



BILL NO. 49

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
63 Elizabeth II, 2014*

An Act to Improve Economic Development in Nova Scotia

CHAPTER 33
ACTS OF 2014

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 20, 2014**

The Honourable Michel P. Samson
Minister of Economic and Rural Development and Tourism

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

An Act to Improve Economic Development in Nova Scotia

Be it enacted by the Governor and Assembly as follows:

FILM AND CREATIVE INDUSTRIES NOVA SCOTIA ACT

1 Section 2 of Chapter 20 of the Acts of 1990, the *Film and Creative Industries Nova Scotia Act*, as amended by Chapter 27 of the Acts of 2008 and Chapter 57 of the Acts of 2012, is further amended by

(a) adding immediately after clause (a) the following clause:

(aa) “business development incentive” includes assistance by way of grant, loan, loan guarantee, the purchase or guarantee of bonds, debentures, notes or other debt obligations, and the purchase or other acquisition of any common or preferred shares or other equity securities;

and

(b) striking out clause (c).

2 Clause 8(1)(c) of Chapter 20, as amended by Chapter 57 of the Acts of 2012, is further amended by striking out “render financial assistance or” in the first and second lines and substituting “provide business development incentives or render”.

3 Subsection 9(1) of Chapter 20, as amended by Chapter 27 of the Acts of 2008 and Chapter 57 of the Acts of 2012, is further amended by adding “and Treasury Board” immediately after “Finance” in the second line.

4 Section 10 of Chapter 20 is amended by

(a) adding “and Treasury Board” immediately after “Finance” in the second line; and

(b) striking out “Consolidated” in the third line and substituting “General Revenue”.

5 Section 11 of Chapter 20 is amended by striking out “Acount” in the second last line and substituting “Account”.

6 Section 12 of Chapter 20 is amended by adding “and Treasury Board” immediately after “Finance” in the third line.

7 Section 14A of Chapter 20, as enacted by Chapter 57 of the Acts of 2012, is amended by striking out “thirtieth day of September, 2013” in the first and second lines and substituting “first day of March, 2015”.

8 Subsection 14D(1) of Chapter 20, as enacted by Chapter 57 of the Acts of 2012, is amended by striking out “within six months after the end of the 2017-18 fiscal year” in the first and second lines and substituting “no later than the thirtieth day of September, 2019”.

9 Chapter 20 is further amended by adding immediately after Section 15 the following Section:

15A (1) No later than the thirtieth day of June, 2019, and every five years thereafter, the Corporation shall cause a review of its activities and operation to assess the benefits it delivers in support of the achievement of the economic goals of the Province.

(2) Subject to the approval of the Minister, the Corporation shall appoint an independent person to conduct the review.

(3) The person conducting the review shall explicitly recommend whether the Corporation, and each of the activities reviewed, should

- (a) continue to operate in the same manner;
- (b) be made to operate differently; or
- (c) be discontinued or wound up.

10 Subsection 16(1) of Chapter 20, as amended by Chapter 57 of the Acts of 2012, is further amended by

(a) striking out “financial assistance” in the second line of clause (a) and substituting “business development incentives”;

(b) striking out “financial assistance” in the second line of clause (b) and substituting “business development incentives”;

(c) striking out “financial assistance” in the third line of clause (d) and substituting “business development incentives”;

(d) striking out “financial assistance” in the first and second lines of clause (e) and substituting “business development incentives”;

(e) striking out “financial assistance” in the first and second lines of subclause (f)(i) and substituting “business development incentives”;

(f) striking out “financial assistance” in the second line of subclause (f)(ii) and substituting “business development incentives”;

(g) striking out “financial assistance” in the second line of clause (i) and substituting “business development incentives”;

(h) striking out “financial assistance” in the second line of clause (j) and substituting “business development incentives”;

(i) striking out “financial assistance has” in the second line of clause (k) and substituting “business development incentives have”;

(j) striking out “financial assistance” in the second line of clause (l) and substituting “business development incentives”; and

(k) striking out “financial assistance has” in the fourth line of clause (m) and substituting “business development incentives have”.

