



2005 SENATE BILL 563

February 3, 2006 - Introduced by Senators KANAVAS, DARLING, KEDZIE, LASSA, RISSER and PLALE, cosponsored by Representatives GIELOW, WASSERMAN, ZEPNICK, KERKMAN, F. LASEE, VOS, LOEFFELHOLZ, STRACHOTA, SHERMAN, LEHMAN, STONE, FIELDS, BERCEAU, SHERIDAN, PETTIS, NEWCOMER, CULLEN, SEIDEL, MOLEPSKE, TOLES, POPE-ROBERTS and KLEEFISCH. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26
2 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 20.835 (2) (bm),
3 71.07 (5f), 71.07 (5h), 71.10 (4) (en), 71.28 (5f), 71.28 (5h), 71.30 (3) (epp), 71.30
4 (3) (epr), 71.47 (5f), 71.47 (5h), 71.49 (1) (epp) and 71.49 (1) (epr) of the statutes;
5 **relating to:** creating income and franchise tax credits for expenses related to
6 film production services and for capital investments made by a film production
7 company, requiring the exercise of rule-making authority, and making an
8 appropriation.

Analysis by the Legislative Reference Bureau

This bill creates income and franchise tax credits for film production companies. 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, electronic game, broadcast advertisement, or television production, as approved by the Department of Commerce (Commerce), 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 \$25,000 of salary and wages paid to each of the taxpayer's employees in the taxable year, not

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including the salary or wages paid to the taxpayer's two highest paid employees in the taxable year. 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, electronic game, 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 3 taxable years that the company is doing business in this state, in an amount that is equal to 15 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, electronic game, broadcast advertisement, or television production in this state.

For further information see the *state and local* 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:

1 **SECTION 1.** 20.835 (2) (bm) of the statutes is created to read:

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

4 **SECTION 2.** 71.05 (6) (a) 15. of the statutes is amended to read:

5 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
6 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), (5f),
7 and (5h) and not passed through by a partnership, limited liability company, or
8 tax-option corporation that has added that amount to the partnership's, company's,
9 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

10 **SECTION 3.** 71.07 (5f) of the statutes is created to read:

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1 71.07 (5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions*. In this subsection:

2 1. “Accredited production” means a film, video, electronic game, broadcast
3 advertisement, or television production, as approved by the department of
4 commerce, for which the aggregate salary and wages included in the cost of the
5 production for the period ending 12 months after the month in which the principal
6 filming or taping of the production begins exceeds \$100,000 for a production that is
7 30 minutes or longer or \$50,000 for a production that is less than 30 minutes.
8 “Accredited production” does not include any of the following, regardless of the
9 production costs:

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

12 b. A talk show.

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

14 d. A sports event or sports activity.

15 e. A gala presentation or awards show.

16 f. A finished production that solicits funds.

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

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

22 2. “Claimant” means a film production company that operates an accredited
23 production in this state, if the company owns the copyright in the accredited
24 production or has contracted directly with the copyright owner or a person acting on

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1 the owner's behalf and if the company has a viable plan, as determined by the
2 department of commerce, for the commercial distribution of the finished production.

3 3. "Production expenditures" means any expenditures that are incurred in this
4 state and directly used to produce an accredited production, including expenditures
5 for set construction and operation, wardrobes, make-up, clothing accessories,
6 photography, sound recording, sound synchronization, sound mixing, lighting,
7 editing, film processing, film transferring, special effects, visual effects, renting or
8 leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and
9 any other similar expenditure as determined by the department of commerce.

