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State of Minnesota

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**HOUSE OF REPRESENTATIVES**

**SPECIAL SESSION**

**H. F. No. 9**

- 06/14/2021 Authored by Marquart, Youakim and Freiberg  
The bill was read for the first time and referred to the Committee on Ways and Means
- 06/28/2021 Adoption of Report: Placed on the General Register as Amended  
Read for the Second Time
- 06/30/2021 Calendar for the Day  
Bill was laid on the Table  
Bill was taken from the Table

5.14 Sec. 3. 116U.27] FILM PRODUCTION CREDIT.

5.15 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have  
5.16 the meanings given.

5.17 (b) "Allocation certificate" means a certificate issued by the commissioner to a taxpayer  
5.18 upon receipt of an initial application for a credit for a project that has not yet been completed.

5.19 (c) "Application" means the application for a credit under subdivision 4.

5.20 (d) "Commissioner" means the commissioner of employment and economic development.

5.21 (e) "Credit certificate" means a certificate issued by the commissioner upon submission  
5.22 of the cost verification report in subdivision 4, paragraph (e).

5.23 (f) "Eligible production costs" means eligible production costs as defined in section  
5.24 116U.26, paragraph (b), clause (1), incurred in Minnesota that are directly attributable to  
5.25 the production of a film project in Minnesota.

5.26 (g) "Film" has the meaning given in section 116U.26, paragraph (b), clause (2).

5.27 (h) "Project" means a film:

5.28 (1) that includes the promotion of Minnesota;

5.29 (2) for which the taxpayer has expended at least \$1,000,000 in the taxable year for  
5.30 eligible production costs; and

6.1 (3) to the extent practicable, that employs Minnesota residents.

6.2 (i) "Promotion of Minnesota" or "promotion" means visible display of a static or animated  
6.3 logo, approved by the commissioner and lasting approximately five seconds, that promotes  
6.4 Minnesota within its presentation in the end credits before the below-the-line crew crawl  
6.5 for the life of the project.

6.6 Subd. 2. **Credit allowed.** A taxpayer is eligible for a credit up to 25 percent of eligible  
6.7 production costs paid in a taxable year. A taxpayer may only claim a credit if the taxpayer  
6.8 was issued a credit certificate under subdivision 4.

6.9 Subd. 3. **Credit assignable.** The recipient of a credit certificate may assign the certificate  
6.10 to another taxpayer before any amount of the credit is claimed. The assignee is allowed the  
6.11 credit under section 290.06, subdivision 39, or 297I.20, subdivision 4. An assignment is  
6.12 not valid unless the assignee notifies the commissioner of revenue within 30 days of the  
6.13 date that the assignment is made. The commissioner of revenue shall prescribe the forms  
6.14 necessary for notifying the commissioner of revenue of the assignment of a credit certificate  
6.15 and for claiming a credit by assignment.

6.16 Subd. 4. **Applications; allocations.** (a) To qualify for a credit under this section, a  
6.17 taxpayer must submit to the commissioner an application for a credit in the form prescribed  
6.18 by the commissioner, in consultation with the commissioner of revenue.

6.19 (b) Upon approving an application for a credit that meets the requirements of this section,  
6.20 the commissioner shall issue allocation certificates that:

6.21 (1) verify eligibility for the credit;

6.22 (2) state the amount of credit anticipated for the eligible project, with the credit amount  
6.23 up to 25 percent of eligible project costs; and

6.24 (3) state the taxable year in which the credit is allocated.

6.25 The commissioner must consult with Minnesota Film and TV Board prior to issuing an  
6.26 allocation certificate.

6.27 (c) The commissioner must not issue allocation certificates for more than \$4,950,000  
6.28 of credits each year. If the entire amount is not allocated in that taxable year, any remaining  
6.29 amount is available for allocation for the four following taxable years until the entire  
6.30 allocation has been made. The commissioner must not award any credits for taxable years  
6.31 beginning after December 31, 2024, and any unallocated amounts cancel on that date.

6.32 (d) The commissioner must allocate credits on a first-come, first-served basis.

7.1 (e) Upon completion of a project, the taxpayer shall submit to the commissioner a report  
7.2 prepared by an independent certified public accountant licensed in the state of Minnesota  
7.3 to verify the amount of eligible production costs related to the project. The report must be  
7.4 prepared in accordance with generally accepted accounting principles. Upon receipt and  
7.5 review of the cost verification report, the commissioner shall determine the final amount  
7.6 of eligible production costs and issue a credit certificate to the taxpayer. The credit may not  
7.7 exceed the anticipated credit amount on the allocation certificate. If the credit is less than  
7.8 the anticipated amount on the allocation credit, the difference is returned to the amount  
7.9 available for allocation under paragraph (c). To claim the credit under section 290.06,  
7.10 subdivision 39, or 297I.20, subdivision 4, a taxpayer must include a copy of the credit  
7.11 certificate as part of the taxpayer's return.

