

HOUSE BILL NO. 601

INTRODUCED BY D. FERN, G. HERTZ

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CREDIT AMOUNT FOR THE ANNUAL JOB GROWTH INCENTIVE TAX CREDIT; REVISING DEFINITIONS; AMENDING SECTIONS 15-30-2361 AND 39-11-404, MCA; AMENDING SECTIONS 23 AND 24, CHAPTER 550, LAWS OF 2021; REPEALING SECTION 25, CHAPTER 550, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-30-2361, MCA, is amended to read:

~~" 15-30-2361. (Temporary) Grow Montana jobs -- annual job growth incentive tax credit. (1)~~

~~Subject to the provisions of 39-11-404, a taxpayer is allowed an annual job growth incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee growth in the state.~~

~~(2) The amount of the credit is equal to the number of qualifying new employees in the credit certificate multiplied by 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the Montana source wages paid to qualifying new employees under the Federal Insurance Contributions Act, 26 U.S.C. 3111(a) and (b).~~

~~(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the taxpayer.~~

~~(4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of labor~~

1 and industry approved the credit by issuing the taxpayer with a credit certificate as provided in 39-11-404. If a
2 taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return
3 will be processed without regard to the credit.

4 (5) ~~For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for
5 the calendar year that ends within the taxpayer's fiscal period.~~

6 (6) ~~The department shall, after consultation with the department of labor and industry, prescribe a
7 form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for
8 the proper administration of the credit.~~

9 (7) ~~The department shall provide the department of labor and industry with an annual report detailing
10 the tax credit provided to taxpayers for the previous year. The information provided to the department of labor
11 and industry is subject to the provisions of 15-30-2618 and 15-31-511.~~

12 (8) ~~A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections 15-
13 30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not
14 prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is
15 claimed.~~

16 (9) ~~Each biennium, the department shall provide to the revenue interim committee information
17 regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the
18 qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the
19 confidentiality requirements of 15-30-2618 or 15-31-511.~~

20 (10) ~~For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying net
21 employee growth", and "qualifying new employee" have the same meaning as those terms are defined in 39-
22 11-404. (Terminates December 31, 2021, 2022, 2023, and 2024, on occurrence of contingency until December
23 31, 2025 -- secs. 24, 25, Ch. 550, L. 2021.)~~

24 **15-30-2361. (Temporary -- effective October 1, 2025) Grow Montana jobs -- annual job growth**
25 **incentive tax credit.** (1) Subject to the provisions of 39-11-404, a taxpayer is allowed an annual job growth
26 incentive tax credit against the tax imposed by chapter 31 or this chapter for creating qualifying net employee
27 growth in the state.

28 (2) The amount of the credit is equal to ~~the number of qualifying new employees in the credit~~

1 ~~certificate multiplied by~~ 50% of the taxpayer's total estimated taxes imposed on the taxpayer each year for the
2 Montana source wages paid to qualifying new employees in the credit certificate under the Federal Insurance
3 Contributions Act, 26 U.S.C. 3111(a) and (b).

4 (3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less
5 than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit
6 allowed by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess
7 attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to
8 exceed 10 years from the tax year the credit was claimed. The entire amount of unused credit must be carried
9 forward to the earliest of the succeeding years, and the oldest available unused credit must be used first. Any
10 credit remaining 10 years after the tax year for which the credit is based may not be refunded or credited to the
11 taxpayer.

12 (4) The credit may be claimed for up to 7 years, but only in a tax year in which the department of
13 labor and industry approved the credit by issuing the taxpayer with a credit certificate as provided in 39-11-404.
14 If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's
15 return will be processed without regard to the credit.

16 (5) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed
17 for the calendar year that ends within the taxpayer's fiscal period.

18 (6) The department shall, after consultation with the department of labor and industry, prescribe a
19 form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for
20 the proper administration of the credit.

21 (7) The department shall provide the department of labor and industry with an annual report
22 detailing the tax credit provided to taxpayers for the previous year. The information provided to the department
23 of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

24 (8) A taxpayer claiming this credit may not claim the apprenticeship tax credit pursuant to sections
25 15-30-2357, 15-31-173, and 39-6-109 in the same tax year that this credit is claimed. This subsection does not
26 prevent a credit carryover from this credit from being used in a tax year in which the apprenticeship tax credit is
27 claimed.