INCOME TAX ACT

11 Clause 41(3)(b) of Chapter 217 of the Revised Statutes, 1989, the *Income Tax Act*, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out “*Act (Canada)*” in the last line.

12 (1) Clause 47(2A)(c) of Chapter 217, as enacted by Chapter 6 of the Acts of 2005 and amended by Chapter 2 of the Acts of 2006, is further amended by striking out “2016” in the second line and substituting “2021”.

(2) Subsection 47(2B) of Chapter 217, as enacted by Chapter 8 of the Acts of 2011, is amended by

(a) striking out “2016” in the second line of clause (a) and substituting “2021”;

(b) striking out “2016” in third line of subclause (b)(i) and substituting “2021”; and

(c) striking out “2016” in the third line of subclause (b)(ii) and substituting “2021”.

(3) Clause 47(3)(b) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out “*Act (Canada)*” in the last line.

13 (1) Subsection 47A(2) of Chapter 217, as enacted by Chapter 9 of the Acts of 2007 and amended by Chapter 2 of the Acts of 2008, is further amended by

(a) striking out “2013” in the second line of subclause (a)(ii) and substituting “2021,”;

(b) striking out “2013” in the second line of subclause (a)(iv) and substituting “2021”;

(c) striking out “2013” in the second line of subclause (b)(ii) and substituting “2021”; and

(d) striking out “2013” in the second line of subclause (b)(iv) and substituting “2021”.

(2) Subsection 47A(6) of Chapter 217, as enacted by Chapter 9 of the Acts of 2007, is amended by striking out “2013” in the fourth line and substituting “2021”.

(3) Clause 47A(7)(b) of Chapter 217, as enacted by Chapter 9 of the Acts of 2007, is amended by striking out “*Act (Canada)*” in the last line.

14 Chapter 217 is further amended by adding immediately after Section 49 the following heading and Section:

Subdivision k - Capital Investment Tax Credit

49A (1) In this Section,

(a) “approved project” means a project, as defined by the regulations, that satisfies the conditions prescribed by the regulations;

(b) “eligible corporation” means a corporation, as defined by the regulations, that satisfies the conditions prescribed by the regulations;

(c) “government assistance” means government assistance, as defined in subsection 127(9) of the Federal Act, other than a tax credit that may be deducted or claimed pursuant to this Section;

(d) “qualified property”, in respect of an eligible corporation, means property acquired by the eligible corporation after December 31, 2014, and before January 1, 2025, to be used in the Province, that is qualified property as defined in subsection 127(9) of the Federal Act.

(2) Where, in respect of a taxation year, a corporation has been issued a tax-credit certificate pursuant to subsection (6), the corporation may deduct from tax otherwise payable in the taxation year the amount specified in the tax-credit certificate.

(3) The amount by which the tax credit referred to in subsection (2) exceeds the corporation’s tax payable for the taxation year calculated without reference to this Section may be applied by the Minister to

(a) any tax, interest or penalty owing by the corporation for that or any prior taxation year pursuant to this Act, the income statute of any agreeing province or the Federal Act;

(b) any contribution, penalty or interest owing by the corporation for that or any prior taxation year as a result of payments required from the corporation pursuant to the *Canada Pension Plan*;

(c) any premium, interest or penalty owing by the corporation for that or any prior taxation year pursuant to the *Employment Insurance Act* (Canada),

and the part of the amount not so applied shall be paid to the corporation.

(4) A corporation that has claimed and is eligible for a tax credit under this Section for a taxation year is deemed to have paid, at the time referred to in paragraph 157(1)(b) of the Federal Act, as that paragraph relates to that taxation year, the amount of the credit on account of its tax payable under this Act.

(5) To be eligible to deduct or claim an amount pursuant to this Section for a taxation year, a corporation shall apply, in the manner prescribed by the regulations, to the Minister of Finance and Treasury Board of the Province, or a person designated by the Minister of Finance and Treasury Board of the Province, to be issued a tax-credit certificate pursuant to subsection (6).

