SENATE BILL 563 (LRB -4176)

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

2006

02-07.	S.	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**.
02-03.	S.	Read first time and referred to committee on Job Creation, Economic Development and Consumer Affairs 582
02-07.	S.	Public hearing held.
02-08.	S.	Senate amendment 1 offered by Senator Kanavas **(LRB a2253)** 588
02-09.	S.	Fiscal estimate received.
02-09.	S.	Fiscal estimate received.
02-09.	S.	Executive action taken.
02-14.	S.	Report adoption of Senate Amendment 1 recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 4, Noes 0 596
02-14.	S.	Report passage recommended by committee on Job Creation, Economic Development and Consumer Affairs, Ayes 4, Noes 0 596
02-14.	S.	Available for scheduling.
02-24.	S.	Withdrawn from committee on Senate Organization and rereferred to joint committee on Finance, pursuant to Senate Rule 46 (2)(c) 632
03-30.	S.	Executive action taken.
03-31.	S.	Report adoption of Senate Amendment 1 recommended by joint committee on Finance, Ayes 16, Noes 0 .. 763
03-31.	S.	Report introduction and adoption of Senate Amendment 2 recommended by joint committee on Finance, Ayes 16, Noes 0 **(LRB a2859)** 763
03-31.	S.	Report passage as amended recommended by joint committee on Finance, Ayes 15, Noes 1 763
03-31.	S.	Available for scheduling.
04-24.	S.	Placed on calendar 4-25-2006 by committee on Senate Organization.
04-25.	S.	Read a second time 790
04-25.	S.	Senate amendment 1 **adopted** 790
04-25.	S.	Senate amendment 2 **adopted** 790
04-25.	S.	Ordered to a third reading 790
04-25.	S.	Rules suspended 790
04-25.	S.	Read a third time and **passed**, Ayes 27, Noes 6 790
04-25.	S.	Ordered immediately messaged 792
04-25.	A.	Received from Senate 1045
04-25.	A.	Read first time and referred to calendar 1046
05-02.	A.	Read a second time 1105
05-02.	A.	Ordered to a third reading 1105
05-02.	A.	Rules suspended 1105
05-02.	A.	Read a third time and **concurred in** 1105
05-02.	A.	Ordered immediately messaged 1105
05-03.	S.	Received from Assembly concurred in.

2005
ENROLLED BILL

05en S B- 563

ADOPTED DOCUMENTS:

☒ **Orig** ☐ **Engr** ___ **SubAmdt** ___ **05** - 4176/1

Amendments to above (if none, write "NONE"): SA1 - a2253/1
SA2 - a2859/2

Corrections – show date (if none, write "NONE"): None

Topic Rel

5-8-06
Date

Enrolling Drafter

ELECTRONIC PROCEDURE:

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide*, Document Specific Procedures, Ch. 20, Engrossing and Enrolling

DISTRIBUTION:

HOUSE OF ORIGIN:

- **11 copies plus bill jacket**
- **Secretary of State's envelope containing 4 copies plus newspaper notice**

REVISOR OF STATUTES:

- **5 copies**

DEPARTMENT OF ADMINISTRATION:

- **2 copies**

LRB:

- **Drafting file ..... original**
- **Drafting attorney ..... 1 copy**
- **Legislative editors ..... 1 copy each**
- **Reference section ..... 1 copy**
- **Bill index librarian ..... 1 copy**

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.

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

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:

SECTION 1. 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 2. 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 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and~~ (5d), (5f), and (5h) 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 (1) (g).

SECTION 3. 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, electronic game, broadcast advertisement, or television production, as approved by the department of commerce, 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 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 department of commerce, for the commercial distribution of the finished production.

3. "Production expenditures" means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make–up, 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 expenditure as determined by the department of commerce. "Production expenditures" include 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 headquarters in this state; air travel that is purchased from a travel agency or company that has its headquarters in this state; and insurance that is purchased from an insurance agency or company that has its headquarters in this state. "Production expenditures" do not include expenditures for the marketing and distribution of an accredited production.

