

2007 DRAFTING REQUEST

Bill

Received: **02/13/2008**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Transfer of, and the residency requirements under, the film production tax credits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 02/13/2008	lkunkel 02/13/2008		_____			State
/1			rschluet 02/14/2008	_____	sbasford 02/14/2008	cduerst 02/15/2008	

FE Sent For:

at intro
3/5

<END>

2007 DRAFTING REQUEST

Bill

Received: **02/13/2008**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Transfer of, and the residency requirements under, the film production tax credits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 02/13/2008	lkunkel 02/13/2008		_____			State
/1			rschluet 02/14/2008	_____	sbasford 02/14/2008		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 02/13/2008

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Jeffrey Plale (608) 266-7505

By/Representing:

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - credits

Extra Copies:

Submit via email: YES

Requester's email: Sen.Plale@legis.wisconsin.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Transfer of, and the residency requirements under, the film production tax credits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	jkreye	ilmk 2/13					
----	--------	-----------	---	--	--	--	--

FE Sent For:

<END>

409/1
Says

2007 BILL

reger
in 2-13-08
due PRI 2-15-08

1 AN ACT *to renumber* 71.07 (5f) (a) 1., 71.28 (5f) (a) 1. and 71.47 (5f) (a) 1.; *to*
2 *amend* 71.07 (5f) (b) 1., 71.07 (5f) (c) 2., 71.07 (5h) (a) 2., 71.28 (5f) (b) 1., 71.28
3 (5f) (c) 2., 71.28 (5h) (a) 2., 71.47 (5f) (b) 1., 71.47 (5f) (c) 2. and 71.47 (5h) (a) 2.;
4 and *to create* 71.07 (5f) (a) 1d., 71.07 (5f) (a) 1m., 71.07 (5f) (e) and (f), 71.07
5 (5h) (e) and (f), 71.28 (5f) (a) 1d., 71.28 (5f) (a) 1m., 71.28 (5f) (e) and (f), 71.28
6 (5h) (e) and (f), 71.47 (5f) (a) 1d., 71.47 (5f) (a) 1m., 71.47 (5f) (e) and (f), 71.47
7 (5h) (e) and (f) and 560.206 (5) of the statutes; **relating to:** the transfer of, and
8 the wage claims and residency requirements under, the film production tax
9 credits.

Analysis by the Legislative Reference Bureau

Under current law, a film production company may claim income and franchise tax credits for expenses related to film production services, including a percentage of the salary or wages paid to the company's employees in this state, and for capital investments made in this state by the film production company. This bill allows a film production company to transfer its film production tax credits to other taxpayers who may claim the credits against their state income and franchise tax liability.

Under current law, the amount of the credit that a film production company may claim for salary or wages is limited to the first \$25,000 paid to each of the

BILL

company's employees who were residents of this state at the time that they were paid. Under the bill, ~~the amount of the credit that a film production company may claim for salary or wages is the first \$100,000 that the company paid to each crew member and the first \$1,000,000 that the company paid to each writer, director, producer, or actor.~~ In addition, for taxable years beginning after December 31, 2007, and before January 1, 2010, the company may claim credits for employees who are not residents of this state at the time that they were paid. However, for taxable years beginning after December 31, 2009, and before January 1, 2014, a film production company may claim credits for employees who are not residents of this state at the time that they were paid, only if the Department of Commerce (Commerce) certifies that at least 25 percent of the company's employees were residents of this state at the time that they were paid. For taxable years beginning on or after January 1, 2014, a film production company may claim credits for employees who are not residents of this state at the time that they were paid, only if Commerce certifies that at least 50 percent of the company's employees were residents of this state at the time that they were paid.

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

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

~~SECTION 1. 71.07 (5f) (a) 1. of the statutes is renumbered 71.07 (5f) (a) 1g.~~

~~SECTION 2. 71.07 (5f) (a) 1d. of the statutes is created to read:~~

~~71.07 (5f) (a) 1d. "Above-the-line employee" means a writer, director, actor, or producer.~~

~~SECTION 3. 71.07 (5f) (a) 1m. of the statutes is created to read:~~

~~71.07 (5f) (a) 1m. "Below-the-line employee" means an employee who is not an above-the-line employee.~~

SECTION 4. 71.07 (5f) (b) 1. of the statutes is amended to read:

71.07 (5f) (b) 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, subject to s. 560.206 (5), paid to employees who were residents of this state at the time that they were paid.

