

# MN S 5289, Amended

Minnesota

SUMMARY: Relates to economic development; makes supplemental budget adjustments for the Department of Employment and Economic Development; appropriates money.~SAME AS: MN H 5205#

Changes in Bill text reflected as:

~~Text Deleted~~

**Text Added**

~~Text Vetoed~~

Current Legislative Status

04/03/2024 INTRODUCED.

04/04/2024 To SENATE Committee on JOBS AND ECONOMIC DEVELOPMENT.

04/18/2024 From SENATE Committee on JOBS AND ECONOMIC DEVELOPMENT: Do pass as amended.

04/18/2024 Rereferred to SENATE Committee on FINANCE.

04/25/2024 From SENATE Committee on FINANCE: Do pass as amended.

04/25/2024 In SENATE. Second Reading.

04/29/2024 Amended on SENATE floor.

04/29/2024 Passed SENATE. \*\*\*\*\*To HOUSE.

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session: Minnesota 93rd Regular Session

cite: 2023 MN S 5289

Amended

April 29, 2024

Champion

SF 5289

3rd Engrossment - 93rd Legislature (2023 - 2024) Posted on 04/29/2024

A bill for an act relating to economic development; making supplemental budget adjustments for the Department of Employment and Economic Development and Explore Minnesota; authorizing a tax credit; requiring reports; appropriating money; amending Minnesota Statutes 2022, sections 116U.26; 116U.27, subdivisions 5, 6; Minnesota Statutes 2023 Supplement, sections 116L.43, subdivision 1; 116U.27, subdivisions 1, 4; Laws 2023, chapter 53, article 20, section 2, subdivisions 1, 2, 3, 4, 6; article 21, sections 6; 7; Laws 2023, chapter 64, article 15, section 30; proposing coding for new law in Minnesota Statutes, chapter 116U; repealing Minnesota Statutes 2022, section 116J.439; Laws 2021, First Special Session chapter 14, article 11, section 42, as amended.

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

## ARTICLE 1

### APPROPRIATIONS

Section 1. **APPROPRIATIONS.**

***(a) The sums shown in the columns marked "Appropriations" are added to the appropriations in Laws 2023, chapter 53, or are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2024" and "2025" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2024, or June 30, 2025, respectively. "The first year" is fiscal year 2024. "The second year" is fiscal year 2025. "The biennium" is fiscal years 2024 and 2025.***

***(b) Notwithstanding Minnesota Statutes, section 16B.98, subdivision 14, the commissioners of the agencies receiving grant appropriations in this article may not use any amount of the grant appropriations for administrative costs unless otherwise appropriated or stated in Minnesota Statutes, section 116J.035, subdivision 7.***

\*\*\*TEXT OMITTED, DOES NOT PERTAIN TO FILM\*\*\*

***(b) \$825,000 the second year is for the Office of Explore Minnesota Film.***

Notwithstanding Minnesota Statutes, section

116J.8731, money appropriated to the commissioner for the Minnesota investment

fund may be used for the redevelopment program under Minnesota Statutes, sections

116J.575 and 116J.5761, at the discretion of

(u) \$325,000 ~~each year~~ ***the first year*** is for the

Minnesota Film and TV Board. The appropriation each year is available only upon

receipt by the board of \$1 in matching contributions of money or in-kind

contributions from nonstate sources for every

\$3 provided by this appropriation, except that

~~each~~ ***the first*** year up to \$50,000 is available

on July 1 even if the required matching contribution has not been received by that date.

(v) \$12,000 each year is for a grant to the Upper Minnesota Film Office.

(w) \$500,000 ~~each year~~ ***the first year*** is for a

grant to the Minnesota Film and TV Board for

the film production jobs program under Minnesota Statutes, section 116U.26. This appropriation is available until June 30, 2027.

\*\*\*TEXT OMITTED, DOES NOT PERTAIN TO FILM\*\*\*

Sec. 2. **[116U.255] EXPLORE MINNESOTA FILM.**

**Subdivision 1. Office established; director. (a) Explore Minnesota Film is established as an office within Explore Minnesota.**

**(b) The director of Explore Minnesota shall appoint the director of Explore Minnesota Film. The director of Explore Minnesota Film must be qualified by experience with issues related to film and television production and economic development.**

**(c) The office may employ staff necessary to carry out the duties required in this section.**

**Subd. 2. Duties. The director of Explore Minnesota Film is authorized to:**

**(1) administer the film production jobs program and the film production credit program;**

**(2) promote Minnesota as a location for film and television production;**

**(3) assist in the establishment and implementation of programs related to film and television production, including but not limited to permitting and workforce development;**

**(4) improve communication among local, state, federal, and private entities regarding film and television production logistics and best practices;**

**(5) coordinate the development of statewide policies addressing film and television production; and**

**(6) act as a liaison to production entities, workers, and state agencies.**

Sec. 3. Minnesota Statutes 2022, section 116U.26, is amended to read:

**116U.26 FILM PRODUCTION JOBS PROGRAM.**

(a) The film production jobs program is created. The program shall be operated by ~~the Minnesota Film and TV Board~~ **Explore Minnesota Film** with administrative oversight and control by the ~~commissioner of employment and economic development~~ **director of Explore Minnesota**. The program shall make payment to producers of feature films, national television or Internet programs, documentaries, music videos, and commercials that directly create new film jobs in Minnesota. To be eligible for a payment, a producer must submit documentation to ~~the Minnesota Film and TV Board~~ **Explore Minnesota Film** of expenditures for production costs incurred in Minnesota that are directly attributable to the production in Minnesota of a film product.