28 (9) Each biennium, the department shall provide to the revenue interim committee information

1 regarding all approvals granted and credit certificates issued, including the credits claimed, the names of the
2 qualifying employers of the credits, and the amount of tax credits claimed. This information is not subject to the
3 confidentiality requirements of 15-30-2618 or 15-31-511.

4 (10) For the purposes of this section, the terms "credit certificate", "qualifying employer", "qualifying
5 net employee growth", and "qualifying new employee" have the same meaning as those terms are defined in
6 39-11-404. (Terminates December 31, 2028--sec. 24(1), Ch. 550, L. 2021.)"

7

8 **Section 2.** Section 39-11-404, MCA, is amended to read:

9 "~~39-11-404. (Temporary) Employer job growth incentive tax credit -- administration.~~ (1) An
10 employer that hires qualifying new employees is eligible for an annual job growth incentive tax credit against
11 income taxes imposed pursuant to Title 15, chapter 30 or 31.

12 ~~(2) The amount and duration of the credit is administered by the department of revenue as provided in~~
13 ~~15-30-2364 and 15-31-175.~~

14 ~~(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with the~~
15 ~~department for the preceding calendar year. The application must be submitted on a form prescribed by the~~
16 ~~department on which the employer:~~

17 ~~(a) identifies and describes the number of qualifying new employees hired;~~

18 ~~(b) provides necessary details to calculate the net employee growth and qualifying net employee~~
19 ~~growth;~~

20 ~~(c) provides documentation necessary to calculate the job growth incentive tax credit, including but~~
21 ~~not limited to the average yearly wage of each qualifying new employee; and~~

22 ~~(d) submits any other information the department considers necessary for auditing purposes and to~~
23 ~~determine whether the employer qualifies for a credit certificate.~~

24 ~~(4) After receiving an application, the department shall:~~

25 ~~(a) provide the employer with a credit certificate, which must accompany the employer's tax return~~
26 ~~that is filed with the department of revenue; or~~

27 ~~(b) deny an application for a credit certificate and provide the employer with the reasoning for the~~
28 ~~denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve~~

1 deficiencies in the application.

2 ~~(5) The department shall provide to the department of revenue a list of the qualifying employers~~
3 ~~approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the~~
4 ~~aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the~~
5 ~~credit. The list must include the federal tax identification number of the qualifying employer and the name and~~
6 ~~social security number or federal tax identification number of the qualifying new employees that were utilized~~
7 ~~during the issuance of a credit certificate.~~

8 ~~(6) The identity and social security number or federal tax identification number of individuals~~
9 ~~employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.~~

10 ~~(7) The department may audit an employer applying for a credit certificate or who has obtained a~~
11 ~~credit certificate.~~

12 ~~(8) By November 1 of each year, the department shall multiply the minimum yearly wage in~~
13 ~~subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10.~~
14 ~~The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the~~
15 ~~minimum yearly wage.~~

16 ~~(9) The department may adopt rules necessary to administer this section.~~

17 ~~(10) For the purposes of this section, the following definitions apply:~~

18 ~~(a) "Business transfer" means any change in ownership or transfer of all or a material portion of the~~
19 ~~business to another entity or individual by entity merger, combination, reorganization, asset acquisition,~~
20 ~~transfer, or other similar business transaction in which an existing business is continued under new ownership~~
21 ~~or a different entity.~~

22 ~~(b) "Credit certificate" means a statement issued by the department to a qualifying employer that~~
23 ~~provides the number of qualifying new employees hired or retained by the qualifying employer starting with~~
24 ~~calendar year 2022 and ending in calendar year 2028.~~

25 ~~(c) "Department" means the department of labor and industry provided for in 2-15-1701.~~

26 ~~(d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or~~
27 ~~other obligation imposed by Title 15, chapters 30 and 31.~~

28 ~~(e) "Inflation factor" means a number determined for each tax year by dividing the consumer price~~

1 index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

2 (f) ~~"Net employee growth" means the difference between the total number of qualifying new~~
3 ~~employees employed by the employer in the state during any calendar year starting with calendar year 2022~~
4 ~~and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed~~
5 ~~by the employer or predecessor in the state during calendar year 2021.~~

6 (g) ~~"Predecessor" means any entity or individual that operated a business prior to a business transfer~~
7 ~~to the employer.~~

