income taxation in the tax year in which the loan-out company's employees perform
8 services in this state, notwithstanding any other provisions of Title 15. The withholding liability is subject to
9 penalties and interest as provided in 15-1-216.

10 (d) With respect to a single crew member or production staff member, excluding an actor, director,
11 producer, or writer, the portion of any compensation that exceeds \$500,000 for a single production is not
12 included when calculating the base investment.

13 (e) All payments to a single employee and any legal entity in which the employee has any direct or
14 indirect ownership interest are considered as having been paid to the employee and must be aggregated
15 regardless of the means of payment or distribution.

16 (4) "Game platform" means the electronic delivery system used to launch or play an interactive game.

17 ~~(5) — "Domiciled company" means a corporation incorporated in the state or a partnership, limited~~
18 ~~liability company, or other business entity subject to tax under Title 15, chapter 30 or 31, and domiciled and~~
19 ~~headquartered in the state for a minimum of 1 year for the purpose of performing qualified production activities~~
20 ~~or qualified postproduction activities or producing a nationally or internationally distributed qualified production.~~

21 ~~(5)(6) (5)~~ (5) "Game sequel" means an interactive game that builds on the theme of a previously released
22 interactive game, is distinguished by a new title, and features objectives or characters that are recognizably
23 different from those in the original game.

24 ~~(6)(7) (6)~~ (a) "Loan-out company" means a personal service company contracted with and retained
25 by a production company to provide individual personnel who are not employees of the production company,
26 including actors, directors, producers, writers, production designers, production managers, costume designers,
27 directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt
28 coordinators, and similar personnel, for performance of services used directly in a qualified production activity.

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1 (b) The term does not include persons retained by a production company to provide tangible property
2 or outside independent contractor services, such as catering, construction, trailers, equipment, and
3 transportation.

4 ~~(7)(8)~~ (7) "Multimarket commercial distribution" means paid commercial distribution that extends to
5 markets outside the state.

6 ~~(8)(9)~~ (8) (a) "Postproduction company" means a company that:

7 (i) maintains a business location physically located in this state;

8 (ii) is engaged in qualified postproduction activities;

9 (iii) meets the requirements of 15-31-1005(4) in the tax year for which the postproduction company
10 claims the tax credit provided for in 15-31-1009; and

11 (iv) has been approved by the department of commerce to claim the credit provided for in 15-31-1009.

12 (b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part,
13 by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan
14 guaranteed by the state.

15 ~~(9)(10)~~ (9) "Prereleased interactive game" means a new game, the offering of an existing game on a
16 new game platform, or a game sequel that is in the developmental stages of production and that may be
17 available to individuals for testing purposes but is not generally made available or distributed to consumers or to
18 the general public.

19 ~~(10)(11)~~ (10) (a) "Production company" means a company primarily engaged in qualified production
20 activities that have been approved by the department of commerce.

21 (b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part,
22 by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan
23 guaranteed by the state.

24 ~~(11)(12)~~ (11) (a) "Production expenditure" means a preproduction or production expenditure incurred
25 in Montana that is directly used for a qualified production activity including:

26 (i) set construction and operation;

27 (ii) wardrobes, makeup, accessories, and related services;

28 (iii) costs associated with photography and sound synchronization expenditures, excluding license

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- 1 fees, incurred with Montana companies for sound recordings and musical compositions, lighting, or related
2 services and materials;
- 3 (iv) editing and related services;
- 4 (v) rental of facilities and equipment;
- 5 (vi) leasing of vehicles, whether to be photographed or to transport people, equipment, or materials;
- 6 (vii) lodging costs, including hotel rooms and private housing rentals paid for by the production
7 company;
- 8 (viii) per diem and living allowance paid to staff, cast, and crew members;
- 9 (ix) digital, film, or tape editing, film processing, transfers of film to tape or digital format, sound mixing,
10 computer graphics services, special effects services, visual effects services, and animation services;
- 11 (x) airfare, if purchased through a Montana travel agency or travel company;
- 12 (xi) insurance costs and bonding, if purchased through a Montana insurance agency; and
- 13 (xii) other direct costs of producing the project in accordance with generally accepted entertainment
14 industry practices and generally accepted accounting principles.