10 "Production expenditures" include expenditures for music that is performed,
11 composed, or recorded by a musician who is a resident of this state or published or
12 distributed by an entity that has its headquarters in this state; air travel that is
13 purchased from a travel agency or company that has its headquarters in this state;
14 and insurance that is purchased from an insurance agency or company that has its
15 headquarters in this state. "Production expenditures" do not include expenditures
16 for the marketing and distribution of an accredited production.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
18 taxable years beginning after December 31, 2005, a claimant may claim as a credit
19 against the tax imposed under s. 71.02 any of the following amounts:

20 1. An amount equal to 25 percent of the salary or wages paid by the claimant
21 to the claimant's employees in the taxable year for services rendered in this state to
22 produce an accredited production and paid to employees who were residents of this
23 state at the time that they were paid.

24 2. An amount equal to 25 percent of the production expenditures paid by the
25 claimant in the taxable year to produce an accredited production.

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1 3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the
2 claimant paid in the taxable year on the purchase of tangible personal property and
3 taxable services that are used directly in producing an accredited production in this
4 state, including all stages from the final script stage to the distribution of the finished
5 production.

6 (c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may
7 be the basis for a credit under this subsection unless the salary or wages are paid for
8 services rendered after December 31, 2005, and directly incurred to produce the
9 accredited production.

10 2. The total amount of the credits that may be claimed by a claimant under par.
11 (b) 1. shall not exceed an amount equal to the first \$25,000 of salary or wages paid
12 to each of the claimant's employees, as described in par. (b), in the taxable year, not
13 including the salary or wages paid to the claimant's 2 highest paid employees, as
14 described in par. (b), in the taxable year.

15 3. No credit may be allowed under this subsection unless the claimant files an
16 application with the department of commerce, at the time and in the manner
17 prescribed by the department of commerce, and the department of commerce
18 approves the application.

19 4. Partnerships, limited liability companies, and tax-option corporations may
20 not claim the credit under this subsection, but the eligibility for, and the amount of,
21 the credit are based on their payment of wages and salaries. A partnership, limited
22 liability company, or tax-option corporation shall compute the amount of credit that
23 each of its partners, members, or shareholders may claim and shall provide that
24 information to each of them. Partners, members of limited liability companies, and

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1 shareholders of tax-option corporations may claim the credit in proportion to their
2 ownership interest.

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

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

12 **SECTION 4.** 71.07 (5h) of the statutes is created to read:

13 71.07 (5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In
14 this subsection:

15 1. “Claimant” means a person who files a claim under this subsection and who
16 does business in this state as a film production company.

17 2. “Film production company” means an entity that creates films, videos,
18 electronic games, broadcast advertisement, or television productions, not including
19 the productions described under s. 71.07 (5f) (a) 1. a. to h.

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

23 4. “Previously owned property” means real property that the claimant or a
24 related person owned during the 2 years prior to doing business in this state as a film
25 production company and for which the claimant may not deduct a loss from the sale

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1 of the property to, or an exchange of the property with, the related person under
2 section 267 of the Internal Revenue Code.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
4 taxable years beginning after December 31, 2005, a claimant may claim as a credit
5 against the tax imposed under s. 71.02, up to the amount of the taxes, for the first
6 3 taxable years that the claimant is doing business in this state as a film production
7 company, an amount that is equal to 15 percent of the following that the claimant
8 paid in the taxable year to establish a film production company in this state:

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

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

12 (c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the
13 tangible personal property is purchased after December 31, 2005, and the personal
14 property is used for at least 50 percent of its use in the claimant's business as a film
15 production company.

16 2. A claimant may claim the credit under par. (b) 2. for an amount expended
17 to construct, rehabilitate, remodel, or repair real property, if the claimant began the
18 physical work of construction, rehabilitation, remodeling, or repair, or any
19 demolition or destruction in preparation for the physical work, after December 31,
20 2005, or if the completed project is placed in service after December 31, 2005.

21 3. A claimant may claim the credit under par. (b) 2. for an amount expended
22 to acquire real property, if the property is not previously owned property and if the
23 claimant acquires the property after December 31, 2005, or if the completed project
24 is placed in service after December 31, 2005.

