

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HOUSE BILL NO. 897

INTRODUCED BY B. BARKER, T. WELCH, S. KERNS, G. NIKOLAKAKOS, L. BISHOP, K. SULLIVAN, M. BERTOGLIO, K. WALSH, G. OBLANDER, J. BERGSTROM, J. SMALL, P. FLOWERS, C. FRIEDEL, S. MORIGEAU, P. GREEN, C. SPRUNGER, P. TUSS, D. HARVEY, J. KASSMIER, N. DURAM, N. HASTINGS, E. BOLDMAN, W. CURDY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA ECONOMIC DEVELOPMENT INDUSTRY ADVANCEMENT ACT FILM TAX CREDITS; REVISING ELIGIBLE PRODUCTIONS AND POSTPRODUCTION ACTIVITY; PROVIDING AN INCREASED CREDIT FOR HIRING VETERANS AND ENROLLED TRIBAL MEMBERS; EXTENDING THE CREDITS THROUGH 2035; INCREASING THE AGGREGATE CREDIT LIMIT; ALLOCATING THE CREDIT TO CERTAIN ENTITIES; PROVIDING UNUSED ALLOCATED CREDITS MAY BE CLAIMED BY OTHER ENTITIES FOR A FEE; DESIGNATING THE FEE FOR FILM INDUSTRY WORKFORCE TRAINING; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-31-1002, 15-31-1003, 15-31-1004, 15-31-1007, 15-31-1009, AND 15-31-1010, MCA; REPEALING SECTIONS 1 THROUGH 9, CHAPTER 509, 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:

NEW SECTION. Section 1. Film industry workforce training account. (1) There is an account in

the state special revenue fund provided for in 17-2-102 known as the film industry workforce training account.

(2) The fee collected under 15-31-1010(2)(c) must be deposited in the account.

(3) The department of labor and industry shall use money in the account to provide workforce training for the film industry.

Section 2. Section 15-31-1002, MCA, is amended to read:

"15-31-1002. Purpose. (1) The purpose of this part is to diversify and enhance Montana's economy

by ~~expanding film and related media production in the state, by increasing job opportunities for a broad array of~~



Amendment - 1st Reading-white - Requested by: Brad Barker - (H) Taxation

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0897.001.001

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

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

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

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

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

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

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

16 (7) A postproduction company may not claim a credit under this section for production
17 expenditures for which the media production credit provided for in 15-31-1007 is claimed."
18

19 **Section 7.** Section 15-31-1010, MCA, is amended to read:

20 "~~15-31-1010. (Temporary) Limitation of tax credits. (1)(a) The department of commerce may~~
21 ~~grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007~~
22 ~~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 ~~[\$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. (Bracketed language is temporarily amended to "\$10 million" on~~
10 ~~occurrence of contingency for income tax years 2022, 2023, 2024, and 2025 until July 1, 2025—secs. 7(6), 9,~~
11 ~~Ch. 509, L. 2021—see compiler's comment.)~~

12 **15-31-1010. (Effective July 1, 2025) Limitation of tax credits -- allocation -- fee.** (1) (a) The
13 department of commerce may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax
14 credits provided for in 15-31-1007 and 15-31-1009.

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

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

20 (2) (a) ~~Total~~ Except as provided in subsection (4), total claims for the tax credits provided for in 15-
21 31-1007 and 15-31-1009 may not exceed ~~\$12~~ \$75 million per calendar year.

22 ~~(b) Claims must be allowed on a first-come, first-served basis~~ within the allocations provided for in
23 subsection (2)(b).

24 ~~(b) (i) Beginning January 1, 2023, credits under 15-31-1007 and 15-31-1009 are allocated as~~
25 follows:

26 (A) the greater of \$30 million or 40% to any production company or postproduction company on a
27 first-come, first-served basis;

28 (B) 10% for independent film productions;

1 (C) 25% for media production credits derived from any portion of base investment related to the
2 rental cost of qualified Montana facilities; and

3 (D) 25% for domiciled companies.

4 (ii) Credits not claimed by the entities specified in subsection (2)(b)(i)(B) through (2)(b)(i)(D) by the
5 end of tax years 2023 or 2024 expire and may not be claimed in subsequent tax years.

6 (c) Beginning July 1, 2025, and each tax year after that, any balance not claimed under
7 subsections (2)(b)(i)(B) through (2)(b)(i)(D) by the beginning of the third quarter is available on a first-come,
8 first-served basis. Any unclaimed credit balance that becomes available under this section is subject to a 1%
9 fee.

10 (3) (a) A taxpayer whose claim for a credit is disallowed because the calendar year limit has been
11 reached may use the credit in the next calendar year but the transfer of the credit to the next calendar year
12 does not extend the carry forward periods provided for in 15-31-1007(5) or 15-31-1009(4).

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

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

17 (4) (a) (i) Beginning in 2025, by December 31 of each year, the department of revenue shall
18 determine if 80% of the limit provided for in subsection (2)(a) in tax credits was claimed. If this condition is
19 satisfied, the limit must be increased by 25% for the succeeding tax years.

20 (ii) If the limit is increased in any tax year, the department of revenue shall use the new limit as the
21 base limit for succeeding tax years until a new limit is established under the provisions of subsection (4)(a)(i).

22 (b) The limit under this subsection (4) applies to the year in which the credit is authorized
23 regardless of whether the full credit is claimed in that tax year or carried forward.

24 (5) The fee provided for in subsection (2)(c) must be deposited in the account provided for in
25 [section 1] and used for film industry workforce training."

26
27 NEW SECTION. Section 8. Repealer. Sections 1 through 9, Chapter 509, Laws of 2021, are
28 repealed.