~~SECTION 5. 71.07 (5f) (c) 2. of the statutes is amended to read:~~

BILL

1 71.07 (5f) (c) 2. The total amount of the credits that may be claimed by a
2 claimant under par. (b) 1. shall not exceed an amount equal to the first \$25,000
3 \$100,000 of salary or wages paid to each of the claimant's below-the-line employees,
4 ~~as described in par. (b), in the taxable year, not including the salary or wages paid~~
5 ~~to the claimant's 2 highest paid~~ and the first \$1,000,000 of salary and wages paid to
6 each of the claimant's above-the-line employees, ~~as described in par. (b), in the~~
7 taxable year.

8 **SECTION 6.** 71.07 (5f) (e) and (f) of the statutes are created to read:

9 71.07 (5f) (e) *Transfer of credits.* 1. Any person who is eligible to claim a credit
10 under this subsection, as approved by the department of commerce, may, instead of
11 claiming the credit, transfer the credit amount, in whole or in part, to another person
12 who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43.

13 2. A person who transfers credit amounts under subd. 1. may make no more
14 than 3 such transfers in any calendar year, but a single transfer may involve one or
15 more transferees.

16 3. A person who intends to transfer credit amounts under subd. 1. shall submit
17 to the department of revenue an application that provides the transferor's tax credit
18 balance under this subsection before and after the requested transfer, all tax
19 identification numbers for the transferor and the transferee, the intended date of the
20 transfer, the amount transferred, and any other information required by the
21 department. The intended transferee of such credits shall submit to the department
22 of revenue an application that provides any information required by the department.
23 The person requesting to transfer the credits and the requesting transferee shall
24 each pay to the department of revenue a fee in an amount equal to 1 percent of the
25 credit amounts requested to be transferred or \$500, whichever is less. The person

BILL**SECTION 6**

1 requesting to transfer the credits shall pay to the department of commerce a fee in
2 an amount equal to 2 percent of the credit amounts requested to be transferred or
3 \$5,000, whichever is less. The department of revenue shall certify the transfer before
4 the transfer takes place. The department of revenue shall not issue a certification
5 to either party if either the transferor or transferee has not met all Wisconsin tax
6 return filing, withholding, and payment obligations. The transferor and transferee
7 shall, at the time that each of them file a Wisconsin income or franchise tax return
8 for the taxable year in which the transfer takes place, attach a copy of the
9 certification to the return and submit a copy of the certification to the department
10 of commerce. The transferee shall attach a copy of the certification to its Wisconsin
11 income or franchise tax return for each taxable year in which the transferee claims
12 the credit transferred pursuant to this subdivision.

13 4. The transfer of any credit amount under subd. 1. does not extend the time
14 in which the credit may be claimed and the carry-forward period for any credit
15 amount that is transferred begins with the first taxable year in which the transferor
16 is eligible to receive the credit on which the transfer is based.

17 5. A transferee shall have only such rights to claim the credit amounts that
18 were available to the transferor at the time of the transfer. To the extent that the
19 transferor was not eligible to claim the credit at the time of the transfer, the
20 department of revenue shall disallow the credit amount claimed by the transferee
21 or recapture the credit amount from the transferee and the transferee shall have no
22 recourse against the department of revenue or the department of commerce.

23 6. Any consideration paid for a transfer of credit amounts under subd. 1. shall
24 not be deducted from income, and any consideration received from the transfer shall
25 not be included as income. The transferor may not subtract any amount of credit

BILL

1 previously added back to income under s. 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a)
2 10., or 77.92 (4).

3 (f) *Reports.* Annually, no later than April 1, the department of revenue shall,
4 in consultation with the department of commerce, submit to the joint committee on
5 finance a report assessing the use of the credit under this subsection, including the
6 provisions allowing a claimant to transfer such credits to another person. The report
7 shall contain all of the following information, subject to s. 71.78:

8 1. The number of persons who obtained the credit in the previous fiscal year
9 without transferring such credit, regardless of whether the person was able to claim
10 the credit as an offset against Wisconsin income or franchise taxes.

11 2. The number of persons who received the credit in the previous fiscal year that
12 was transferred from another person, regardless of when the credits were originally
13 obtained by the transferor and regardless of whether the transferee was able to claim
14 the credit as an offset against Wisconsin income or franchise taxes.

15 3. The total amount of the credit that was claimed as an offset against the tax
16 liability of persons described in subd. 1. in the previous fiscal year.

