

## HOUSE BILL NO. 908

INTRODUCED BY C. SCHOMER, E. BUTTREY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JOB GROWTH INCENTIVE TAX CREDITS TO INCLUDE CERTAIN APPRENTICES IN THE CONSTRUCTION INDUSTRY; REVISING THE DEFINITION OF "QUALIFYING NEW EMPLOYEE" TO INCLUDE AN APPRENTICE; AND AMENDING SECTIONS 15-31-175 AND 39-11-404, MCA."

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

**Section 1.** Section 15-31-175, MCA, is amended to read:

**"15-31-175. (Temporary) Grow Montana jobs -- annual job growth incentive tax credit.** (1) There is an annual job growth incentive tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to 15-30-2361 when a taxpayer hires qualifying new employees as defined in 39-11-404 in the state. The credit is administered as provided in 15-30-2361, 39-11-404, and this section.

(2) If the credit allowed under this section is claimed by a small business corporation as defined in 15-30-3301 or a partnership, the credit must be attributed to shareholders or partners using the same proportion to report the corporation's or partnership's income or loss for Montana income tax purposes. (Terminates December 31, 2028--sec. 4, Ch. 391, L. 2023.)"

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

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

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

(3) A qualifying employer seeking approval to claim a credit shall apply for a credit certificate with

1 the department for the preceding calendar year. The application must be submitted on a form prescribed by the  
2 department on which the employer:

- 3 (a) identifies and describes the number of qualifying new employees hired;
- 4 (b) provides necessary details to calculate the net employee growth and qualifying net employee  
5 growth;
- 6 (c) provides documentation necessary to calculate the job growth incentive tax credit, including but  
7 not limited to the average yearly wage of each qualifying new employee; and
- 8 (d) submits any other information the department considers necessary for auditing purposes and to  
9 determine whether the employer qualifies for a credit certificate.

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

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

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

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

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

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

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

1 minimum yearly wage.

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

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

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

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

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

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

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

16 (f) "Net employee growth" means the total number of qualifying new employees employed by the  
17 employer in the state during any calendar year starting with calendar year 2022 and ending in calendar year  
18 2028.

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

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

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

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

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

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

(j) (i) "Qualifying new employee" means:

(A) an employee of a qualifying employer:

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

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

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

(D)(IV) who increases the number of total employees that are employed by the employer from the number of employees employed by the employer in calendar year 2021; or

(B) an apprentice as defined in 39-6-101 who is in the construction industry.

(ii) The term does not include an employee:

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

(B) hired to replace an employee of a predecessor. (Terminates December 31, 2028--sec. 4, Ch. 391, L. 2023.)"

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