~~The Minnesota Film and TV Board~~ **Explore Minnesota Film** shall make recommendations to the ~~commissioner of employment and economic development~~ **director of Explore Minnesota** about program payment, but the ~~commissioner~~ **director** has the authority to make the final determination on payments. The ~~commissioner's~~ **director's** determination must be based on proper documentation of eligible production costs submitted for payments. No more than five percent of the funds appropriated for the program in any year may be expended for administration, including costs for independent audits and financial reviews of projects.

(b) For the purposes of this section:

(1) "production costs" means the cost of the following:

(i) a story and scenario to be used for a film;

(ii) salaries of talent, management, and labor, including payments to personal services corporations for the services of a performing artist;

(iii) set construction and operations, wardrobe, accessories, and related services;

(iv) photography, sound synchronization, lighting, and related services;

(v) editing and related services;

(vi) rental of facilities and equipment;

(vii) other direct costs of producing the film in accordance with generally accepted entertainment industry practice;

(viii) above-the-line talent fees for nonresident talent; or

(ix) costs incurred during postproduction; and

(2) "film" means a feature film, television or Internet pilot, program, series, documentary, music video, or television commercial, whether on film, video, or digital media. Film does not include news, current events, public programming, or a program that includes weather or market reports; a talk show; a production with respect to a questionnaire or contest; a sports event or sports activity; a gala presentation or awards show; a finished production that solicits funds; or a production for which the production company is required under United States Code, title 18, section 2257, to maintain records with respect to a performer portrayed in a single-media or multimedia program.

(c) Notwithstanding any other law to the contrary, ~~the Minnesota Film and TV Board~~ *Explore Minnesota Film* may make reimbursements of: (1) up to 25 percent of production costs for films that locate production outside the metropolitan area, as defined in section 473.121, subdivision 2, or that incur a minimum Minnesota expenditure of \$1,000,000 in the metropolitan area within a 12-month period; or (2) up to 20 percent of production costs for films that incur less than \$1,000,000 in Minnesota production costs in the metropolitan area within a 12-month period.

Sec. 4. Minnesota Statutes 2023 Supplement, section 116U.27, subdivision 1, is amended to read:

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

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

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

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

~~(e)~~ *(d)* "Credit certificate" means a certificate issued by the commissioner upon receipt and approval of the cost verification report in subdivision 4, paragraph (e).

*(e) "Director" means the director of Explore Minnesota.*

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

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

(h) "Project" means a film:

(1) that includes the promotion of Minnesota;

(2) for which the taxpayer has expended at least \$1,000,000 in any consecutive 12-month period beginning after expenditures are first paid in Minnesota for eligible production costs; and

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

*Television commercials are exempt from the requirement under clause (1).*

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

Sec. 5. Minnesota Statutes 2023 Supplement, section 116U.27, subdivision 4, is amended to read:

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

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

(1) verify eligibility for the credit;

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

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

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

(c) The **commissioner director** must not issue allocation certificates for more than \$24,950,000 of credits each year. If the entire amount is not allocated in that taxable year, any remaining amount is available for allocation for the four following taxable years until the entire allocation has been made. The **commissioner director** must not award any credits for taxable years beginning after December 31, 2030, and any unallocated amounts cancel on that date.

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

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

Sec. 6. Minnesota Statutes 2022, section 116U.27, subdivision 5, is amended to read:

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

- (1) the amount of credit certifications issued annually;
- (2) the number of applications submitted, the number of allocation certificates issued, the amount of allocation certificates issued, the number of reports submitted upon completion of a project, and the number of credit certificates issued;
- (3) the types of projects eligible for the credit;
- (4) the total economic impact of the credit in Minnesota, including the calendar year over calendar year percentage changes in the number of jobs held by Minnesota residents in businesses having a primary North American Industry Classification System code of 512110 as reported to the commissioner, for calendar years 2019 through 2023;
- (5) the number of taxpayers per tax type which are assignees of credit certificates under subdivision 3;
- (6) annual Minnesota taxes paid by businesses having a primary North American Industry Classification System code of 512110, for taxable years beginning after December 31, 2018, and before January 1, 2024; and
- (7) any other information the commissioner of revenue, in consultation with the **commissioner director**, deems necessary for purposes of claiming and administering the credit.

Sec. 7. Minnesota Statutes 2022, section 116U.27, subdivision 6, is amended to read:

Subd. 6. **Appropriation.** Beginning in fiscal year 2022, \$50,000 is annually appropriated from the general fund to the commissioner of revenue for a transfer to ~~the Department of Employment and Economic Development~~ **Explore Minnesota** for costs associated with personnel and administrative expenses related to administering the credit. This subdivision expires on June 30, 2025.

\*\*\*TEXT OMITTED, DOES NOT PERTAIN TO FILM\*\*\*