HOUSE BILL NO. 21

INTRODUCED BY L. BREWSTER

BY REQUEST OF THE LOCAL GOVERNMENT INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR WORKFORCE HOUSING TAX CREDITS; PROVIDING THAT THE CREDITS MAY BE TAKEN AGAINST THE INCOME TAX OR INSURANCE PREMIUM TAXES; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Workforce housing tax credit.** (1) In tax years beginning on or after January 1, 2026, a taxpayer owning an interest in a qualified project that is issued an eligibility statement by the board of housing may claim a credit against the taxes imposed by Title 15, chapter 31, 33-2-705, 33-2-709, 50-3-109, and this chapter.

(2) The board of housing shall allocate workforce housing tax credits using the qualified allocation plan process. The board of housing shall issue eligibility statements for qualified projects on approval of a final cost certification. If the credit is claimed by a small business corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit may be allocated to some or all shareholders, owners, members, or partners, regardless of whether the shareholder, owner, member, or partner is a partner for federal income tax purposes. The eligibility statement must specify the total amount of the credit that may be claimed in each year the qualified project is eligible to claim a credit.

(3) The credit may be claimed for each year of a 6-year period beginning with the tax year in which a qualified project is placed in service.

(4) The total amount of credits allocated by the board of housing to qualified projects for any allocation year may not exceed $1.5 million plus the total amount of all unallocated credits from previous calendar years and the total amount of all previously allocated credits that have been revoked or otherwise recovered by the board of housing.

(5) If the amount of the credit exceeds the taxpayer's liability for the tax year, the credit may be carried forward 5 years. The entire amount of the credit not used in the year must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(6) A taxpayer claiming the credit must own a direct or indirect interest, through one or more pass-through entities, in the qualified project at any time prior to filing a tax return claiming the credit and shall submit a copy of the eligibility statement with the tax return claiming the credit. If the board of housing has not issued the eligibility statement at the time the taxpayer files the return, the taxpayer shall file an amended return to include the eligibility statement.

(7) If all or a portion of the federal low-income housing credit is recaptured or is otherwise disallowed during the period in which the qualified project is eligible to claim a credit, the same portion of the Montana workforce housing credit is also recaptured or disallowed. Any credits recaptured or disallowed increase the tax liability of the taxpayer who claimed the credit in the same amount and must be included on the tax return of the taxpayer for the year in which the credit is recaptured or disallowed.

(8) The board of housing may not allocate to a project a combined amount of federal low-income housing credits and Montana workforce housing credits that is more than is necessary to make the project financially feasible.

(9) Notwithstanding any other provision of this section, a developer of a qualified project, including the owner of a developer, may not claim a credit or receive any remuneration related to a credit except for the developer's fee and other distributions allowed by the board of housing.

(10) The board of housing may not award reservations of tax credits after December 31, 2031.

(11) As used in this section, the following definitions apply:

(a) "Allocation year" means the year for which the board of housing reserves tax credits pursuant to this section.

(b) "Developer" means an individual or entity responsible for initiating and controlling the development process with respect to a qualified project and for ensuring that all material portions of all phases of the development process are accomplished.

(c) "Qualified project" means a qualified low-income building, as the term is defined in section 42 of the Internal Revenue Code, 26 U.S.C. 42, located in the state and placed into service on or after January 1, 2026.

NEW SECTION. **Section 2. Workforce housing tax credit.** In tax years beginning on or after January 1, 2026, a taxpayer owning an interest in a qualified project, as defined in [section 1], that is issued an eligibility statement by the board of housing may claim a credit against the taxes imposed under this chapter. The credit must be administered in accordance with [section 1].

NEW SECTION. **Section 3. Workforce housing tax credit.** (1) In tax years beginning on or after January 1, 2026, a taxpayer owning an interest in a qualified project, as defined in [section 1], that is issued an eligibility statement by the board of housing may claim a credit against taxes due under 33-2-705 or 33-2-709. The credit must be administered in accordance with [section 1].

(2) An insurance company claiming a workforce housing tax credit against the taxes imposed by 33-2-705 or 33-2-709 may not be required to pay any additional retaliatory tax as a result of claiming the credit. The credit may fully offset any retaliatory tax imposed by the state.

NEW SECTION. **Section 4. Workforce housing tax credit.** In tax years beginning on or after January 1, 2026, a taxpayer owning an interest in a qualified project, as defined in [section 1], that is issued an eligibility statement by the board of housing may claim a credit against taxes due under 50-3-109. The credit must be administered in accordance with [section 1].

Section 5. Section 15-30-2303, MCA, is amended to read:

"**15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and during each biennium commencing 8 years thereafter:

(a) the credit for donations to innovative educational programs provided for in 15-30-2334, 15-30-3110, and 15-31-158;

(b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159; ~~and~~

(c) the adoption tax credit provided for in 15-30-2321<u>; and</u>

<u>(d) the workforce housing tax credits provided for in [sections 1 through 4]</u>.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and during each biennium commencing 8 years thereafter:

(a) the credit for infrastructure use fees provided for in 17-6-316;

(b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6; and

(d) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and during each biennium commencing 8 years thereafter:

(a) the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(b) the credit for unlocking state lands provided for in 15-30-2380;

(c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

(d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and during each biennium commencing 8 years thereafter:

(a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;

(b) the earned income tax credit provided for in 15-30-2318;

(c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009; and

(d) the credit for contractor's gross receipts provided for in 15-50-207.

(5) The revenue interim committee shall review the tax credits scheduled for review and make recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date

or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or terminate.

(6) The revenue interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy. (Subsection (3)(c) terminates December 31, 2028--sec. 4, Ch. 391, L. 2023; subsection (3)(d) terminates December 31, 2028--sec. 2, Ch. 576, L. 2023; subsection (1)(c) terminates December 31, 2031--sec. 6, Ch. 493, L. 2023.)"

<u>NEW SECTION.</u> **Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 33, chapter 2, part 7, and the provisions of Title 33, chapter 2, part 7, apply to [section 3].

(4) [Section 4] is intended to be codified as an integral part of Title 50, chapter 3, part 1, and the provisions of Title 50, chapter 3, part 1, apply to [section 4].

<u>NEW SECTION.</u> **Section 7. Applicability.** [This act] applies to tax years beginning after December 31, 2025.

<u>NEW SECTION.</u> **Section 8. Termination.** [This act] terminates June 30, 2028.

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