(6) Where the Minister of Finance and Treasury Board of the Province, or the person designated by the Minister of Finance and Treasury Board of the Province, is satisfied that

- (a) the corporation that has applied for a tax-credit certificate pursuant to subsection (5) is an eligible corporation for the taxation year in respect of which the application was made;
- (b) each project in respect of which the application was made pursuant to subsection (5) is an approved project; and
- (c) the corporation satisfies any other requirements that may be prescribed by the regulations,

a tax-credit certificate shall be issued to the corporation for the taxation year, specifying in respect of each approved project the amount, calculated in accordance with subsection (7), of the corporation's tax credit pursuant to this Section.

(7) The amount of a corporation's tax credit, which must be specified in a tax-credit certificate issued pursuant to subsection (6), is equal to 15% of the aggregate of all amounts each of which is the amount by which the capital cost of qualified property acquired by the corporation, in the taxation year, in respect of an approved project exceeds the aggregate of all amounts each of which is an amount of government assistance that may reasonably be considered to relate directly to the acquisition of the qualified property.

(8) A corporation is not entitled to deduct or claim an amount pursuant to this Section for a taxation year unless the tax-credit certificate issued under subsection (6) is

- (a) filed with the corporation's return for the taxation year; or
- (b) where the return is filed electronically, held by the corporation and filed with the Minister upon request.

(9) The Minister of Finance and Treasury Board of the Province may revoke a tax-credit certificate issued pursuant to subsection (6) if any information provided by the corporation to obtain the certificate is false or misleading or fails to disclose a material fact.

(10) A certificate revoked pursuant to subsection (9) is void *ab initio*.

(11) Where the Minister of Finance and Treasury Board of the Province determines that any amount paid or applied pursuant to this Section did not qualify as a tax credit of the corporation to which it was paid or for the benefit of which it was applied, that amount is recoverable from the corporation and is a debt due by the corporation to Her Majesty in right of the Province.

(12) The Minister of Finance and Treasury Board of the Province, or a person designated by the Minister of Finance and Treasury Board of the Province, shall conduct a review of the tax credit established by this Section on or after December 31, 2018, and prepare a written report of the results of the review no later than December 31, 2019.

(13) The Minister of Finance and Treasury Board of the Province shall table the report referred to in subsection (12) in the Assembly if the Assembly is then

sitting or, where the Assembly is not then sitting, file the report with the Clerk of the Assembly.

(14) The Governor in Council may make regulations

(a) governing any matter that may be prescribed pursuant to this Section;

(b) requiring a corporation to supply information or documents respecting any matter required in assessing eligibility and compliance with this Section;

(c) prescribing the criteria for determining whether qualified property is acquired in respect of an approved project;

(d) defining any word or expression used but not defined in this Section;

(e) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(15) A regulation made pursuant to this Section may be made retroactive to a date not earlier than January 1, 2015.

INNOVATION CORPORATION ACT

15 Section 2 of Chapter 5 of the Acts of 1994-95, the *Innovation Corporation Act*, is amended by

(a) adding immediately after clause (a) the following clause:

(aa) “business development incentive” means assistance by way of grant, loan, loan guarantee, the purchase or guarantee of bonds, debentures, notes or other debt obligations or the purchase or other acquisition of any common or preferred shares or other equity securities;

(b) striking out clause (c); and

(c) striking out clause (e) and substituting the following clause:

(e) “Minister” means the Minister of Economic and Rural Development and Tourism;

16 (1) Clause 6(1)(d) of Chapter 5 is amended by striking out “render such financial assistance” in the first and second lines and substituting “provide such business development incentives”.

(2) Subsection 6(3) of Chapter 5 is amended by

(a) adding “and Treasury Board” immediately after “Finance” in the sixth line of clause (h); and

(b) striking out “or” the second time it appears in the third line of clause (i) and substituting “of”.

17 Chapter 5 is further amended by adding immediately after Section 6 the following Section:

6A (1) Where required to do so by the Minister, the Corporation shall accept, on such terms and conditions as the Minister may prescribe, the transfer of any security that was owned by Nova Scotia Business Incorporated immediately before the transfer.

(2) Where required to do so by the Minister, the Corporation shall accept, on such terms and conditions as the Minister may prescribe, the assignment of the rights and obligations under any agreement that Nova Scotia Business Incorporated has entered into with a third party for the purpose of investing venture capital in the third party.