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

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

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

15 **SECTION 5.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act
16 25, is amended to read:

17 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
18 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
19 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),
20 (3t), (5b), (5d), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),
21 (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),
22 (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other states
23 under s. 71.07 (7), is less than the tax under this section, there is imposed on that
24 natural person, married couple filing jointly, trust, or estate, instead of the tax under
25 s. 71.02, an alternative minimum tax computed as follows:

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1 **SECTION 6.** 71.10 (4) (en) of the statutes is created to read:

2 71.10 (4) (en) Film production company investment credit under s. 71.07 (5h).

3 **SECTION 7.** 71.10 (4) (i) of the statutes, as affected by 2005 Wisconsin Act 25,
4 is amended to read:

5 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
6 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
7 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
8 71.07 (2fd), film production services credit under s. 71.07 (5f), veterans and surviving
9 spouses property tax credit under s. 71.07 (6e), earned income tax credit under s.
10 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch.
11 X.

12 **SECTION 8.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
13 amended to read:

14 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
15 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5f), (5g), and (5h) and
16 passed through to partners shall be added to the partnership's income.

17 **SECTION 9.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
18 is amended to read:

19 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
20 the gross income as computed under the Internal Revenue Code as modified under
21 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
22 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
23 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
24 under this paragraph at the time that the taxpayer first claimed the credit plus the
25 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),

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1 (1ds), (1dx), (3g), (3n), (3t), (5b), and (5f), (5g), and (5h) and not passed through by
2 a partnership, limited liability company, or tax-option corporation that has added
3 that amount to the partnership's, limited liability company's, or tax-option
4 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
5 the sale or other disposition of assets the gain from which would be wholly exempt
6 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
7 a gain and minus deductions, as computed under the Internal Revenue Code as
8 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
9 difference between the federal basis and Wisconsin basis of any asset sold,
10 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
11 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

12 **SECTION 10.** 71.28 (5f) of the statutes is created to read:

13 71.28 **(5f)** FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

14 1. "Accredited production" means a film, video, electronic game, broadcast
15 advertisement, or television production, as approved by the department of
16 commerce, for which the aggregate salary and wages included in the cost of the
17 production for the period ending 12 months after the month in which the principal
18 filming or taping of the production begins exceeds \$100,000 for a production that is
19 30 minutes or longer or \$50,000 for a production that is less than 30 minutes.
20 "Accredited production" does not include any of the following, regardless of the
21 production costs:

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

24 b. A talk show.

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

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- 1 d. A sports event or sports activity.
- 2 e. A gala presentation or awards show.
- 3 f. A finished production that solicits funds.
- 4 g. A production for which the production company is required under 18 USC
- 5 2257 to maintain records with respect to a performer portrayed in a single media or
- 6 multimedia program.
- 7 h. A production produced primarily for industrial, corporate, or institutional
- 8 purposes.
- 9 2. "Claimant" means a film production company that operates an accredited
- 10 production in this state, if the company owns the copyright in the accredited
- 11 production or has contracted directly with the copyright owner or a person acting on
- 12 the owner's behalf and if the company has a viable plan, as determined by the
- 13 department of commerce, for the commercial distribution of the finished production.
- 14 3. "Production expenditures" means any expenditures that are incurred in this
- 15 state and directly used to produce an accredited production, including expenditures
- 16 for set construction and operation, wardrobes, make-up, clothing accessories,
- 17 photography, sound recording, sound synchronization, sound mixing, lighting,
- 18 editing, film processing, film transferring, special effects, visual effects, renting or
- 19 leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and
- 20 any other similar expenditure as determined by the department of commerce.
- 21 "Production expenditures" include expenditures for music that is performed,
- 22 composed, or recorded by a musician who is a resident of this state or published or
- 23 distributed by an entity that has its headquarters in this state; air travel that is
- 24 purchased from a travel agency or company that has its headquarters in this state;
- 25 and insurance that is purchased from an insurance agency or company that has its

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1 headquarters in this state. “Production expenditures” do not include expenditures
2 for the marketing and distribution of an accredited production.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
4 taxable years beginning after December 31, 2005, a claimant may claim as a credit
5 against the tax imposed under s. 71.23 any of the following amounts:

6 1. An amount equal to 25 percent of the salary or wages paid by the claimant
7 to the claimant’s employees in the taxable year for services rendered in this state to
8 produce an accredited production and paid to employees who were residents of this
9 state at the time that they were paid.