INS. 52-1

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

INS. 52-2

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, 2005, and directly incurred to produce the accredited production.

INS. 52-3

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 $25,000 of salary or wages paid to each of the claimant's employees, as described in par. (b), in the taxable year, not including the salary or wages paid to the claimant's 2 highest paid employees, as described in par. (b), in the taxable year.

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

INS. 52-4

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 wages and salaries. 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

INS. 52-5

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).

INS. S2-8

SECTION 4. 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, electronic games, broadcast advertisement, or television productions, not including the productions described under s. 71.07 (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.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2005, a claimant may claim as a credit 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 15 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, 2005, and the personal property is used for at least 50 percent of its use 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, 2005, or if the completed project is placed in service after December 31, 2005.

INSERT S2-9

INS. S2-8

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, 2005, or if the completed project is placed in service after December 31, 2005.

INS. S2-7

4. No claim may be allowed under this subsection unless the department of commerce 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.* 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.

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

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

INS. 52-10

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

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

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

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

INS. 52-11

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

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

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

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

(1ds), (1dx), (3g), (3n), (3t), (5b), ~~and~~ (5f), (5g), and (5h) 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 (1) (g) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

SECTION 10. 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, electronic game, broadcast advertisement, or television production, as approved by the department of commerce, 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 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 department of commerce, for the commercial distribution of the finished production.

3. "Production expenditures" means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make–up, 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 expenditure as determined by the department of commerce. "Production expenditures" include 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 headquarters in this state; air travel that is purchased from a travel agency or company that has its headquarters in this state; and insurance that is purchased from an insurance agency or company that has its

INS. 52-12

headquarters in this state. "Production expenditures" do not include 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, 2005, 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.

INS. 52-13

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, 2005, and directly incurred to produce the accredited production.

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

3. No credit may be allowed under this subsection unless the claimant files an application with the department of commerce, at the time and in the manner prescribed by the department of commerce, and the department of commerce approves the application. INSERT 52-14

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 ~~wages and salaries~~. 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).

SECTION 11. 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, electronic games, broadcast advertisement, or television productions, not including the productions described under s. 71.28 (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.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2005, 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 15 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, 2005, and the personal property is used for at least 50 percent of its use in the claimant's business as a film production company.

INS. S2-16

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, 2005, or if the completed project is placed in service after December 31, 2005.

INS. S2-17

INS. S2-18

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, 2005, or if the completed project is placed in service after December 31, 2005.

INS. S2-19

4. No claim may be allowed under this subsection unless the department of commerce 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.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credits under this subsection.

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

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

SECTION 13. 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 14. 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

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

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

71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dd) to (1dx), (3n), (5b), ~~and~~ (5f), (5g), and (5h) 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 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

SECTION 16. 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, electronic game, broadcast advertisement, or television production, as approved by the department of commerce, 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 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 department of commerce, for the commercial distribution of the finished production.

3. "Production expenditures" means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make–up, 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 expenditure as determined by the department of commerce. "Production expenditures" include 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 headquarters in this state; air travel that is purchased from a travel agency or company that has its headquarters in this state; and insurance that is purchased from an insurance agency or company that has its headquarters in this state. "Production expenditures" do not include expenditures for the marketing and distribution of an accredited production.

INS. 52-20

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2005, 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.

INS. 52-21

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, 2005, and directly incurred to produce the accredited production.

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

3. No credit may be allowed under this subsection unless the claimant files an application with the department of commerce, at the time and in the manner prescribed by the department of commerce, and the department of commerce approves the application. INSERT S2-22

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 ~~wages and salaries~~. 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. INS S2-23

(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).

SECTION 17. 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, electronic games, broadcast advertisement, or television productions, not including the productions described under s. 71.47 (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.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2005, 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 15 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.