(3) Where the rights and obligations under an agreement are assigned pursuant to subsection (2),

(a) the assignment may be carried out notwithstanding any restriction on assignment provided for under the agreement being assigned;

(b) the assignment is not subject to any notice requirement under the agreement being assigned or otherwise existing at law;

(c) the assignment need not be in writing, notwithstanding any requirement prescribed by the agreement being assigned or otherwise existing at law;

(d) no person has or may maintain any cause of action or claim against Her Majesty in right of the Province, the Minister, Nova Scotia Business Incorporated or the Corporation arising from or in relation to the assignment; and

(e) the Corporation may enforce the agreement in the same manner as if it were Nova Scotia Business Incorporated.

18 Subclause 12(2)(b)(ii) of Chapter 5 is amended by

(a) adding “and Treasury Board” immediately after “Finance” in the third line;

(b) striking out “that Minister” in the fourth line and substituting “the Deputy Minister of Finance and Treasury Board”; and

(c) striking out “the Nova Scotia Economic Renewal Agency” in the second last and last lines and substituting “Economic and Rural Development and Tourism or a person designated by the Deputy Minister of Economic and Rural Development and Tourism”.

19 Chapter 5 is further amended by adding immediately after Section 13 the following Section:

13A Section 44A of the *Civil Service Act* applies *mutatis mutandis* to the members of the Board.

20 Subsection 19(2) of Chapter 5 is amended by adding “and Treasury Board” immediately after “Finance” in the third line.

21 Chapter 5 is further amended by adding immediately after Section 21 the following Sections:

21A The Corporation shall, no later than March 1, 2015, prepare and submit to the Minister for approval a five-year strategic plan, including estimates of budgetary requirements, for the operation of the Corporation.

21B (1) The Corporation shall, no later than September 30, 2019, and every five years thereafter, prepare and submit to the Minister a detailed evaluation of its activities compared against the previous five-year strategic plan, including any recommendations for modifications to the mandate of the Corporation.

(2) In addition to the evaluation referred to in subsection (1), the Corporation shall, within the same time periods referred to in subsection (1), submit to the Minister for approval a five-year strategic plan for the continued operation of the Corporation.

21C (1) No later than June 30, 2019, and every five years thereafter, the Corporation shall cause a review of its activities and operation to assess the benefits it delivers in support of the achievement of the economic goals of the Province.

(2) Subject to the approval of the Minister, the Corporation shall appoint an independent person to conduct the review.

(3) The person conducting the review shall explicitly recommend whether the Corporation, and each of the activities reviewed, should

- (a) continue to operate in the same manner;
- (b) be made to operate differently; or
- (c) be discontinued or wound up.

22 Subsection 26(1) of Chapter 5 is amended by

(a) striking out “financial assistance” in the second line of clause (a) and substituting “business development incentives”;

(b) striking out “financial assistance” in the second line of clause (b) and substituting “business development incentives”;

(c) striking out “financial assistance” in the third line of clause (d) and substituting “business development incentives”;

(d) striking out “financial assistance” in the first and second lines of clause (e) and substituting “business development incentives”;

(e) striking out “financial assistance” in the first and second lines of subclause (f)(i) and substituting “business development incentives”;

(f) striking out “financial assistance” in the second line of subclause (f)(ii) and substituting “business development incentives”;

(g) striking out “financial assistance” in the second line of clause (i) and substituting “business development incentives”;

(h) striking out “financial assistance” in the second line of clause (j) and substituting “business development incentives”;

(i) striking out “financial assistance has” in the second line of clause (k) and substituting “business development incentives have”;

(j) striking out “financial assistance has” in the fourth line of clause (l) and substituting “business development incentives have”; and

(k) adding immediately after clause (m) the following clauses:

(ma) respecting the transfer of any security under subsection 6A(1);

(mb) respecting the assignment of the rights and obligations under any agreement under subsection 6A(2);

NOVA SCOTIA BUSINESS
INCORPORATED ACT

23 Section 2 of Chapter 30 of the Acts of 2000, the *Nova Scotia Business Incorporated Act*, is amended by

(a) adding immediately after clause (a) the following clause:

(aa) “business development incentive” includes assistance by way of loan, loan guarantee, payroll rebate and the purchase or guarantee of bonds, debentures, notes or other debt obligations;

(b) striking out “Development” in the second line of clause (c) and substituting “and Rural Development and Tourism”;

(c) striking out clause (d); and

(d) striking out “Development” in the second line of clause (e) and substituting “and Rural Development and Tourism”.