17 4. The total amount of credit that was claimed as an offset against the tax
18 liability of persons described in subd. 2. in the previous fiscal year.

19 5. A description of any material noncompliance identified by the department
20 of revenue or the department of commerce regarding the claiming of the credit by
21 persons described in subds. 1. and 2.

22 **SECTION 7.** 71.07 (5h) (a) 2. of the statutes is amended to read:

23 71.07 (5h) (a) 2. "Film production company" means an entity that creates films,
24 videos, electronic games, broadcast advertisement, or television productions, not
25 including the productions described under s. 71.07 (5f) (a) ~~1.~~ 1g. a. to h.

BILL**SECTION 8**

1 **SECTION 8.** 71.07 (5h) (e) and (f) of the statutes are created to read:

2 71.07 **(5h)** (e) *Transfer of credits.* 1. Any person who is eligible to claim a credit
3 under this subsection, as approved by the department of commerce, may, instead of
4 claiming the credit, transfer the credit amount, in whole or in part, to another person
5 who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43.

6 2. A person who transfers credit amounts under subd. 1. may make no more
7 than 3 such transfers in any calendar year, but a single transfer may involve one or
8 more transferees.

9 3. A person who intends to transfer credit amounts under subd. 1. shall submit
10 to the department of revenue an application that provides the transferor's tax credit
11 balance under this subsection before and after the requested transfer, all tax
12 identification numbers for the transferor and the transferee, the intended date of the
13 transfer, the amount transferred, and any other information required by the
14 department. The intended transferee of such credits shall submit to the department
15 of revenue an application that provides any information required by the department.
16 The person requesting to transfer the credits and the requesting transferee shall
17 each pay to the department of revenue a fee in an amount equal to 1 percent of the
18 credit amounts requested to be transferred or \$500, whichever is less. The person
19 requesting to transfer the credits shall pay to the department of commerce a fee in
20 an amount equal to 2 percent of the credit amounts requested to be transferred or
21 \$5,000, whichever is less. The department of revenue shall certify the transfer before
22 the transfer takes place. The department of revenue shall not issue a certification
23 to either party if either the transferor or transferee has not met all Wisconsin tax
24 return filing, withholding, and payment obligations. The transferor and transferee
25 shall, at the time that each of them file a Wisconsin income or franchise tax return

BILL

1 for the taxable year in which the transfer takes place, attach a copy of the
2 certification to the return and submit a copy of the certification to the department
3 of commerce. The transferee shall attach a copy of the certification to its Wisconsin
4 income or franchise tax return for each taxable year in which the transferee claims
5 the credit transferred pursuant to this subdivision.

6 4. The transfer of any credit amount under subd. 1. does not extend the time
7 in which the credit may be claimed and the carry-forward period for any credit
8 amount that is transferred begins with the first taxable year in which the transferor
9 is eligible to receive the credit on which the transfer is based.

10 5. A transferee shall have only such rights to claim the credit amounts that
11 were available to the transferor at the time of the transfer. To the extent that the
12 transferor was not eligible to claim the credit at the time of the transfer, the
13 department of revenue shall disallow the credit amount claimed by the transferee
14 or recapture the credit amount from the transferee and the transferee shall have no
15 recourse against the department of revenue or the department of commerce.

16 6. Any consideration paid for a transfer of credit amounts under subd. 1. shall
17 not be deducted from income, and any consideration received from the transfer shall
18 not be included as income. The transferor may not subtract any amount of credit
19 previously added back to income under s. 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a)
20 10., or 77.92 (4).

21 (f) *Reports.* Annually, no later than April 1, the department of revenue shall,
22 in consultation with the department of commerce, submit to the joint committee on
23 finance a report assessing the use of the credit under this subsection, including the
24 provisions allowing a claimant to transfer such credits to another person. The report
25 shall contain all of the following information, subject to s. 71.78:

BILL**SECTION 8**

1 1. The number of persons who obtained the credit in the previous fiscal year
2 without transferring such credit, regardless of whether the person was able to claim
3 the credit as an offset against Wisconsin income or franchise taxes.

4 2. The number of persons who received the credit in the previous fiscal year that
5 was transferred from another person, regardless of when the credits were originally
6 obtained by the transferor and regardless of whether the transferee was able to claim
7 the credit as an offset against Wisconsin income or franchise taxes.

8 3. The total amount of the credit that was claimed as an offset against the tax
9 liability of persons described in subd. 1. in the previous fiscal year.

10 4. The total amount of credit that was claimed as an offset against the tax
11 liability of persons described in subd. 2. in the previous fiscal year.