15 (b) The term does not include:

- 16 (i) compensation, which qualifies for the credit provided for in 15-31-1007(3)(b)(i) through ~~(3)(b)(iv)~~
17 ~~(3)(B)(V)~~;
- 18 (ii) production expenditures for footage shot outside the state;
- 19 (iii) marketing;
- 20 (iv) story rights;
- 21 (v) distribution; or
- 22 (vi) postproduction expenditures.

23 (12) "QUALIFIED MONTANA FACILITY" MEANS A PURPOSE-BUILT CLEAR-SPAN MEDIA MANUFACTURING
24 FACILITY OF 10,000 OR MORE SQUARE FEET AND MEASURING AT LEAST 45 FEET FROM FLOOR TO TRUSS, CONSTRUCTED
25 IN THE STATE ON OR AFTER JANUARY 1, 2023, AT A MINIMUM INITIAL DEVELOPMENT COST OF \$20 MILLION FOR THE
26 PRIMARY PURPOSE OF ENGAGING IN THE DEVELOPMENT OF QUALIFIED PRODUCTION OR POSTPRODUCTION ACTIVITIES
27 AND THAT IS SUBJECT TO TAX UNDER TITLE 15, CHAPTER 30 OR 31.

28 ~~(12)(13)~~ "Qualified Montana promotion" means a promotion of this state approved by the department

1 of commerce and consisting of:

2 (a) a qualified movie production that includes a 5-second static or animated logo that promotes
3 Montana in the end credits for the life of the project and that includes a link to the official state of Montana
4 website on the project's website;

5 (b) a qualified television production that includes an embedded 5-second Montana promotion during
6 each broadcast worldwide for the life of the project and that includes a link to the official state of Montana
7 website on the project's website;

8 (c) a qualified music video that includes the Montana logo at the end of each video and within online
9 promotions;

10 (d) a qualified interactive game that includes a 15-second Montana advertisement in units sold and
11 embedded in online promotions; or

12 (e) a qualified television special or sports event for which the network provides complimentary
13 placement of two 30-second spots per 30 minutes of qualifying television special or sports event programming
14 promoting Montana destinations and provided by the department of commerce as provided for in 15-31-
15 1004(7).

16 ~~(13)~~(14) "Qualified postproduction activity" means an activity performed in this state on a qualified
17 production employing traditional, emerging, and new workflow techniques used in postproduction for picture,
18 sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation,
19 musical composition, and other activities performed after initial production and including activities performed on
20 previously produced and edited content.

21 ~~(14)~~(15) "Qualified postproduction wage" means wages incurred in this state directly in qualified
22 postproduction activities for footage shot inside or outside this state.

23 ~~(15)~~(16) (a) "Qualified production" means a new film, video, or digital project including only feature
24 films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or
25 streaming, televised commercial advertisements, music videos, corporate videos, industrial films, production for
26 website creation, television specials, sports events, video games, interactive entertainment, prereleased
27 interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

28 (b) The term includes projects shot, recorded, or originally created in short or long form, animation,

1 and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of
2 the digital domain, from which the program is viewed or reproduced and which is intended for multimarket
3 commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video
4 recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual
5 television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming
6 services, or public broadcasting stations.

7 (c) The term does not include the coverage of news, local interest programming, instructional videos,
8 commercials distributed only on the internet, infomercials, solicitation-based productions, nonscripted television
9 programs, feature films consisting primarily of stock footage not originally recorded in Montana, or projects
10 containing obscenity as defined in 45-8-201(2).

11 ~~(16)~~(17) (a) "Qualified production activity" means the production of a new film, video, or digital project
12 in this state and approved by the department of commerce, including only feature films, series for theaters,
13 television, or streaming, pilots, movies and scripted shows made for television or streaming, televised
14 commercial advertisements, music videos, corporate videos, industrial films, production for website creation,
15 television specials, sports events, video games, interactive entertainment, prereleased interactive games, and
16 sound recording projects used in a feature film, series, pilot, or movie for television.

17 (b) The term includes the production of projects filmed or recorded in this state, in whole or in part and
18 in short or long form, animation and music, fixed on a delivery system, including film, videotape, computer disc,
19 laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is
20 intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution
21 platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for
22 exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable
23 television stations, streaming services, or public broadcasting stations.

24 (c) The term does not include the coverage of news, local interest programming, instructional videos,
25 commercials distributed only on the internet, infomercials, solicitation-based productions, nonscripted television
26 programs, or feature films consisting primarily of stock footage not originally recorded in Montana, projects
27 containing obscenity as defined in 45-8-201(2), or projects not shot, recorded, or originally created in Montana.