10 2. An amount equal to 25 percent of the production expenditures paid by the
11 claimant in the taxable year to produce an accredited production.

12 3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the
13 claimant paid in the taxable year on the purchase of tangible personal property and
14 taxable services that are used directly in producing an accredited production in this
15 state, including all stages from the final script stage to the distribution of the finished
16 production.

17 (c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may
18 be the basis for a credit under this subsection unless the salary or wages are paid for
19 services rendered after December 31, 2005, and directly incurred to produce the
20 accredited production.

21 2. The total amount of the credit that may be claimed by a claimant under par.
22 (b) 1. shall not exceed an amount equal to the first \$25,000 of salary or wages paid
23 to each of the claimant’s employees, as described in par. (b), in the taxable year, not
24 including the salary or wages paid to the claimant’s 2 highest paid employees, as
25 described in par. (b), in the taxable year.

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1 3. No credit may be allowed under this subsection unless the claimant files an
2 application with the department of commerce, at the time and in the manner
3 prescribed by the department of commerce, and the department of commerce
4 approves the application.

5 4. Partnerships, limited liability companies, and tax-option corporations may
6 not claim the credit under this subsection, but the eligibility for, and the amount of,
7 the credit are based on their payment of wages and salaries. A partnership, limited
8 liability company, or tax-option corporation shall compute the amount of credit that
9 each of its partners, members, or shareholders may claim and shall provide that
10 information to each of them. Partners, members of limited liability companies, and
11 shareholders of tax-option corporations may claim the credit in proportion to their
12 ownership interest.

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

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

21 **SECTION 11.** 71.28 (5h) of the statutes is created to read:

22 71.28 (5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In
23 this subsection:

24 1. "Claimant" means a person who files a claim under this subsection and who
25 does business in this state as a film production company.

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1 2. “Film production company” means an entity that creates films, videos,
2 electronic games, broadcast advertisement, or television productions, not including
3 the productions described under s. 71.28 (5f) (a) 1. a. to h.

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

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

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
13 taxable years beginning after December 31, 2005, a claimant may claim as a credit
14 against the tax imposed under s. 71.23, up to the amount of the taxes, for the first
15 3 taxable years that the claimant is doing business in this state as a film production
16 company, an amount that is equal to 15 percent of the following that the claimant
17 paid in the taxable year to establish a film production company in this state:

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

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

21 (c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the
22 tangible personal property is purchased after December 31, 2005, and the personal
23 property is used for at least 50 percent of its use in the claimant’s business as a film
24 production company.

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1 2. A claimant may claim the credit under par. (b) 2. for an amount expended
2 to construct, rehabilitate, remodel, or repair real property, if the claimant began the
3 physical work of construction, rehabilitation, remodeling, or repair, or any
4 demolition or destruction in preparation for the physical work, after December 31,
5 2005, or if the completed project is placed in service after December 31, 2005.

6 3. A claimant may claim the credit under par. (b) 2. for an amount expended
7 to acquire real property, if the property is not previously owned property and if the
8 claimant acquires the property after December 31, 2005, or if the completed project
9 is placed in service after December 31, 2005.

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

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

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

24 **SECTION 12.** 71.30 (3) (epp) of the statutes is created to read:

25 71.30 (3) (epp) Film production services credit under s. 71.28 (5f).

SENATE BILL 563**SECTION 13**

1 **SECTION 13.** 71.30 (3) (epr) of the statutes is created to read:

2 71.30 (3) (epr) Film production company investment credit under s. 71.28 (5h).

