

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

68th Legislature

Drafter: Megan Moore, 406-444-4496

SB0014.003.006

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 (6) (a) If the department of commerce determines that the production company has violated the  
2 provisions of subsection (2)(j) or (2)(k), the department of commerce may revoke the state certification of the  
3 production. If the department of commerce revokes the state certification, the department of commerce shall  
4 notify the department of revenue. The production company has the right to a hearing before the department of  
5 commerce on the revocation of the state certification as provided in Title 2, chapter 4, part 6.

6 (b) The department of revenue shall recapture any tax credit claimed by a production company for  
7 which the state certification has been revoked. The recapture is subject to penalties and interest as provided in  
8 15-1-216.

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

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

14 (8) The application fee must be deposited in an account in the state special revenue fund. The fee is  
15 statutorily appropriated to the department of commerce, as provided in 17-7-502, to administer the provisions of  
16 15-31-1004 through 15-31-1012.

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

21

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

23 **"15-31-1007. (Temporary) Tax credit for media production.** (1) Subject to 15-31-1010 and through  
24 the tax year ending December 31, ~~2029~~ 2033, a production company and its affiliates are allowed a credit  
25 against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production  
26 approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base  
27 investment made up to 6 months before state certification through completion of the project. ~~The credit must be~~

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1 ~~claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were~~  
2 ~~incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits~~  
3 ~~provided for in 15-31-1010 have been met. For periods after December 31, 2020, the The credit must be~~  
4 ~~claimed for the year in which the production expenditures were incurred or the compensation was paid unless~~  
5 ~~the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met.~~

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

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

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

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

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

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

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

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

22 (iv) 30% of compensation paid per production or season of a television series to a student enrolled  
23 in a Montana college or university who works on the production for college credit. The credit may not exceed  
24 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the  
25 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) and (3)(b)(v) may not be claimed for the same  
26 enrolled student.

27 (v) 30% of the compensation paid for each production or season of a television series to each

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1 crew member or production staff member who is a Montana resident who is a veteran of the armed forces of  
2 the United States or an enrolled member of an Indian tribe recognized by the state, not to exceed \$50,000  
3 \$10,000 credit for each person. If a credit provided for in this subsection (3)(b)(v) is claimed, the credits  
4 provided for in subsections (3)(b)(i) through (3)(b)(iv) may not be claimed for the same crew member or  
5 production staff member.

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

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

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

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

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

17 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-  
18 31-1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer  
19 has a tax liability less than the amount of the credit.

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

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

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

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

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

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

27 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on

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1 its corporate income tax return.

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

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

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

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

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

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

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

18 **15-31-1007. (Effective January 1, 2024) Tax credit for media production.** (1) Subject to 15-31-  
19 1010 and through the tax year ending December 31, 2029 2033, a production company and its affiliates are  
20 allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified  
21 production approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is  
22 for the base investment made up to 6 months before state certification through completion of the project. ~~The~~  
23 ~~credit must be claimed for the period July 1, 2019, through December 31, 2020, in which the production~~  
24 ~~expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year~~  
25 ~~because the limits provided for in 15-31-1010 have been met. For periods after December 31, 2020, the The~~  
26 credit must be claimed for the year in which the production expenditures were incurred or the compensation  
27 was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have

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1 been met.

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

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

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

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

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

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

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

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

18 (iv) 30% of compensation paid per production or season of a television series to a student enrolled  
19 in a Montana college or university who works on the production for college credit. The credit may not exceed  
20 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the  
21 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) and (3)(b)(v) may not be claimed for the same  
22 enrolled student.

23 (v) 30% of the compensation paid for each production or season of a television series to each  
24 crew member or production staff member who is a Montana resident who is a veteran of the armed forces of  
25 the United States or an enrolled member of an Indian tribe recognized by the state, not to exceed \$50,000  
26 \$10,000 credit for each person. If a credit provided for in this subsection (3)(b)(v) is claimed, the credits  
27 provided for in subsections (3)(b)(i) through (3)(b)(iv) may not be claimed for the same crew member or

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1 production staff member.

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

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

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

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

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

13 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-  
14 31-1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer  
15 has a tax liability less than the amount of the credit.

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

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

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

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

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

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

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

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

27 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member

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1 or partner returns as follows:

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

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

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

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

11 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has  
12 included the amount of the production expenditure or compensation on which the amount of the credit was  
13 computed in determining Montana taxable income under 15-30-2120 or as a deduction under 15-31-114."  
14

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

16 **"15-31-1009. Tax credit for postproduction wages.** (1) Through the tax year ending December 31,  
17 2029 2033, a postproduction company that has incurred qualified postproduction wages in the tax year is  
18 allowed a credit against the taxes imposed by chapter 30 and this chapter if the taxpayer applies to the  
19 department of commerce as provided in 15-31-1004 and to the department of revenue as provided in 15-31-  
20 1005 and is approved to claim the credit.

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

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

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

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

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