

WI A 1125, Introduced

Wisconsin

SUMMARY: Creates a tax credit for expenses related to film production services and for capital investments made by a film production company; makes an appropriation and granting rule making authority.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

03/06/2024 INTRODUCED.

03/06/2024 To ASSEMBLY Committee on WAYS AND MEANS.

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session: Wisconsin 106th Legislative Session - 2023-24 Regular Session

cite: 2023 WI A 1125

Introduced

March 6, 2024

Armstrong

2023 - 2024 LEGISLATURE

2023 Assembly BILL 1125

March 6, 2024 - Introduced by Representatives ARMSTRONG, CALLAHAN, BILLINGS, EMERSON, S. JOHNSON, MURSAU, PALMERI, ROZAR, SCHMIDT, SCHRAA, STEFFEN, SWEARINGEN and TITTL, cosponsored by Senators BRADLEY, FEYEN, LARSON, QUINN AND TESTIN. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

An Act **to amend** 71.05 (6) (a) 15., 71.10 (4) (i), 71.21 (4) (a), 71.26 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10. and 71.49 (1) (f); and **to create** 13.94 (1) (zm), 15.448, 20.835 (2) (bm), 41.152, 71.07 (5f), 71.07 (5h), 71.10 (4) (fs), 71.10 (4) (ft), 71.28 (5f), 71.28 (5h), 71.30 (3) (epr), 71.30 (3) (eps), 71.47 (5f), 71.47 (5h), 71.49 (1) (epr) and 71.49 (1) (eps) of the statutes; **relating to:** creating a tax credit for expenses related to film production services and for capital investments made by a film production company, making an appropriation, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates income and franchise tax credits for film production companies and creates a State Film Office, attached to the Department of Tourism, to implement the tax credit accreditations and allocations. Under the bill, a film production company may claim a credit that is equal to 25 percent of the salary or wages paid to the company's employees in the taxable year for services rendered in this state to produce a film, video, broadcast advertisement, or television production, as approved by the State Film Office, and paid to employees who were residents of this state at the time that they were paid. The total amount of the credits that may be claimed by a taxpayer may not exceed an amount that is equal to the first \$250,000 of salary and wages paid to each of the taxpayer's employees in the taxable year, not including the salary or wages paid to the taxpayer's two highest-paid employees in the taxable year, for a production with budgeted expenditures of \$1,000,000 or more. If the total amount of the credits claimed by a taxpayer exceeds the taxpayer's tax liability, the state will not issue a refund, but the taxpayer may carry forward any remaining credit to subsequent taxable years.

Under the bill, a film production company may claim an income and franchise tax credit in an amount that is equal to 25 percent of the production expenditures paid by the company in the taxable year to produce a film, video, broadcast advertisement, or television production. If the total amount of the credits claimed by the company

exceeds the company's tax liability, the state will issue a refund.

The bill also allows a film production company to claim an income and franchise tax credit, for the first three taxable years that the company is doing business in this state, in an amount that is equal to 25 percent of the amount that the claimant paid in the taxable year to purchase depreciable tangible personal property or to acquire, construct, rehabilitate, remodel, or repair real property.

Under the bill, a film production company may claim an income and franchise tax credit that is equal to the amount of sales and use taxes that the claimant paid for tangible personal property and taxable services that are used to produce a film, video, broadcast advertisement, or television production in this state.

The bill provides that the State Film Office may not allocate more than \$5,000,000 in film production and investments tax credits in each fiscal year. The bill also requires the State Film Office to annually submit a report to the legislature that specifies the number of persons who submitted credit applications in the previous year and the amount of the credits allocated to each such applicant and to make recommendations on improving the efficiency of the program. Finally, the bill requires the Legislative Audit Bureau to biennially prepare a performance evaluation audit of the accreditation program implemented by the State Film Office.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 13.94 (1) (zm) of the statutes is created to read:

13.94 (1) (zm) Biennially, beginning in 2025, prepare a performance evaluation audit of the program to accredit productions for purposes of ss. 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h) by the state film office.