28 ~~(17)~~(18) "Resident" has the meaning provided in 15-30-2101.

1 ~~(18)~~(19) "State-certified production" means a production engaged in qualified production activities and
2 certified by the department of commerce as provided in 15-31-1004.

3 ~~(19)~~(20) "Underserved area" means a county in this state in which 14% or more people of all ages are
4 in poverty as determined by the U.S. bureau of the census estimates for the most current year available."
5

6 **SECTION 2. SECTION 15-31-1004, MCA, IS AMENDED TO READ:**

7 **"15-31-1004. Application for state certification.** (1) (a) A production company may not receive the
8 tax credit provided for in 15-31-1007 unless the production has been certified by the department of commerce
9 as provided in this section.

10 (b) A postproduction company may not receive the tax credit provided for in 15-31-1009 unless the
11 postproduction company has been certified by the department of commerce. The postproduction company shall
12 submit an application that includes the information provided for in subsection (2)(a) for the postproduction
13 company. The application must be submitted in the year in which the postproduction plans to claim the credit
14 and must be accompanied by a \$500 application fee. For the purposes of allocating the credit pursuant to 15-
15 31-1010, the application must contain an estimate of the amount of credit the postproduction company will
16 claim. A postproduction company that plans to claim the credit in more than 1 tax year must apply for the credit
17 each year, but the application fee is only required in the first year of application. The department of commerce
18 shall notify the applicant whether the postproduction company qualifies for the credit within 30 days of receipt of
19 the application.

20 (2) An application, on a form provided by the department of commerce, must be submitted by the
21 production company to the department of commerce before the start of principal photography. The application
22 must be accompanied by a \$500 fee and must include:

23 (a) the production company's name, primary business address, telephone and fax numbers,
24 incorporation information, federal tax identification number, and the name of at least one principal company
25 officer or manager;

26 (b) the address and telephone and fax numbers of the production company's Montana office;

27 (c) the name of the line producer, unit production manager, or production accountant;

28 (d) a statement that the applicant meets the definition of production company in 15-31-1003;

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- 1 (e) the title of the production;
- 2 (f) the type of production;
- 3 (g) the proposed dates of production from preproduction to the start and completion of principal
- 4 photography;
- 5 (h) a copy or synopsis of the production script;
- 6 (i) a list of production locations;
- 7 (j) a statement that the proposed production does not contain any material or performance that would
- 8 be considered obscene under 45-8-201(2);
- 9 (k) a statement that the production will include a qualified Montana promotion; and
- 10 (l) a statement that the production company plans to make a base investment of \$350,000 or more or,
- 11 if subsection (5) applies, that the production company plans to make a base investment of \$50,000 or more.
- 12 (3) The application must be signed by the manager, agent, president, vice president, or other person
- 13 authorized to represent the production company.
- 14 (4) (a) The department of commerce shall notify the applicant within 30 days of receipt of the
- 15 application as to whether the production qualifies as a state-certified production.
- 16 (b) If the department of commerce approves the application, the department of commerce shall
- 17 provide a certification number to the applicant.
- 18 (5) The department of commerce may approve on a case-by-case basis an application for a
- 19 commercial, music video, production for website creation, video game, interactive entertainment, or
- 20 experimental or low-budget project that plans a base investment of less than \$350,000 but more than \$50,000.
- 21 (6) (a) If the department of commerce determines that the production company has violated the
- 22 provisions of subsection (2)(j) or (2)(k), the department of commerce may revoke the state certification of the
- 23 production. If the department of commerce revokes the state certification, the department of commerce shall
- 24 notify the department of revenue. The production company has the right to a hearing before the department of
- 25 commerce on the revocation of the state certification as provided in Title 2, chapter 4, part 6.
- 26 (b) The department of revenue shall recapture any tax credit claimed by a production company for
- 27 which the state certification has been revoked. The recapture is subject to penalties and interest as provided in
- 28 15-1-216.

1 (c) If the production company transferred the tax credit, the recapture provisions of 15-31-1008(7)
2 apply.

3 (7) The department of commerce shall design and furnish the Montana screen credit needed to
4 qualify for the additional tax credit provided for in ~~15-31-1007(3)(b)(viii)~~ 15-31-1007(3)(B)(IX) and the
5 programming promoting Montana destinations provided for in ~~15-31-1003(12)(e)~~ 15-31-1003(13)(e).

