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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2059

02/20/2023 Authored by Lislegard, Hortman, Davids, Long, Olson, L., and others
The bill was read for the first time and referred to the Committee on Economic Development Finance and Policy
03/13/2023 Adoption of Report: Re-referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; individual income; corporate franchise; modifying the film
1.3 production credit; increasing the allocation; repealing the sunset; amending
1.4 Minnesota Statutes 2022, sections 116U.27, subdivisions 1, 4; 290.06, subdivision
1.5 39; 297I.20, subdivision 4; repealing Minnesota Statutes 2022, section 116U.27,
1.6 subdivision 7.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 116U.27, subdivision 1, is amended to read:

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

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

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

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

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

1.17 (f) "Eligible production costs" means eligible production costs as defined in section
1.18 116U.26, paragraph (b), clause (1), incurred in Minnesota that are directly attributable to
1.19 the production of a film project in Minnesota.

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

1.21 (h) "Project" means a film:

1.22 (1) that includes the promotion of Minnesota;

2.1 (2) for which the taxpayer has expended at least \$1,000,000 in ~~the taxable year~~ a
 2.2 consecutive 12-month period beginning when expenditures are first paid in Minnesota for
 2.3 eligible production costs; and

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

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

2.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
 2.10 31, 2022.

2.11 Sec. 2. Minnesota Statutes 2022, section 116U.27, subdivision 4, is amended to read:

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

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

2.17 (1) verify eligibility for the credit;

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

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

2.21 The commissioner must consult with the Minnesota Film and TV Board prior to issuing an
 2.22 allocation certificate.

2.23 (c) The commissioner must not issue allocation certificates for more than ~~\$4,950,000~~
 2.24 \$24,950,000 of credits each year. If the entire amount is not allocated in that taxable year,
 2.25 any remaining amount is available for allocation for the four following taxable years until
 2.26 the entire allocation has been made. ~~The commissioner must not award any credits for~~
 2.27 ~~taxable years beginning after December 31, 2024, and any unallocated amounts cancel on~~
 2.28 ~~that date.~~

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

2.30 (e) Upon completion of a project, the taxpayer shall submit to the commissioner a report
 2.31 prepared by an independent certified public accountant licensed in the state of Minnesota

3.1 to verify the amount of eligible production costs related to the project. The report must be
3.2 prepared in accordance with generally accepted accounting principles. Upon receipt and
3.3 review of the cost verification report, the commissioner shall determine the final amount
3.4 of eligible production costs and issue a credit certificate to the taxpayer. The credit may not
3.5 exceed the anticipated credit amount on the allocation certificate. If the credit is less than
3.6 the anticipated amount on the allocation credit, the difference is returned to the amount
3.7 available for allocation under paragraph (c). To claim the credit under section 290.06,
3.8 subdivision 39, or 297I.20, subdivision 4, a taxpayer must include a copy of the credit
3.9 certificate as part of the taxpayer's return.

3.10 **EFFECTIVE DATE.** This section is effective for allocation certificates issued after
3.11 December 31, 2022.

3.12 Sec. 3. Minnesota Statutes 2022, section 290.06, subdivision 39, is amended to read:

3.13 **Subd. 39. Film production credit.** (a) A taxpayer, including a taxpayer to whom a credit
3.14 has been assigned under section 116U.27, subdivision 3, may claim a credit against the tax
3.15 imposed by this chapter equal to the amount certified on a credit certificate under section
3.16 116U.27, subject to the limitations in this subdivision.

3.17 (b) The credit is limited to the liability for tax, as computed under this chapter, for the
3.18 taxable year. If the amount of the credit determined under this subdivision for any taxable
3.19 year exceeds this limitation, the excess is a film production credit carryover to each of the
3.20 five succeeding taxable years. The entire amount of the excess unused credit for the taxable
3.21 year is carried first to the earliest of the taxable years to which the credit may be carried
3.22 and then to each successive year to which the credit may be carried. The amount of the
3.23 unused credit that may be added under this paragraph must not exceed the taxpayer's liability
3.24 for tax, less any film production credit for the taxable year.

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

3.30 (d) Notwithstanding the approval and certification by the commissioner of employment
3.31 and economic development under section 116U.27, the commissioner may utilize any audit
3.32 and examination powers under chapter 270C or 289A to the extent necessary to verify that
3.33 the taxpayer is eligible for the credit and to assess the amount of any improperly claimed
3.34 credit. The commissioner may only assess the original recipient of the credit certificate for

4.1 the amount of improperly claimed credits. The commissioner may not assess a credit
 4.2 certificate assignee for any amount of improperly claimed credits, and an assignee's claim
 4.3 for credit is not affected by the commissioner's assessment of improperly claimed credits
 4.4 against the assignor.

4.5 ~~(e) This subdivision expires January 1, 2025, for taxable years beginning after December~~
 4.6 ~~31, 2024, except that the expiration of this section does not affect the commissioner of~~
 4.7 ~~revenue's authority to audit or power of examination and assessment for credits claimed~~
 4.8 ~~under this subdivision.~~

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.10 Sec. 4. Minnesota Statutes 2022, section 297I.20, subdivision 4, is amended to read:

4.11 Subd. 4. **Film production credit.** ~~(a)~~ A taxpayer may claim a credit against the premiums
 4.12 tax imposed under this chapter equal to the amount indicated on the credit certificate
 4.13 statement issued to the company under section 116U.27. If the amount of the credit exceeds
 4.14 the taxpayer's liability for tax under this chapter, the excess is a credit carryover to each of
 4.15 the five succeeding taxable years. The entire amount of the excess unused credit for the
 4.16 taxable year must be carried first to the earliest of the taxable years to which the credit may
 4.17 be carried and then to each successive year to which the credit may be carried. This credit
 4.18 does not affect the calculation of fire state aid under section 477B.03 and police state aid
 4.19 under section 477C.03.

4.20 ~~(b) This subdivision expires January 1, 2025, for taxable years beginning after and~~
 4.21 ~~premiums received after December 31, 2024.~~

4.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.23 Sec. 5. **REPEALER.**

4.24 Minnesota Statutes 2022, section 116U.27, subdivision 7, is repealed.

4.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: 23-02467

116U.27 FILM PRODUCTION CREDIT.

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