Section 2. 15.448 of the statutes is created to read:

15.448 Same; offices. (1) STATE FILM OFFICE. There is created a state film office in the department of tourism. The director of the office shall be appointed by the secretary of tourism.

Section 3. 20.835 (2) (bm) of the statutes is created to read:

20.835 (2) (bm) *Film production services credit.* A sum sufficient to make the payments under ss. 71.07 (5f) (d) 2., 71.28 (5f) (d) 2., and 71.47 (5f) (d) 2.

Section 4. 41.152 of the statutes is created to read:

41.152 Film production tax credits. (1) The state film office shall implement a program to accredit productions for purposes of ss. 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h). Application for accreditation shall be made to the office in each taxable year for which accreditation is desired.

(2) If the state film office accredits a production under sub. (1), the office shall determine the amount of the production's production expenditures, as defined in s. 71.07 (5f) (a) 4. The state film office shall not issue an accreditation under sub. (1) without first receiving written confirmation from the applicant that the applicant has retained a certified public accountant located in this state to conduct periodic audits to ensure compliance with this section and ss. 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h), as prescribed by rule by the office. An entity applying for a credit under s. 71.07 (5f), 71.28 (5f), or 71.47 (5f) that does not have its commercial domicile in this state shall indicate that on its application along with the amount of production expenditures it anticipates spending in this state and the amount of expenditures, if any, it anticipates spending in another state on the same production.

(3) The state film office shall notify the department of revenue of every production accredited under sub. (1), the amount of the production's production expenditures, and the amount of the credits allocated to the applicant for the taxable year for which the applicant's claim relates.

(4) The state film office may not allocate more than \$5,000,000 in tax credits in each fiscal year and no more than \$1,000,000 in tax credits to any single applicant in each fiscal year.

(5) Each applicant who produces an accredited production, as defined in s. 71.07 (5f) (a) 1., that is eligible for a credit under s. 71.07 (5f), 71.28 (5f), or 71.42 (5f) shall include in the finished production an acknowledgment to the state of Wisconsin and the state film office as designed by the state film office, including a logo designed by the state film office.

(6) Annually, beginning in 2025, the state film office shall prepare a report specifying the number of persons who submitted credit applications in the previous year and the amount of the credits allocated to each such applicant. The report shall also provide recommendations and suggestions on improving the efficiency of the program implemented under this section. The office shall submit the report to the legislature, in the manner provided under s. 13.172 (2), no later than April 30 each year.

(7) The department shall promulgate rules to administer this section.

Section 5. 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and (10) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

Section 6. 71.07 (5f) of the statutes is created to read:

71.07 (5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

1. "Accredited production" means a film, video, broadcast advertisement, or television production, as approved by the state film office, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that is less than 30 minutes. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.

h. A production produced primarily for industrial, corporate, or institutional purposes.

2. "Claimant" means a film production company, as defined in sub. (5h) (a) 2., that operates an accredited production in this state, if the company owns the copyright in the accredited production or has contracted directly with the copyright owner or a person acting on the owner's behalf and if the company has a viable plan, as determined by the state film office, for the commercial distribution of the finished production.

3. "Commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the state film office determines are appropriate, including the location where the greatest number of employees of the trade or business work, the trade or business has its office or base of operations, or from which the employees are directed or controlled.

4. "Production expenditures" means any expenditure that is incurred in this state and directly used to produce an accredited production, including expenditures for writing, budgeting, casting, location scouts, set construction and operation, wardrobes, makeup, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar pre-production, production, and post-production expenditure as determined by the state film office. "Production expenditures" includes expenditures for music that is performed, composed, or recorded by a musician who is a resident of this state or published or distributed by an entity that has its commercial domicile in this state; air travel that is purchased from a travel agency or company that has its commercial domicile in this state; and insurance that is purchased from an insurance agency or company that has its commercial domicile in this state. "Production expenditures" does not include salary or wages or expenditures for the marketing and distribution of an accredited production.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December

31, 2023, a claimant may claim as a credit against the tax imposed under s. 71.02 any of the following amounts:

1. An amount equal to 25 percent of the salary or wages paid by the claimant to the claimant's employees in the taxable year for services rendered in this state to produce an accredited production and paid to employees who were residents of this state at the time that they were paid.
2. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.
3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase of tangible personal property and taxable services that are used directly in producing an accredited production in this state, including all stages from the final script stage to the distribution of the finished production.