6 (8) The application fee must be deposited in an account in the state special revenue fund. The fee is
7 statutorily appropriated to the department of commerce, as provided in 17-7-502, to administer the provisions of
8 15-31-1004 through 15-31-1012.

9 (9) The department of commerce shall prescribe rules necessary to carry out the provisions of this
10 section, including a procedure for review of the department of commerce's denial or revocation of state
11 certification, the department's policies on the types of productions that may include the Montana screen credit,
12 and the criteria for approving projects with a base investment of less than \$350,000."
13

14 **SECTION 3. SECTION 15-31-1007, MCA, IS AMENDED TO READ:**

15 **"15-31-1007. (Temporary) Tax credit for media production.** (1) Subject to 15-31-1010 and through
16 the tax year ending December 31, ~~2029~~ 2033, a production company and its affiliates are allowed a credit
17 against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production
18 approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base
19 investment made up to 6 months before state certification through completion of the project. ~~The credit must be~~
20 ~~claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were~~
21 ~~incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits~~
22 ~~provided for in 15-31-1010 have been met. For periods after December 31, 2020, the~~ The credit must be
23 claimed for the year in which the production expenditures were incurred or the compensation was paid unless
24 the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met.

25 (2) To claim the credit provided for in this section:

26 (a) the production company or its affiliate must have applied to the department of commerce as
27 provided in 15-31-1005 and been approved to claim or transfer the credit; or

28 (b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this

1 section was transferred.

2 (3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus
3 the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the
4 production company's base investment in the tax year.

5 (b) Additional amounts for which the credit may be claimed are:

6 (i) 25% of the compensation paid per production or season of a television series to each crew
7 member or production staff member who is a resident, not to exceed a \$150,000 credit per person;

8 (ii) 15% of the compensation paid per production or season of a television series to each crew
9 member or production staff member who is not a resident but for whom Montana income taxes have been
10 withheld, not to exceed a \$150,000 credit per person;

11 (iii) 20% of the first \$7.5 million of compensation paid per production or season of a television
12 series to each actor, director, producer, or writer for whom Montana income taxes have been withheld;

13 (iv) 30% of compensation paid per production or season of a television series to a student enrolled
14 in a Montana college or university who works on the production for college credit. The credit may not exceed
15 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the
16 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) and (3)(b)(v) may not be claimed for the same
17 enrolled student.

18 (v) 30% of the compensation paid for each production or season of a television series to each
19 crew member or production staff member who is a Montana resident who is a veteran of the armed forces of
20 the United States or an enrolled member of an Indian tribe recognized by the state, not to exceed \$50,000
21 credit for each person. If a credit provided for in this subsection (3)(b)(v) is claimed, the credits provided for in
22 subsections (3)(b)(i) through (3)(b)(iv) may not be claimed for the same crew member or production staff
23 member.

24 ~~(vi)~~(vi) an additional 10% of payments made to a Montana college or university for stage rentals,
25 equipment rentals, or location fees for filming on campus;

26 ~~(vi)~~(vii) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this
27 state for a production that rents a studio for 20 days or more;

28 ~~(vii)~~(viii) an additional 5% for production expenditures made in an underserved area; and

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1 ~~(viii)~~(ix) an additional 5% of the base investment in the state if the state-certified production includes a
2 Montana screen credit furnished by the state as provided in 15-31-1004(7).

3 (4) If one production company makes a production expenditure to hire another production
4 company to produce a project or contribute elements of a project for pay, the hired production company is
5 considered a service provider for the hiring company and the hiring company is entitled to claim the credit for all
6 expenditures that are incurred in the state.

7 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-
8 31-1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer
9 has a tax liability less than the amount of the credit.

10 (6) A taxpayer claiming a credit shall include with the tax return the following information:

11 (a) the amount of tax credit claimed and transferred for the tax year;

12 (b) the amount of the tax credit previously claimed or transferred;

13 (c) the amount of the tax credit carried over from a previous tax year; and

14 (d) the amount of the tax credit to be carried over to a subsequent tax year.

15 (7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided
16 in subsection (7)(b).

17 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on
18 its corporate income tax return.

19 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
20 income tax return.