INS. S2-20

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, 2005, and the personal property is used for at least 50 percent of its use 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, 2005, or if the completed project is placed in service after December 31, 2005.

INS. S2-25

INSERT S2-26

INS. S2-27

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, 2005, or if the completed project is placed in service after December 31, 2005.

4. No claim may be allowed under this subsection unless the department of commerce 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.* 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.

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

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

SECTION 19. 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 20. 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is amended to read:

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

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

(END)

INSERT S1-1

SENATE AMENDMENT 1,
TO 2005 SENATE BILL 563

February 8, 2006 – Offered by Senator KANAVAS.

SA-1

At the locations indicated, amend the bill as follows:

1. Page 23, line 2: after that line insert:

"**SECTION 21m.** 560.206 of the statutes is created to read:

560.206 Film production tax credits. (1) The department 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 department in each taxable year for which accreditation is desired.

(2) If the department accredits a production under sub. (1), the department shall determine the amount of the production's production expenditures, as defined in s. 71.07 (5f) (a) 3.

(3) The department shall notify the department of revenue of every production accredited under sub. (1) and the amount of the production's production expenditures.

S1-1

(4) The department of commerce, in consultation with the department of revenue, shall promulgate rules to administer this section.".

(END)

SENATE AMENDMENT 2,

TO 2005 SENATE BILL 563

March 31, 2006 – Offered by JOINT COMMITTEE ON FINANCE.

At the locations indicated, amend the bill as follows:

1. Page 4, line 15: after "include" insert "salary or wages or".

2. Page 4, line 18: delete "2005" and substitute "2007".

3. Page 5, line 8: delete "2005" and substitute "2007".

4. Page 5, line 18: after the period insert "The claimant shall submit a copy of the approved application with the claimant's return.".

5. Page 5, line 21: delete "wages and salaries" and substitute "amounts under par. (b)".

6. Page 6, line 8: delete that line and substitute: "otherwise due under s. 71.02 or 71.08 or no tax is due under s. 71.02 or 71.08, the amount of the claim".

7. Page 7, line 4: on lines 4, 13, 23 and 24, delete "2005" and substitute "2007".

8. Page 7, line 20: delete "2005, or" and substitute "2007, or".

9. Page 7, line 20: delete "31, 2005" and substitute "31, 2007".

10. Page 9, line 2: after that line insert:

"**Section 6m.** 71.10 (4) (ga) of the statutes is created to read:

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

11. Page 9, line 8: after "(5f)" insert "(b) 2.".

12. Page 12, line 1: after "include" insert "salary or wages or".

13. Page 12, line 4: on lines 4 and 19, delete "2005" and substitute "2007".

14. Page 13, line 4: after the period insert "The claimant shall submit a copy of the approved application with the claimant's return.".

15. Page 13, line 7: delete "wages and salaries" and substitute "amounts under par. (b)".

16. Page 14, line 13: on lines 13 and 22, delete "2005" and substitute "2007".

17. Page 15, line 5: delete "2005, or" and substitute "2007, or".

18. Page 15, line 5: delete "31, 2005" and substitute "31, 2007".

19. Page 15, line 8: on lines 8 and 9, delete "2005" and substitute "2007".

20. Page 18, line 5: after "include" insert "salary or wages or".

21. Page 18, line 8: on lines 8 and 23, delete "2005" and substitute "2007".

22. Page 19, line 9: after the period insert "The claimant shall submit a copy of the approved application with the claimant's return.".

23. Page 19, line 12: delete "wages and salaries" and substitute "amounts under par. (b)".

24. Page 20, line 20: delete "2005" and substitute "2007".

S2-25

25. Page 21, line 4: on lines 4, 14 and 15, delete "2005" and substitute "2007".

S2-26

26. Page 21, line 11: delete "2005, or" and substitute "2007, or".

S2-27

27. Page 21, line 11: delete "31, 2005" and substitute "31, 2007".

(END)