(c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may be the basis for a credit under this subsection unless the salary or wages are paid for services rendered after December 31, 2023, and directly incurred to produce the accredited production.

2. The total amount of the credits that may be claimed by a claimant under par. (b) 1. shall not exceed an amount equal to the first \$250,000 of salary or wages paid to each of the claimant's employees, as described in par. (b) 1., in the taxable year, not including the salary or wages paid to the claimant's 2 highest-paid employees, as described in par. (b) 1., in the taxable year, if the claimant's budgeted production expenditures are \$1,000,000 or more.

3. No credit may be allowed under this subsection unless the claimant files an application with the state film office, at the time and in the manner prescribed by the office, and the office approves the application. The claimant shall submit a copy of the approved application with the claimant's return.

4. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection. Section 71.28 (4) (f), as it applies to the credit under s. 71.28 (4), applies to the credits under par. (b) 1. and 3.

2. If the allowable amount of the claim under par. (b) 2. exceeds the tax otherwise due under s. 71.02 or no tax is due under s. 71.02, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

3. Any person, including a nonprofit entity described in section 501 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer a credit under this subsection, in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the transfer, and submits with the notification a copy of the transfer documents, and the department certifies ownership of the credit. The transferee may first use the credit to offset tax of the transferor in the taxable year in which the transfer occurs and may use the credit only to offset tax in taxable years in which the credit is otherwise allowed to be claimed and carried forward by the original claimant.

Section 7. 71.07 (5h) of the statutes is created to read:

71.07 (5h) Film production company investment credit. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.
2. "Film production company" means an entity that creates films, videos, broadcast advertisement, or television productions, not including the productions described under sub. (5f) (a) 1. a. to h.
3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code.

5. "Used exclusively" means used to the exclusion of all other uses except for other use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2023, a claimant may claim as a credit against the tax imposed under s. 71.02. against the tax imposed under s. 71.02, up to the amount of the taxes, for the first 3 taxable years that the claimant is doing business in this state as a film production company, an amount that is equal to 25 percent of the following that the claimant paid in the taxable year to establish a film production company in this state:

1. The purchase price of depreciable, tangible personal property.
2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property is purchased after December 31, 2023, and the personal property is used exclusively in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2023, or if the completed project is placed in service after December 31, 2023.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2023, or if the completed project is placed in service after December 31, 2023.

4. No claim may be allowed under this subsection unless the state film office certifies, in writing, that the credits claimed under this subsection are for expenses related to establishing a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

5. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. Any person, including a nonprofit entity described in section 501 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer a credit under this subsection, in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the transfer, and submits with the notification a copy of the transfer documents, and the department certifies ownership of the credit. The transferee may first use the credit to offset tax of the transferor in the taxable year in which the transfer occurs and may use the credit only to offset tax in taxable years in which the credit is otherwise allowed to be claimed and carried forward by the original claimant.

SECTION 8. 71.10 (4) (fs) of the statutes is created to read:

71.10 (4) (fs) Film production company investment credit under s. 71.07 (5h).

Section 9. 71.10 (4) (ft) of the statutes is created to read:

71.10 (4) (ft) Film production services credit under s. 71.07 (5f) (b) 1. and 3.

Section 10. 71.10 (4) (i) of the statutes is amended to read:

71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and beyond under s. 71.613, homestead credit under subch. VIII, jobs

tax credit under s. 71.07 (3q), business development credit under s. 71.07 (3y), research credit under s. 71.07 (4k) (e) 2. a., **film production services credit under s. 71.07 (5f) (b) 2.**, veterans and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), electronics and information technology manufacturing zone credit under s. 71.07 (3wm), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

Section 11. 71.21 (4) (a) of the statutes is amended to read:

71.21 **(4)** (a) The amount of the credits computed by a partnership under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), **(5f)**, (5g), **(5h)**, (5i), (5j), (5k), (5r), (5rm), (6n), and (10) and passed through to partners shall be added to the partnership's income.