8 (h) ~~"Qualifying employer" means an employer with qualifying net employee growth.~~

9 (i) ~~(i) "Qualifying net employee growth" means:~~

10 (A) ~~unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new~~
11 ~~employees during the first year the credit is claimed and at least 15 total qualifying new employees during any~~
12 ~~subsequent calendar year;~~

13 (B) ~~for a county with a population of 20,000 or less, net employee growth equal to at least 5 qualifying~~
14 ~~new employees during the first year the credit is claimed and at least 7 total qualifying new employees during~~
15 ~~any subsequent calendar year.~~

16 (ii) ~~In order to qualify, the net employee growth must be associated with a project in the state that~~
17 ~~encourages, promotes, and stimulates economic development in the sectors of construction, natural resources,~~
18 ~~mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.~~

19 (j) ~~(i) "Qualifying new employee" means an employee of a qualifying employer:~~

20 (A) ~~who is hired in any calendar year starting with calendar year 2022 and ending in calendar year~~
21 ~~2028;~~

22 (B) ~~who is employed for at least 6 months during the year for which the credit is granted; and~~

23 (C) ~~with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the employer.~~

24 (ii) ~~The term does not include an employee:~~

25 (A) ~~previously employed by the employer or a predecessor in the preceding 12 months; or~~

26 (B) ~~hired to replace an employee of a predecessor. (Terminates December 31, 2021, 2022, 2023, and~~
27 ~~2024, on occurrence of contingency until December 31, 2025--secs. 24, 25, Ch. 550, L. 2021.)~~

28 **39-11-404. (Temporary --effective October 1, 2025) Employer job growth incentive tax credit --**

1 **administration.** (1) An employer that hires qualifying new employees is eligible for an annual job growth
2 incentive tax credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

3 (2) The amount and duration of the credit is administered by the department of revenue as
4 provided in 15-30-2361 and 15-31-175.

5 (3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with
6 the department for the preceding calendar year. The application must be submitted on a form prescribed by the
7 department on which the employer:

8 (a) identifies and describes the number of qualifying new employees hired;

9 (b) provides necessary details to calculate the net employee growth and qualifying net employee
10 growth;

11 (c) provides documentation necessary to calculate the job growth incentive tax credit, including but
12 not limited to the average yearly wage of each qualifying new employee; and

13 (d) submits any other information the department considers necessary for auditing purposes and to
14 determine whether the employer qualifies for a credit certificate.

15 (4) After receiving an application, the department shall:

16 (a) provide the employer with a credit certificate, which must accompany the employer's tax return
17 that is filed with the department of revenue; or

18 (b) deny an application for a credit certificate and provide the employer with the reasoning for the
19 denial. Prior to issuing a denial, the department shall provide the employer with an opportunity to resolve
20 deficiencies in the application.

21 (5) The department shall provide to the department of revenue a list of the qualifying employers
22 approved for a credit certificate, the qualifying new employees employed by the qualifying employer, and the
23 aggregate total of net employee growth and qualified net employee growth for qualified employers claiming the
24 credit. The list must include the federal tax identification number of the qualifying employer and the name and
25 social security number or federal tax identification number of the qualifying new employees that were utilized
26 during the issuance of a credit certificate.

27 (6) The identity and social security number or federal tax identification number of individuals
28 employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

1 (7) The department may audit an employer applying for a credit certificate or who has obtained a
2 credit certificate.

3 (8) By November 1 of each year, the department shall multiply the minimum yearly wage in
4 subsection (10)(j)(i)(C) by the inflation factor for the following tax year and round the product to the nearest \$10.
5 The resulting minimum yearly wage is effective for that following tax year and must be used in calculating the
6 minimum yearly wage.

7 (9) The department may adopt rules necessary to administer this section.

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

9 (a) "Business transfer" means any change in ownership or transfer of all or a material portion of
10 the business to another entity or individual by entity merger, combination, reorganization, asset acquisition,
11 transfer, or other similar business transaction in which an existing business is continued under new ownership
12 or a different entity.

13 (b) "Credit certificate" means a statement issued by the department to a qualifying employer that
14 provides the number of qualifying new employees hired or retained by the qualifying employer starting with
15 calendar year 2022 and ending in calendar year 2028.

16 (c) "Department" means the department of labor and industry provided for in 2-15-1701.

17 (d) "Employer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or
18 other obligation imposed by Title 15, chapters 30 and 31.