24 Clause 7(1)(a) of Chapter 30 is amended by striking out “Development” in the second line and substituting “and Rural Development and Tourism or a person designated by the Deputy Minister of Economic and Rural Development and Tourism”.

25 Section 8 of Chapter 30 is amended by adding immediately after subsection (2) the following subsection:

(2A) Notwithstanding subsection (2), the Minister may, at the request of the Board, extend the term of office of a member of the Board by as much as one year.

26 Section 10 of Chapter 30 is amended by striking out “Seven” in the first line and substituting “A majority of the”.

27 Chapter 30 is further amended by adding immediately after Section 14 the following Section:

14A Section 44A of the *Civil Service Act* applies *mutatis mutandis* to the members of the Board.

28 Section 15 of Chapter 30 is amended by

(a) striking out “economic development in the Province” in the second line and substituting “business development in the Province by working directly with businesses to support economic growth”; and

(b) striking out clause (c) and substituting the following clause:

(c) trade operations to connect businesses in the Province with new markets or new trade opportunities,

29 (1) Subsection 16(1) of Chapter 30, as amended by Chapter 23 of the Acts of 2011, is further amended by

(a) striking out “render financial assistance” in the first and second lines of clause (b) and substituting “provide business development incentives”;

(b) striking out “Board” in the third line of clause (b) and substituting “Corporation”; and

(c) striking out clause (c) and substituting the following clauses:

(c) subject to the policies respecting interprovincial and international trade and business development established by the Government of the Province and the Department of Economic and Rural Development and Tourism, undertake trade operations and programs in accordance with the objects of the Corporation;

(ca) deliver, in whole or in part, on behalf of the Minister such programs undertaken by the Minister as the Minister may direct;

(2) Subsection 16(1A) of Chapter 30, as enacted by Chapter 23 of the Acts of 2011, is amended by striking out “financial assistance” in the third line and substituting “a business development incentive”.

(3) Section 16 of Chapter 30, as amended by Chapter 23 of the Acts of 2011, is further amended by adding immediately after subsection (1A) the following subsection:

(1B) Where, on the coming into force of this subsection, the Corporation owns any common or preferred shares or other equity securities, including venture capital investments, of or in relation to a business, the Corporation may, subject to the regulations,

(a) sell, assign, transfer or otherwise dispose of the common or preferred shares or other equity securities, including venture capital investments, of or in relation to the business; or

(b) purchase or acquire additional common or preferred shares or other equity securities, including venture capital investments, of or in relation to the business.

30 Chapter 30 is further amended by adding immediately after Section 16 the following Section:

16A (1) Where required to do so by the Minister, the Corporation shall transfer to the Nova Scotia Innovation Corporation any security that the Corporation owns, on such terms and conditions as the Minister may prescribe.

(2) Where required to do so by the Minister, the Corporation shall assign to the Nova Scotia Innovation Corporation the rights and obligations under any agreement that the Corporation has entered into with a third party for the purpose of investing venture capital in the third party, on such terms and conditions as the Minister may prescribe.

31 Section 28 of Chapter 30 is amended by adding “and Treasury Board” immediately after “Finance” in the third line.

32 Section 30 of Chapter 30 is amended by

(a) striking out “September 30, 2001” in the first line and substituting “March 1, 2015”; and

(b) striking out “, and including a detailed business plan for the fiscal year 2002-03” in the second last and last lines.

33 Subsection 32(1) of Chapter 30, as amended by Chapter 23 of the Acts of 2011, is further amended by striking out “Within six months after the end of the 2006-07 fiscal year” in the first and second lines and substituting “No later than September 30, 2019”.

34 Chapter 30 is further amended by adding immediately after Section 32 the following Section:

32A (1) No later than June 30, 2019, and every five years thereafter, the Corporation shall cause a review of its activities and operation to assess the benefits it delivers in support of the achievement of the economic goals of the Province.