Section 12. 71.26 (2) (a) 4. of the statutes is amended to read:

71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm), (1dx), (1dy), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (5e), **(5f)**, (5g), **(5h)**, (5i), (5j), (5k), (5r), (5rm), (6n), and (10) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

Section 13. 71.28 (5f) of the statutes is created to read:

71.28 **(5f)** FILM PRODUCTION SERVICES CREDIT. (a) Definitions. In this subsection:

1. "Accredited production" means a film, video, broadcast advertisement, or television production, as approved by the state film office, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that is less than 30 minutes. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.

h. A production produced primarily for industrial, corporate, or institutional purposes.

2. "Claimant" means a film production company, as defined in sub. (5h) (a) 2., that operates an accredited production in this state, if the company owns the copyright in the accredited production or has contracted directly with the copyright owner or a person acting on the owner's behalf and if the company has a viable plan, as determined by the state film office, for the commercial distribution of the finished production.

3. "Commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the state film office determines are appropriate, including the location where the greatest number of employees of the trade or business work, the trade or business has its office or base of operations, or from which the employees are directed or controlled.

4. "Production expenditures" means any expenditure that is incurred in this state and directly used to produce an accredited production, including expenditures for writing, budgeting, casting, location scouts, set construction and operation, wardrobes, makeup, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar pre-production, production, and post-production expenditure as determined by the state film office. "Production expenditures" includes expenditures for music that is performed, composed, or recorded by a musician who is a resident of this state or published or distributed by an entity that has its commercial domicile in this state; air travel that is purchased from a travel agency or company that has its commercial domicile in this state; and insurance that is purchased from an insurance agency or company that has its commercial domicile in this state."Production

expenditures" does not include salary or wages or expenditures for the marketing and distribution of an accredited production.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2023, a claimant may claim as a credit against the tax imposed under s. 71.23 any of the following amounts:

1. An amount equal to 25 percent of the salary or wages paid by the claimant to the claimant's employees in the taxable year for services rendered in this state to produce an accredited production and paid to employees who were residents of this state at the time that they were paid.
2. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.
3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase of tangible personal property and taxable services that are used directly in producing an accredited production in this state, including all stages from the final script stage to the distribution of the finished production.

(c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may be the basis for a credit under this subsection unless the salary or wages are paid for services rendered after December 31, 2023, and directly incurred to produce the accredited production.

2. The total amount of the credits that may be claimed by a claimant under par. (b) 1. shall not exceed an amount equal to the first \$250,000 of salary or wages paid to each of the claimant's employees, as described in par. (b) 1., in the taxable year, not including the salary or wages paid to the claimant's 2 highest-paid employees, as described in par. (b) 1., in the taxable year, if the claimant's budgeted production expenditures are \$1,000,000 or more.

3. No credit may be allowed under this subsection unless the claimant files an application with the state film office, at the time and in the manner prescribed by the office, and the office approves the application. The claimant shall submit a copy of the approved application with the claimant's return.

4. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credits under this subsection. Subsection (4) (f), as it applies to the credit under sub. (4), applies to the credits under par. (b) 1. and 3.

2. If the allowable amount of the claim under par. (b) 2. exceeds the tax otherwise due under s. 71.23 or no tax is due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

3. Any person, including a nonprofit entity described in section 501 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer a credit under this subsection, in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the transfer, and submits with the notification a copy of the transfer documents, and the department certifies ownership of the credit. The transferee may first use the credit to offset tax of the transferor in the taxable year in which the transfer occurs and may use the credit only to offset tax in taxable years in which the credit is otherwise allowed to be claimed and carried forward by the original claimant.

Section 14. 71.28 (5h) of the statutes is created to read:

71.28 (5h) Film production company investment credit. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.
2. "Film production company" means an entity that creates films, videos, broadcast advertisement, or television productions, not including the productions described under sub. (5f) (a) 1. a. to h.