7.12 Subd. 5. **Report required.** By January 15, 2025, the commissioner of revenue, in  
7.13 consultation with the commissioner, must provide a report to the chairs and ranking minority  
7.14 members of the legislative committees with jurisdiction over economic development and  
7.15 taxes. The report must comply with sections 3.195 and 3.197, and must detail the following:

7.16 (1) the amount of credit certifications issued annually;

7.17 (2) the number of applications submitted, the number of allocation certificates issued,  
7.18 the amount of allocation certificates issued, the number of reports submitted upon completion  
7.19 of a project, and the number of credit certificates issued;

7.20 (3) the types of projects eligible for the credit;

7.21 (4) the total economic impact of the credit in Minnesota, including the calendar year  
7.22 over calendar year percentage changes in the number of jobs held by Minnesota residents  
7.23 in businesses having a primary North American Industry Classification System code of  
7.24 512110 as reported to the commissioner, for calendar years 2019 through 2023;

7.25 (5) the number of taxpayers per tax type which are assignees of credit certificates under  
7.26 subdivision 3;

7.27 (6) annual Minnesota taxes paid by businesses having a primary North American Industry  
7.28 Classification System code of 512110, for taxable years beginning after December 31, 2018,  
7.29 and before January 1, 2024; and

7.30 (7) any other information the commissioner of revenue, in consultation with the  
7.31 commissioner, deems necessary for purposes of claiming and administering the credit.

7.32 Subd. 6. **Appropriation.** Beginning in fiscal year 2022, \$50,000 is annually appropriated  
7.33 from the general fund to the commissioner of revenue for a transfer to the Department of

8.1 Employment and Economic Development for costs associated with personnel and  
8.2 administrative expenses related to administering the credit. This subdivision expires on June  
8.3 30, 2025.

8.4 Subd. 7. **Expiration.** Subdivisions 1 to 5 expire January 1, 2025, for taxable years  
8.5 beginning after December 31, 2024.

8.6 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
8.7 31, 2020, and before January 1, 2025, except that the requirement to provide the report  
8.8 required in subdivision 5 expires July 1, 2025.

12.5 Subd. 39. **Film production credit.** (a) A taxpayer, including a taxpayer to whom a credit  
12.6 has been assigned under section 116U.27, subdivision 3, may claim a credit against the tax  
12.7 imposed by this chapter equal to the amount certified on a credit certificate under section  
12.8 116U.27, subject to the limitations in this subdivision.

12.9 (b) The credit is limited to the liability for tax, as computed under this chapter, for the  
12.10 taxable year. If the amount of the credit determined under this subdivision for any taxable  
12.11 year exceeds this limitation, the excess is a film production credit carryover to each of the  
12.12 five succeeding taxable years. The entire amount of the excess unused credit for the taxable  
12.13 year is carried first to the earliest of the taxable years to which the credit may be carried  
12.14 and then to each successive year to which the credit may be carried. The amount of the  
12.15 unused credit that may be added under this paragraph must not exceed the taxpayer's liability  
12.16 for tax, less any film production credit for the taxable year.

12.17 (c) Credits allowed to a partnership, a limited liability company taxed as a partnership,  
12.18 or an S corporation are passed through to the partners, members, shareholders, or owners,  
12.19 respectively, pro rata to each based on the partner's, member's, shareholder's, or owner's  
12.20 share of the entity's assets, or as specially allocated in the organizational documents or any  
12.21 other executed agreement, as of the last day of the taxable year.

12.22 (d) Notwithstanding the approval and certification by the commissioner of employment  
12.23 and economic development under section 116U.27, the commissioner may utilize any audit  
12.24 and examination powers under chapter 270C or 289A to the extent necessary to verify that  
12.25 the taxpayer is eligible for the credit and to assess the amount of any improperly claimed  
12.26 credit. The commissioner may only assess the original recipient of the credit certificate for  
12.27 the amount of improperly claimed credits. The commissioner may not assess a credit  
12.28 certificate assignee for any amount of improperly claimed credits, and an assignee's claim  
12.29 for credit is not affected by the commissioner's assessment of improperly claimed credits  
12.30 against the assignor.

12.31 (e) This subdivision expires January 1, 2025, for taxable years beginning after December  
12.32 31, 2024, except that the expiration of this section does not affect the commissioner of  
12.33 revenue's authority to audit or power of examination and assessment for credits claimed  
12.34 under this subdivision.

- 13.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
- 13.2 31, 2020, and before January 1, 2025.