3 **SECTION 14.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,
4 is amended to read:

5 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
7 (3n), (3t), (5b), and (5f), (5g), and (5h) and passed through to shareholders.

8 **SECTION 15.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
9 74, is amended to read:

10 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
11 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), and (5f), (5g), and (5h) and not
12 passed through by a partnership, limited liability company, or tax-option
13 corporation that has added that amount to the partnership's, limited liability
14 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
15 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

16 **SECTION 16.** 71.47 (5f) of the statutes is created to read:

17 71.47 (5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

18 1. "Accredited production" means a film, video, electronic game, broadcast
19 advertisement, or television production, as approved by the department of
20 commerce, for which the aggregate salary and wages included in the cost of the
21 production for the period ending 12 months after the month in which the principal
22 filming or taping of the production begins exceeds \$100,000 for a production that is
23 30 minutes or longer or \$50,000 for a production that is less than 30 minutes.
24 "Accredited production" does not include any of the following, regardless of the
25 production costs:

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- 1 a. News, current events, or public programming or a program that includes
2 weather or market reports.
- 3 b. A talk show.
- 4 c. A production with respect to a questionnaire or contest.
- 5 d. A sports event or sports activity.
- 6 e. A gala presentation or awards show.
- 7 f. A finished production that solicits funds.
- 8 g. A production for which the production company is required under 18 USC
9 2257 to maintain records with respect to a performer portrayed in a single media or
10 multimedia program.
- 11 h. A production produced primarily for industrial, corporate, or institutional
12 purposes.
- 13 2. "Claimant" means a film production company that operates an accredited
14 production in this state, if the company owns the copyright in the accredited
15 production or has contracted directly with the copyright owner or a person acting on
16 the owner's behalf and if the company has a viable plan, as determined by the
17 department of commerce, for the commercial distribution of the finished production.
- 18 3. "Production expenditures" means any expenditures that are incurred in this
19 state and directly used to produce an accredited production, including expenditures
20 for set construction and operation, wardrobes, make-up, clothing accessories,
21 photography, sound recording, sound synchronization, sound mixing, lighting,
22 editing, film processing, film transferring, special effects, visual effects, renting or
23 leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and
24 any other similar expenditure as determined by the department of commerce.
25 "Production expenditures" include expenditures for music that is performed,

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1 composed, or recorded by a musician who is a resident of this state or published or
2 distributed by an entity that has its headquarters in this state; air travel that is
3 purchased from a travel agency or company that has its headquarters in this state;
4 and insurance that is purchased from an insurance agency or company that has its
5 headquarters in this state. “Production expenditures” do not include expenditures
6 for the marketing and distribution of an accredited production.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
8 taxable years beginning after December 31, 2005, a claimant may claim as a credit
9 against the tax imposed under s. 71.43 any of the following amounts:

10 1. An amount equal to 25 percent of the salary or wages paid by the claimant
11 to the claimant’s employees in the taxable year for services rendered in this state to
12 produce an accredited production and paid to employees who were residents of this
13 state at the time that they were paid.

14 2. An amount equal to 25 percent of the production expenditures paid by the
15 claimant in the taxable year to produce an accredited production.

16 3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the
17 claimant paid in the taxable year on the purchase of tangible personal property and
18 taxable services that are used directly in producing an accredited production in this
19 state, including all stages from the final script stage to the distribution of the finished
20 production.

21 (c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may
22 be the basis for a credit under this subsection unless the salary or wages are paid for
23 services rendered after December 31, 2005, and directly incurred to produce the
24 accredited production.

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1 2. The total amount of the credit that may be claimed by a claimant under par.
2 (b) 1. shall not exceed an amount equal to the first \$25,000 of salary or wages paid
3 to each of the claimant's employees, as described in par. (b), in the taxable year, not
4 including the salary or wages paid to the claimant's 2 highest paid employees, as
5 described in par. (b), in the taxable year.