3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code.

5. "Used exclusively" means used to the exclusion of all other uses except for other use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2023, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the taxes, for the first 3 taxable years that the claimant is doing business in this state as a film production company, an amount that is equal to 25 percent of the following that the claimant paid in the taxable year to establish a film production company in this state:

1. The purchase price of depreciable, tangible personal property.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property is purchased after December 31, 2023, and the personal property is used exclusively in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2023, or if the completed project is placed in service after December 31, 2023.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2023, or if the completed project is placed in service after December 31, 2023.

4. No claim may be allowed under this subsection unless the state film office certifies, in writing, that the credits claimed under this subsection are for expenses related to establishing a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

5. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par.

(b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credits under this subsection.

2. Any person, including a nonprofit entity described in section 501 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer a credit under this subsection, in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the transfer, and submits with the notification a copy of the transfer documents, and the department certifies ownership of the credit. The transferee may first use the credit to offset tax of the transferor in the taxable year in which the transfer occurs and may use the credit only to offset tax in taxable years in which the credit is otherwise allowed to be claimed and carried forward by the original claimant.

Section 15. 71.30 (3) (epr) of the statutes is created to read:

71.30 (3) (epr) Film production company investment credit under s. 71.28 (5h).

Section 16. 71.30 (3) (eps) of the statutes is created to read:

71.30 (3) (eps) Film production services credit under s. 71.28 (5f) (b) 1. and 3.

Section 17. 71.30 (3) (f) of the statutes is amended to read:

71.30 **(3)** (f) The total of farmland preservation credit under subch. IX, jobs credit under s. 71.28 (3q), enterprise zone jobs credit under s. 71.28 (3w), electronics and information technology manufacturing zone credit under s. 71.28 (3wm), business development credit under s. 71.28 (3y), research credit under s. 71.28 (4) (k) 1., **film production services credit under s. 71.28 (5f) (b) 2.**, and estimated tax payments under s. 71.29.

Section 18. 71.34 (1k) (g) of the statutes is amended to read:

71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (4), (5), (5e), **(5f)**, (5g), **(5h)**, (5i), (5j), (5k), (5r), (5rm), (6n), and (10) and passed through to shareholders.

Section 19. 71.45 (2) (a) 10. of the statutes is amended to read:

71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dm) to (1dy), (3g), (3h), (3n), (3q), (3w), (3y), (5e), **(5f)**, (5g), **(5h)**, (5i), (5j), (5k), (5r), (5rm), (6n), and (10) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (3), (3t), (4), (4m), and (5).

Section 20. 71.47 (5f) of the statutes is created to read:

71.47 **(5f)** Film production services credit. (a) *Definitions.* In this subsection:

1. "Accredited production" means a film, video, broadcast advertisement, or television production, as approved by the state film office, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that is less than 30 minutes. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.

h. A production produced primarily for industrial, corporate, or institutional purposes.

2. "Claimant" means a film production company, as defined in sub. (5h) (a) 2., that operates an accredited production in this state, if the company owns the copyright in the accredited production or has contracted directly with the copyright owner or a person acting on the owner's behalf and if the company has a viable plan, as determined by the state film office, for the commercial distribution of the finished production.

3. "Commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the state film office determines are appropriate, including the location where the greatest number of employees of the trade or business work, the trade or business has its office or base of operations, or from which the employees are directed or controlled.

4. "Production expenditures" means any expenditure that is incurred in this state and directly used to produce an accredited production, including expenditures for writing, budgeting, casting, location scouts, set construction and operation, wardrobes, makeup, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar pre-production, production, and post-production expenditure as determined by the state film office. "Production expenditures" includes expenditures for music that is performed, composed, or recorded by a musician who is a resident of this state or published or distributed by an entity that has its commercial domicile in this state; air travel that is purchased from a travel agency or company that has its commercial domicile in this state; and insurance that is purchased from an insurance agency or company that has its commercial domicile in this state. "Production

expenditures" does not include salary or wages or expenditures for the marketing and distribution of an accredited production.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2023, a claimant may claim as a credit against the tax imposed under s. 71.43 any of the following amounts:

1. An amount equal to 25 percent of the salary or wages paid by the claimant to the claimant's employees in the taxable year for services rendered in this state to produce an accredited production and paid to employees who were residents of this state at the time that they were paid.
2. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.
3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase of tangible personal property and taxable services that are used directly in producing an accredited production in this state, including all stages from the final script stage to the distribution of the finished production.