19 (e) "Inflation factor" means a number determined for each tax year by dividing the consumer price
20 index as defined in 15-30-2101 for June of the previous tax year by the consumer price index for June 2021.

21 (f) "Net employee growth" means ~~the difference between the total number of qualifying new~~
22 ~~employees employed by the employer in the state during any calendar year starting with calendar year 2022~~
23 ~~and ending in calendar year 2028 and the total number of full-time equivalent employees that were employed~~
24 ~~by the employer or predecessor in the state during calendar year 2021.~~

25 (g) "Predecessor" means any entity or individual that operated a business prior to a business
26 transfer to the employer.

27 (h) "Qualifying employer" means an employer with qualifying net employee growth.

28 (i) (i) "Qualifying net employee growth" means:

1 (A) unless subsection (10)(i)(i)(B) applies, net employee growth equal to at least 10 qualifying new
 2 employees during the first year the credit is claimed and at least 15 total qualifying new employees during any
 3 subsequent calendar year;

4 (B) for a county with a population of 20,000 or less, net employee growth equal to at least 5
 5 qualifying new employees during the first year the credit is claimed and at least 7 total qualifying new
 6 employees during any subsequent calendar year.

7 (ii) In order to qualify, the net employee growth must be associated with a project in the state that
 8 encourages, promotes, and stimulates economic development in the sectors of construction, natural resources,
 9 mining, agriculture, forestry, manufacturing, transportation, utilities, or outdoor recreation.

10 (j) (i) "Qualifying new employee" means an employee of a qualifying employer:

11 (A) who is hired in any calendar year starting with calendar year 2022 and ending in calendar year
 12 2028;

13 (B) who is employed for at least 6 months during the year for which the credit is granted; and

14 (C) with a yearly wage of at least \$50,000, plus any benefits paid to other employees of the
 15 employer; and

16 (D) who increases the number of total employees that are employed by the employer from the
 17 number of employees employed by the employer in calendar year 2021.

18 (ii) The term does not include an employee:

19 (A) previously employed by the employer or a predecessor in the preceding 12 months; or

20 (B) hired to replace an employee of a predecessor. (Terminates December 31, 2028--sec. 24(1),
 21 Ch. 550, L. 2021.)"

22

23 **Section 3.** Section 23, Chapter 550, Laws of 2021, is amended to read:

24 **"Section 23. Effective dates -- applicability.** (1) Except as provided in subsections (2) through
 25 ~~(6)~~(4), [this act] is effective July 1, 2021.

26 (2) [Sections 1 through 3] are effective October 1, 2021, and apply to the income tax year
 27 beginning after December 31, 2021.

28 (3) [Sections 4 through 6] are effective October 1, 2022, and apply to the income tax year

1 beginning after December 31, 2022.

2 ~~(4) [Sections 7 through 9] are effective October 1, 2023, and apply to the income tax year beginning~~
3 ~~after December 31, 2023.~~

4 ~~(5) [Sections 10 through 12] are effective October 1, 2024, and apply to the income tax year~~
5 ~~beginning after December 31, 2024.~~

6 ~~(6)(4) [Sections 13 through 15] are effective October 1, 2025, [on passage and approval of this act]~~
7 and apply to income tax years beginning after December 31, ~~2025~~ 2021."

8

9 **Section 4.** Section 24, Chapter 550, Laws of 2021, is amended to read:

10 "**Section 24. Termination.** (1) Except as provided in ~~subsections subsection~~ subsection (2) ~~through (6)~~, [this act]
11 terminates December 31, 2028.

12 (2) [Sections 1 through 3] terminate December 31, 2022.

13 (3) ~~[Sections 4 through Section 6] terminate terminates December 31, 2023~~ [on passage and
14 approval of this act].

15 ~~(4) [Sections 7 through 9] terminate December 31, 2024.~~

16 ~~(5) [Sections 10 through 12] terminate December 31, 2025.~~

17 ~~(6) [Section 25] terminates January 1, 2025."~~

18

19 NEW SECTION. **Section 5. Repealer.** Section 25, Chapter 550, Laws of 2021, is repealed.

20

21 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

22

23 NEW SECTION. **Section 7. Retroactive applicability.** [This act] applies retroactively, within the
24 meaning of 1-2-109, to tax years beginning after December 31, 2021.

25

- END -