21 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member
22 or partner returns as follows:

23 (A) corporate partners or members shall claim their share of the credit on their corporate income
24 tax returns;

25 (B) individual partners or members shall claim their share of the credit on their individual income
26 tax returns; and

27 (C) partners or members that are estates or trusts shall claim their share of the credit on their
28 fiduciary income tax returns.

1 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of
2 credits through partnership and membership agreements may not be recognized unless they have a substantial
3 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

4 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
5 included the amount of the production expenditure or compensation on which the amount of the credit was
6 computed as a deduction under 15-30-2131 or 15-31-114.

7 **15-31-1007. (Effective January 1, 2024) Tax credit for media production.** (1) Subject to 15-31-
8 1010 and through the tax year ending December 31, 2029 2033, a production company and its affiliates are
9 allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified
10 production approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is
11 for the base investment made up to 6 months before state certification through completion of the project. ~~The~~
12 ~~credit must be claimed for the period July 1, 2019, through December 31, 2020, in which the production~~
13 ~~expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year~~
14 ~~because the limits provided for in 15-31-1010 have been met. For periods after December 31, 2020, the The~~
15 credit must be claimed for the year in which the production expenditures were incurred or the compensation
16 was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have
17 been met.

18 (2) To claim the credit provided for in this section:

19 (a) the production company or its affiliate must have applied to the department of commerce as
20 provided in 15-31-1005 and been approved to claim or transfer the credit; or

21 (b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this
22 section was transferred.

23 (3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus
24 the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the
25 production company's base investment in the tax year.

26 (b) Additional amounts for which the credit may be claimed are:

27 (i) 25% of the compensation paid per production or season of a television series to each crew
28 member or production staff member who is a resident, not to exceed a \$150,000 credit per person;

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1 (ii) 15% of the compensation paid per production or season of a television series to each crew
2 member or production staff member who is not a resident but for whom Montana income taxes have been
3 withheld, not to exceed a \$150,000 credit per person;

4 (iii) 20% of the first \$7.5 million of compensation paid per production or season of a television
5 series to each actor, director, producer, or writer for whom Montana income taxes have been withheld;

6 (iv) 30% of compensation paid per production or season of a television series to a student enrolled
7 in a Montana college or university who works on the production for college credit. The credit may not exceed
8 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the
9 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) and (3)(b)(v) may not be claimed for the same
10 enrolled student.

11 (v) 30% of the compensation paid for each production or season of a television series to each
12 crew member or production staff member who is a Montana resident who is a veteran of the armed forces of
13 the United States or an enrolled member of an Indian tribe recognized by the state, not to exceed \$50,000
14 credit for each person. If a credit provided for in this subsection (3)(b)(v) is claimed, the credits provided for in
15 subsections (3)(b)(i) through (3)(b)(iv) may not be claimed for the same crew member or production staff
16 member.

17 ~~(v)~~(vi) an additional 10% of payments made to a Montana college or university for stage rentals,
18 equipment rentals, or location fees for filming on campus;

19 ~~(vi)~~(vii) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this
20 state for a production that rents a studio for 20 days or more;

21 ~~(vii)~~(viii) an additional 5% for production expenditures made in an underserved area; and

22 ~~(viii)~~(ix) an additional 5% of the base investment in the state if the state-certified production includes a
23 Montana screen credit furnished by the state as provided in 15-31-1004(7).

24 (4) If one production company makes a production expenditure to hire another production
25 company to produce a project or contribute elements of a project for pay, the hired production company is
26 considered a service provider for the hiring company and the hiring company is entitled to claim the credit for all
27 expenditures that are incurred in the state.

28 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-

1 31-1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer
2 has a tax liability less than the amount of the credit.

3 (6) A taxpayer claiming a credit shall include with the tax return the following information:

4 (a) the amount of tax credit claimed and transferred for the tax year;

5 (b) the amount of the tax credit previously claimed or transferred;

6 (c) the amount of the tax credit carried over from a previous tax year; and

7 (d) the amount of the tax credit to be carried over to a subsequent tax year.

8 (7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided
9 in subsection (7)(b).

10 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on
11 its corporate income tax return.

12 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
13 income tax return.

14 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member
15 or partner returns as follows:

16 (A) corporate partners or members shall claim their share of the credit on their corporate income
17 tax returns;

18 (B) individual partners or members shall claim their share of the credit on their individual income
19 tax returns; and

20 (C) partners or members that are estates or trusts shall claim their share of the credit on their
21 fiduciary income tax returns.