(2) Subject to the approval of the Minister, the Corporation shall appoint an independent person to conduct the review.

(3) The person conducting the review shall explicitly recommend whether the Corporation, and each of the activities reviewed, should

- (a) continue to operate in the same manner;
- (b) be made to operate differently; or
- (c) be discontinued or wound up.

35 Subsection 34(1) of Chapter 30 is amended by

(a) striking out “financial assistance” in the second line of clause (a) and substituting “business development incentives”;

(b) striking out “financial assistance” in the second line of clause (b) and substituting “business development incentives”;

(c) striking out “financial assistance” in the first and second lines of clause (c) and substituting “business development incentives”;

(d) striking out “financial assistance” in the third line of clause (e) and substituting “business development incentives”;

(e) striking out “financial assistance” in the second last and in the last lines of clause (f) and substituting in each case “business development incentives”;

(f) striking out “financial assistance” in the second line of clause (h) and substituting “business development incentives”;

(g) striking out “financial assistance” in the second line of clause (i) and substituting “business development incentives”;

(h) striking out “financial assistance has” in the second line of clause (j) and substituting “business development incentives have”;

(i) striking out “financial assistance has” in the fourth line of clause (k) and substituting “business development incentives have”; and

(j) adding immediately after clause (l) the following clauses:

(la) prescribing policy guidelines to be adhered to by the Corporation in considering applications for business development incentives;

(lb) authorizing the Executive Council to provide policy guidelines to the Corporation and requiring that the Corporation adhere to such policy guidelines;

(lc) authorizing the Minister to provide directives and letters of expectations to the Corporation respecting the economic development strategy of the Government of the Province and requiring that the Corporation adhere to such directives and letters of expectations;

(ld) respecting, where the Corporation owns any common or preferred shares or other equity securities, including venture capital investments, of or in relation to a business,

(i) the sale, assignment, transfer or disposition of the common or preferred shares or other equity securities, including venture capital investments, of or in relation to the business, and

(ii) the purchase or acquisition by the Corporation of additional common or preferred shares or other equity securities, including venture capital investments, of or in relation to the business;

(le) respecting the transfer of any security under subsection 16A(1);

(lf) respecting the assignment of the rights and obligations under any agreement under subsection 16A(2);

36 (1) Subsection 37(1) of Chapter 30 is repealed and the following subsection substituted:

(1) In this Section, “designated person” means an employee at the Department who was appointed in accordance with the *Civil Service Act* and is determined by the Minister to become an employee of the Corporation.

(2) Subsection 37(2) of Chapter 30 is amended by striking out “On the coming into force of this Act, the” in the first line and substituting “The”.

(3) Subsection 37(6) of Chapter 30 is amended by

(a) striking out “Every” in the first line and substituting “Subject to subsection (9), every”; and

(b) striking out “collective agreement or” in the last line.

(4) Subsection 37(8) of Chapter 30 is repealed and the following subsection substituted:

(8) A designated person is entitled to all vacation leave accumulated, less any vacation arrears that accrued, while the designated person was employed at the Department.

(5) Subsections 37(9) and (10) of Chapter 30 are repealed and the following subsection substituted:

(9) Notwithstanding Section 31 of the *Trade Union Act*, every designated person who, before being designated, was subject to a collective agreement, ceases to be subject to that collective agreement and becomes

(a) subject to the collective agreement between the Corporation and the Nova Scotia Government Employees Union; and

(b) a part of the bargaining unit represented by Nova Scotia Government Employees Union Local 44.

(6) Subsection 37(11) of Chapter 30 is amended by

(a) striking out “this Act came into force” in the third line and substituting “being designated”; and

(b) striking out “the coming into force of this Act” in the sixth and seventh lines and substituting “being designated”.

(7) Subsection 37(12) of Chapter 30 is amended by

(a) adding “, before being designated,” immediately after “who” in the second line; and

(b) striking out “before this Act came into force” in the fourth line.

(8) Subsection 37(14) of Chapter 30 is repealed.

37 Section 36 has effect on and after April 1, 2015.