

SENATE BILL NO. 326

INTRODUCED BY G. HERTZ, W. GALT, M. LEE, R. GREGG, C. NEUMANN, J. WEBER, C. SCHOMER, E. TILLEMANN, E. BUTTREY, W. CURDY, W. MCKAMEY, T. RUNNING WOLF, C. SPRUNGER, D. FERN, D. HARVEY, J. KASSMIER, G. LAMMERS, M. YAKAWICH, E. BOLDMAN, B. CARTER, J. COHENOUR, P. FLOWERS, D. HAWK, G. NIKOLAKAKOS, S. MORIGEAU, M. ROMANO, M. THANE, J. DARLING, J. LYNCH, V. MOORE

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 2045; INCREASING THE AGGREGATE CREDIT LIMIT; ALLOCATING THE CREDIT TO CERTAIN ENTITIES; PROVIDING THAT UNUSED ALLOCATED CREDITS MAY BE CLAIMED BY OTHER ENTITIES FOR A FEE; DESIGNATING THE FEE FOR FILM INDUSTRY WORKFORCE TRAINING; PROVIDING RULEMAKING AUTHORITY; 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. Media manufacturing 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:

credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

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

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

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

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

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

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

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

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

(d) ~~— The department of revenue shall make reasonable efforts to post on its website the amount of credits available and not yet claimed. (Bracketed language is temporarily amended to "\$10 million" on occurrence of contingency for income tax years 2022, 2023, 2024, and 2025 until July 1, 2025—secs. 7(6), 9, Ch. 509, L. 2021—see compiler's comment.)~~

15-31-1010. (Effective July 1, 2025) Limitation of tax credits -- allocation -- fee. (1) (a) The department of commerce may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax

credits provided for in 15-31-1007 and 15-31-1009.

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

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

(2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed \$12 ~~\$30-\$18~~ million per calendar year and must be allocated as provided in subsection (2)(b).

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

~~(b) Except as provided in subsection~~ SUBSECTIONS subsection (2)(c) AND (2)(d) and beginning January 1, 2025, credits under 15-31-1007 and 15-31-1009 are allocated as follows:

~~(i) \$12 million is allocated for credits approved prior to December 31, 2024; and~~

~~(ii) \$18 million is allocated on a first come, first served basis as follows:~~

(i) \$12 million is allocated for credits approved prior to December 31, 2024, until the year when all of the approved credits for productions that occurred in years before 2025 are claimed; and

(ii) \$6 million is allocated as follows:

(A)(i)(A) 40%-10% to any production company or postproduction company on a first-come, first-served basis;

(B)(ii)(B) 10% for independent film productions;

(C)(iii)(C) 25%-40% for media production credits derived from any portion of base investment related to the rental cost of qualified Montana facilities; and

(D)(iv)(D) 25%-40% for domiciled companies.

(c) ~~Beginning April 1, 2026, each~~ BY April 1 OF EACH YEAR following the year the production expenditures were incurred or the compensation was paid, any balance not claimed under ~~subsections subsection (2)(b)(iii)(B) through (2)(b)(ii)(D) (2)(b)(iv)~~ for the prior year is available on a first-come, first-served basis ~~for productions occurring in the prior year~~ IN ADDITION TO THE AMOUNT ALLOCATED UNDER SUBSECTION (2)(B)(i). Any unclaimed credit balance that becomes available under this section is subject to a 2% fee.

~~(d) If there are no remaining credits approved prior to December 31, 2024, that were disallowed because the calendar year limit was reached, the total amount of credits must be allocated as provided in subsection (2)(b)(ii).~~

~~(d) BEGINNING JANUARY 1, 2025, THE ALLOCATION IN SUBSECTION (2)(B)(I) MUST BE USED FIRST FOR CREDIT APPROVED FOR PRODUCTIONS THAT OCCURRED BEFORE JANUARY 1, 2025, UNTIL THE YEAR WHEN ALL THE APPROVED CREDIT FOR PRODUCTIONS THAT OCCURRED IN YEARS PRIOR TO 2025 HAS BEEN USED. THIS SECTION DOES NOT APPLY TO THE CREDIT BALANCE THAT BECOMES AVAILABLE IN SUBSECTION (2)(C).~~

(3) (a) A taxpayer whose claim for a credit FROM A PRODUCTION OCCURRING PRIOR TO JANUARY 1, 2025, is approved and audited prior to December 31, 2024, but is disallowed because the calendar year limit has been reached may use the credit in the next calendar year but the. The transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-31-1007(5) or 15-31-1009(4).

~~(b) Beginning January 1, 2025, a tax credit PROVIDED FOR IN SUBSECTION (2)(B)(I) FOR A SINGLE QUALIFIED PRODUCTION MAY NOT EXCEED \$24 MILLION. THE TAX CREDIT IN THIS SECTION must be claimed for the year in which the production expenditures were incurred or the compensation was paid PLUS 2 SUBSEQUENT YEARS. The credit may not be used in the next calendar year if the calendar year limit has been reached. THE TRANSFER OF THE CREDIT TO THE NEXT CALENDAR YEAR DOES NOT EXTEND THE CARRY FORWARD PERIODS PROVIDED FOR IN 15-31-1007(5) OR 15-31-1009(4).~~

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

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

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

NEW SECTION. Section 8. Repealer. Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9, Chapter 509, Laws of 2021, are repealed.

NEW SECTION. Section 9. Notification to tribal governments. The secretary of state shall send a