6 3. No credit may be allowed under this subsection unless the claimant files an
7 application with the department of commerce, at the time and in the manner
8 prescribed by the department of commerce, and the department of commerce
9 approves the application.

10 4. Partnerships, limited liability companies, and tax-option corporations may
11 not claim the credit under this subsection, but the eligibility for, and the amount of,
12 the credit are based on their payment of wages and salaries. A partnership, limited
13 liability company, or tax-option corporation shall compute the amount of credit that
14 each of its partners, members, or shareholders may claim and shall provide that
15 information to each of them. Partners, members of limited liability companies, and
16 shareholders of tax-option corporations may claim the credit in proportion to their
17 ownership interest.

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

22 2. If the allowable amount of the claim under par. (b) 2. exceeds the tax
23 otherwise due under s. 71.43 or no tax is due under s. 71.43, the amount of the claim
24 not used to offset the tax due shall be certified by the department of revenue to the

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1 department of administration for payment by check, share draft, or other draft
2 drawn from the appropriation account under s. 20.835 (2) (bm).

3 **SECTION 17.** 71.47 (5h) of the statutes is created to read:

4 71.47 (5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In
5 this subsection:

6 1. “Claimant” means a person who files a claim under this subsection and who
7 does business in this state as a film production company.

8 2. “Film production company” means an entity that creates films, videos,
9 electronic games, broadcast advertisement, or television productions, not including
10 the productions described under s. 71.47 (5f) (a) 1. a. to h.

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

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

19 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
20 taxable years beginning after December 31, 2005, a claimant may claim as a credit
21 against the tax imposed under s. 71.43, up to the amount of the taxes, for the first
22 3 taxable years that the claimant is doing business in this state as a film production
23 company, an amount that is equal to 15 percent of the following that the claimant
24 paid in the taxable year to establish a film production company in this state:

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

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

3 (c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the
4 tangible personal property is purchased after December 31, 2005, and the personal
5 property is used for at least 50 percent of its use in the claimant's business as a film
6 production company.

7 2. A claimant may claim the credit under par. (b) 2. for an amount expended
8 to construct, rehabilitate, remodel, or repair real property, if the claimant began the
9 physical work of construction, rehabilitation, remodeling, or repair, or any
10 demolition or destruction in preparation for the physical work, after December 31,
11 2005, or if the completed project is placed in service after December 31, 2005.

12 3. A claimant may claim the credit under par. (b) 2. for an amount expended
13 to acquire real property, if the property is not previously owned property and if the
14 claimant acquires the property after December 31, 2005, or if the completed project
15 is placed in service after December 31, 2005.

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

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

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1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interests.

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

5 **SECTION 18.** 71.49 (1) (epp) of the statutes is created to read:

6 71.49 (1) (epp) Film production services credit under s. 71.47 (5f).

7 **SECTION 19.** 71.49 (1) (epr) of the statutes is created to read:

8 71.49 (1) (epr) Film production company investment credit under s. 71.47 (5h).

9 **SECTION 20.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
10 amended to read:

11 77.92 (4) “Net business income,” with respect to a partnership, means taxable
12 income as calculated under section 703 of the Internal Revenue Code; plus the items
13 of income and gain under section 702 of the Internal Revenue Code, including taxable
14 state and municipal bond interest and excluding nontaxable interest income or
15 dividend income from federal government obligations; minus the items of loss and
16 deduction under section 702 of the Internal Revenue Code, except items that are not
17 deductible under s. 71.21; plus guaranteed payments to partners under section 707
18 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
19 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), ~~and (5f),~~ (5g),
20 and (5h); and plus or minus, as appropriate, transitional adjustments, depreciation
21 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
22 excluding income, gain, loss, and deductions from farming. “Net business income,”
23 with respect to a natural person, estate, or trust, means profit from a trade or

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1 business for federal income tax purposes and includes net income derived as an
2 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

3 (END)