22 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of
23 credits through partnership and membership agreements may not be recognized unless they have a substantial
24 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

25 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
26 included the amount of the production expenditure or compensation on which the amount of the credit was
27 computed in determining Montana taxable income under 15-30-2120 or as a deduction under 15-31-114."
28

1 **SECTION 4. SECTION 15-31-1009, MCA, IS AMENDED TO READ:**

2 **"15-31-1009. Tax credit for postproduction wages.** (1) Through the tax year ending December 31,
3 2029 2033, a postproduction company that has incurred qualified postproduction wages in the tax year is
4 allowed a credit against the taxes imposed by chapter 30 and this chapter if the taxpayer applies to the
5 department of commerce as provided in 15-31-1004 and to the department of revenue as provided in 15-31-
6 1005 and is approved to claim the credit.

7 (2) The tax credit is equal to 25% of qualified postproduction wages incurred in the state.

8 (3) A tax credit claimed under this section may not exceed the postproduction company's total
9 compensation paid to employees working in this state for the tax year in which the credit is claimed.

10 (4) The tax credit allowed by this section may not be refunded if the taxpayer has no tax liability.
11 Any unused credit may be carried forward for 5 years.

12 (5) A taxpayer claiming a credit shall include with the tax return the following information:

13 (a) the amount of tax credit claimed for the tax year;

14 (b) the amount of the tax credit previously claimed;

15 (c) the amount of the tax credit carried over from a previous tax year; and

16 (d) the amount of the tax credit to be carried over to a subsequent tax year.

17 (6) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided
18 in subsection (6)(b).

19 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on
20 its corporate income tax return.

21 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
22 income tax return.

23 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member
24 or partner returns as follows:

25 (A) corporate partners or members shall claim their share of the credit on their corporate income
26 tax returns;

27 (B) individual partners or members shall claim their share of the credit on their individual income
28 tax returns; and

1 (C) partners or members that are estates or trusts shall claim their share of the credit on their
2 fiduciary income tax returns.

3 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of
4 credits through partnership and membership agreements may not be recognized unless they have a substantial
5 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

6 (7) A postproduction company may not claim a credit under this section for production
7 expenditures for which the media production credit provided for in 15-31-1007 is claimed."

8

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

10 "~~15-31-1010. (Temporary) Limitation of tax credits. (1) (a) The department of commerce may~~
11 ~~grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007~~
12 ~~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 ~~[\$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. (Bracketed language is temporarily amended to "\$10 million" on~~
28 ~~occurrence of contingency for income tax years 2022, 2023, 2024, and 2025 until July 1, 2025—secs. 7(6), 9,~~

Amendment - 1st Reading/2nd House-blue - Requested by: Llew Jones - (H) Appropriations

1 Ch. 509, L. 2021—see compiler's comment.)

2 **15-31-1010. (Effective July 1, 2025) Limitation of tax credits.** (1) (a) The department of commerce
3 may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-
4 1007 and 15-31-1009.

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

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

10 (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed
11 ~~\$12 \$30 \$20 \$24~~ million per calendar year, 25% OF WHICH MUST BE GRANTED TO A DOMICILED COMPANY FOR MEDIA
12 PRODUCTION CREDITS DERIVED FROM ANY PORTION OF BASE INVESTMENT RELATED TO THE RENTAL COST OF QUALIFIED
13 MONTANA FACILITIES.

14 (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit
15 is disallowed because the calendar year limit has been reached may use the credit in the next calendar year
16 but the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in
17 15-31-1007(5) or 15-31-1009(4).

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

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

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

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

28 ~~(B) THE LIMIT UNDER THIS SUBSECTION (3) APPLIES TO THE YEAR IN WHICH THE CREDIT IS AUTHORIZED~~

1 ~~REGARDLESS OF WHETHER THE FULL CREDIT IS CLAIMED IN THAT TAX YEAR OR CARRIED FORWARD."~~

2

3 NEW SECTION. Section 6. Repealer. Sections 1 through 9, Chapter 509, Laws of 2021, are
4 repealed.

5

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

10

11 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

12

13 NEW SECTION. Section 9. Retroactive applicability. [This act] applies retroactively, within the
14 meaning of 1-2-109, to income tax years beginning on or after January 1, 2023.

15

- END -