(c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may be the basis for a credit under this subsection unless the salary or wages are paid for services rendered after December 31, 2023, and directly incurred to produce the accredited production.

2. The total amount of the credits that may be claimed by a claimant under par. (b) 1. shall not exceed an amount equal to the first \$250,000 of salary or wages paid to each of the claimant's employees, as described in par. (b) 1., in the taxable year, not including the salary or wages paid to the claimant's 2 highest-paid employees, as described in par. (b) 1., in the taxable year, if the claimant's budgeted production expenditures are \$1,000,000 or more.

3. No credit may be allowed under this subsection unless the claimant files an application with the state film office, at the time and in the manner prescribed by the office, and the office approves the application. The claimant shall submit a copy of the approved application with the claimant's return.

4. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection. Section 71.28 (4) (f), as it applies to the credit under s. 71.28 (4), applies to the credits under par. (b) 1. and 3.

2. If the allowable amount of the claim under par. (b) 2. exceeds the tax otherwise due under s. 71.43 or no tax is due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

3. Any person, including a nonprofit entity described in section 501 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer a credit under this subsection, in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the transfer, and submits with the notification a copy of the transfer documents, and the department certifies ownership of the credit. The transferee may first use the credit to offset tax of the transferor in the taxable year in which the transfer occurs and may use the credit only to offset tax in taxable years in which the credit is otherwise allowed to be claimed and carried forward by the original claimant.

Section 21. 71.47 (5h) of the statutes is created to read:

71.47 (5h) Film production company investment credit. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.
2. "Film production company" means an entity that creates films, videos, broadcast advertisement, or television productions, not including the productions described under sub. (5f) (a) 1. a. to h.

3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.
4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code.
5. "Used exclusively" means used to the exclusion of all other uses except for other use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2023, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the taxes, for the first 3 taxable years that the claimant is doing business in this state as a film production company, an amount that is equal to 25 percent of the following that the claimant paid in the taxable year to establish a film production company in this state:

1. The purchase price of depreciable, tangible personal property.
2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property is purchased after December 31, 2023, and the personal property is used exclusively in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2023, or if the completed project is placed in service after December 31, 2023.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2023, or if the completed project is placed in service after December 31, 2023.

4. No claim may be allowed under this subsection unless the state film office certifies, in writing, that the credits claimed under this subsection are for expenses related to establishing a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

5. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. Any person, including a nonprofit entity described in section 501 (c) (3) of the Internal Revenue Code, may sell or otherwise transfer a credit under this subsection, in whole or in part, to another person who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43, if the person notifies the department of the transfer, and submits with the notification a copy of the transfer documents, and the department certifies ownership of the credit. The transferee may first use the credit to offset tax of the transferor in the taxable year in which the transfer occurs and may use the credit only to offset tax in taxable years in which the credit is otherwise allowed to be claimed and carried forward by the original claimant.

Section 22. 71.49 (1) (epr) of the statutes is created to read:

71.49 (1) (epr) Film production company investment credit under s. 71.47 (5h).

Section 23. 71.49 (1) (eps) of the statutes is created to read:

71.49 (1) (eps) Film production services credit under s. 71.47 (5f) (b) 1. and 3.

Section 24. 71.49 (1) (f) of the statutes is amended to read:

71.49 (1) (f) The total of farmland preservation credit under subch. IX, jobs credit under s. 71.47 (3q), enterprise zone jobs credit under s. 71.47 (3w), business development credit under s. 71.47 (3y), research credit under s. 71.47 (4) (k) 1., **film production services credit under s. 71.47 (5f) (b) 2.**, and estimated tax payments under s. 71.48.