

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

SENATE BILL NO. 14
INTRODUCED BY G. HERTZ
BY REQUEST OF THE REVENUE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA ECONOMIC DEVELOPMENT
INDUSTRY ADVANCEMENT ACT; INCREASING THE LIMIT ON MONTANA ECONOMIC DEVELOPMENT
INDUSTRY ADVANCEMENT ACT FILM TAX CREDITS; REQUIRING THE FUNDING OF CHILD CARE BY A
PRODUCTION COMPANY AND ITS AFFILIATES; AMENDING SECTION SECTIONS 15-31-1007 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:

Section 1. Section 15-31-1007, MCA, is amended to read:

"15-31-1007. (Temporary) Tax credit for media production. (1) Subject to 15-31-1010 and through
the tax year ending December 31, 2029, a production company and its affiliates are allowed a credit against the
taxes imposed by chapter 30 and this chapter for investments in a state-certified production approved by the
department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base investment
made up to 6 months before state certification through completion of the project. The credit must be claimed for
the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the
compensation was paid unless the credit is transferred to the next tax year because the limits provided for in
15-31-1010 have been met. For periods after December 31, 2020, the credit must be claimed for the year in
which the production expenditures were incurred or the compensation was paid unless the credit is transferred
to the next tax year because the limits provided for in 15-31-1010 have been met. The credit may not be
claimed unless a production company and its affiliates provide funding for a new or existing child-care facility in
or near the production location in an amount that is equal or greater than the cost of child care for parents who
are employed by the production company or affiliates in or near the production location.

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

Amendment - 1st Reading-white - Requested by: Shannon O'Brien - (S) Taxation

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

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

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

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

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

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

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

16 (iv) 30% of compensation paid per production or season of a television series to a student enrolled in a
17 Montana college or university who works on the production for college credit. The credit may not exceed
18 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the
19 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.

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

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

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

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

27 (4) If one production company makes a production expenditure to hire another production company to
28 produce a project or contribute elements of a project for pay, the hired production company is considered a

1 service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures
2 that are incurred in the state.

3 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-
4 1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has
5 a tax liability less than the amount of the credit.

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

- 7 (a) the amount of tax credit claimed and transferred for the tax year;
- 8 (b) the amount of the tax credit previously claimed or transferred;
- 9 (c) the amount of the tax credit carried over from a previous tax year; and
- 10 (d) the amount of the tax credit to be carried over to a subsequent tax year.

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

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

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

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

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

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

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

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

28 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has

1 included the amount of the production expenditure or compensation on which the amount of the credit was
2 computed as a deduction under 15-30-2131 or 15-31-114.

3 **15-31-1007. (Effective January 1, 2024) Tax credit for media production.** (1) Subject to 15-31-
4 1010 and through the tax year ending December 31, 2029, a production company and its affiliates are allowed
5 a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production
6 approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base
7 investment made up to 6 months before state certification through completion of the project. The credit must be
8 claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were
9 incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits
10 provided for in 15-31-1010 have been met. For periods after December 31, 2020, the credit must be claimed for
11 the year in which the production expenditures were incurred or the compensation was paid unless the credit is
12 transferred to the next tax year because the limits provided for in 15-31-1010 have been met. The credit may
13 not be claimed unless a production company and its affiliates provide funding for a new or existing child-care
14 facility in or near the production location in an amount that is equal to or greater than the cost of child care for
15 parents who are employed by the production company or affiliates in or near the production location.

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

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

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

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

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

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

27 (ii) 15% of the compensation paid per production or season of a television series to each crew member
28 or production staff member who is not a resident but for whom Montana income taxes have been withheld, not

1 to exceed a \$150,000 credit per person;

2 (iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to

3 each actor, director, producer, or writer for whom Montana income taxes have been withheld;

4 (iv) 30% of compensation paid per production or season of a television series to a student enrolled in a

5 Montana college or university who works on the production for college credit. The credit may not exceed

6 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the

7 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.

8 (v) an additional 10% of payments made to a Montana college or university for stage rentals,

9 equipment rentals, or location fees for filming on campus;

10 (vi) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for

11 a production that rents a studio for 20 days or more;

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

13 (viii) an additional 5% of the base investment in the state if the state-certified production includes a

14 Montana screen credit furnished by the state as provided in 15-31-1004(7).

15 (4) If one production company makes a production expenditure to hire another production company to

16 produce a project or contribute elements of a project for pay, the hired production company is considered a

17 service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures

18 that are incurred in the state.

19 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-

20 1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has

21 a tax liability less than the amount of the credit.

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

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

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

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

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

27 (7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in

28 subsection (7)(b).

1 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its
2 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 or
6 partner returns as follows:

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

9 (B) individual partners or members shall claim their share of the credit on their individual income tax
10 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 credits
14 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 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
17 included the amount of the production expenditure or compensation on which the amount of the credit was
18 computed in determining Montana taxable income under 15-30-2120 or as a deduction under 15-31-114."

19
20 **Section 2.** Section 15-31-1010, MCA, is amended to read:

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

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

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

Amendment - 1st Reading-white - Requested by: Shannon O'Brien - (S) Taxation

68th Legislature

Drafter: Jaret Coles, 406-444-4022

SB0014.001.004

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

3 ~~(b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is~~
4 ~~disallowed because the calendar year limit has been reached may use the credit in the next calendar year but~~
5 ~~the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-~~
6 ~~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. (Bracketed language is temporarily amended to "\$10 million" on~~
11 ~~occurrence of contingency for income tax years 2022, 2023, 2024, and 2025 until July 1, 2025—secs. 7(6), 9,~~
12 ~~Ch. 509, L. 2021—see compiler's comment.)~~

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

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

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

21 (2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed
22 ~~\$12-~~\$30 million per calendar year.

23 (b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit
24 is disallowed because the calendar year limit has been reached may use the credit in the next calendar year
25 but the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in
26 15-31-1007(5) or 15-31-1009(4).

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

Amendment - 1st Reading-white - Requested by: Shannon O'Brien - (S) Taxation

68th Legislature

Drafter: Jaret Coles, 406-444-4022

SB0014.001.004

1 (d) The department of revenue shall make reasonable efforts to post on its website the amount of
2 credits available and not yet claimed."
3

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

7 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.
8

9 NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the
10 meaning of 1-2-109, to income tax years beginning on or after January 1, 2023.
11

- END -