12 5. A description of any material noncompliance identified by the department
13 of revenue or the department of commerce regarding the claiming of the credit by
14 persons described in subds. 1. and 2.

15 **SECTION 9.** 71.28 (5f) (a) 1. of the statutes is renumbered 71.28 (5f) (a) 1g.

16 **SECTION 10.** 71.28 (5f) (a) 1d. of the statutes is created to read:

17 71.28 **(5f)** (a) 1d. "Above-the-line employee" means a writer, director, actor, or
18 producer.

19 **SECTION 11.** 71.28 (5f) (a) 1m. of the statutes is created to read:

20 71.28 **(5f)** (a) 1m. "Below-the-line employee" means an employee who is not
21 an above-the-line employee.

22 **SECTION 12.** 71.28 (5f) (b) 1. of the statutes is amended to read:

23 71.28 **(5f)** (b) 1. An amount equal to 25 percent of the salary or wages paid by
24 the claimant to the claimant's employees in the taxable year for services rendered in

BILL

1 this state to produce an accredited production and, subject to s. 560.206 (5), paid to
2 employees who were residents of this state at the time that they were paid.

3 ~~SECTION 13. 71.28 (5f) (c) 2. of the statutes is amended to read:~~

4 71.28 (5f) (c) 2. The total amount of the credit that may be claimed by a claimant
5 under par. (b) 1. shall not exceed an amount equal to the first ~~\$25,000~~ \$100,000 of
6 salary or wages paid to each of the claimant's below-the-line employees, as
7 described in par. (b), in the taxable year, ~~not including the salary or wages paid to the~~
8 claimant's 2 highest paid and the first \$1,000,000 of salary or wages paid to each of
9 the claimant's above-the-line employees, as described in par. (b), in the taxable year.

10 SECTION 14. 71.28 (5f) (e) and (f) of the statutes are created to read:

11 71.28 (5f) (e) *Transfer of credits.* 1. Any person who is eligible to claim a credit
12 under this subsection, as approved by the department of commerce, may, instead of
13 claiming the credit, transfer the credit amount, in whole or in part, to another person
14 who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43.

15 2. A person who transfers credit amounts under subd. 1. may make no more
16 than 3 such transfers in any calendar year, but a single transfer may involve one or
17 more transferees.

18 3. A person who intends to transfer credit amounts under subd. 1. shall submit
19 to the department of revenue an application that provides the transferor's tax credit
20 balance under this subsection before and after the requested transfer, all tax
21 identification numbers for the transferor and the transferee, the intended date of the
22 transfer, the amount transferred, and any other information required by the
23 department. The intended transferee of such credits shall submit to the department
24 of revenue an application that provides any information required by the department.
25 The person requesting to transfer the credits and the requesting transferee shall

BILL**SECTION 14**

1 each pay to the department of revenue a fee in an amount equal to 1 percent of the
2 credit amounts requested to be transferred or \$500, whichever is less. The person
3 requesting to transfer the credits shall pay to the department of commerce a fee in
4 an amount equal to 2 percent of the credit amounts requested to be transferred or
5 \$5,000, whichever is less. The department of revenue shall certify the transfer before
6 the transfer takes place. The department of revenue shall not issue a certification
7 to either party if either the transferor or transferee has not met all Wisconsin tax
8 return filing, withholding, and payment obligations. The transferor and transferee
9 shall, at the time that each of them file a Wisconsin income or franchise tax return
10 for the taxable year in which the transfer takes place, attach a copy of the
11 certification to the return and submit a copy of the certification to the department
12 of commerce. The transferee shall attach a copy of the certification to its Wisconsin
13 income or franchise tax return for each taxable year in which the transferee claims
14 the credit transferred pursuant to this subdivision.

15 4. The transfer of any credit amount under subd. 1. does not extend the time
16 in which the credit may be claimed and the carry-forward period for any credit
17 amount that is transferred begins with the first taxable year in which the transferor
18 is eligible to receive the credit on which the transfer is based.

19 5. A transferee shall have only such rights to claim the credit amounts that
20 were available to the transferor at the time of the transfer. To the extent that the
21 transferor was not eligible to claim the credit at the time of the transfer, the
22 department of revenue shall disallow the credit amount claimed by the transferee
23 or recapture the credit amount from the transferee and the transferee shall have no
24 recourse against the department of revenue or the department of commerce.

BILL

1 6. Any consideration paid for a transfer of credit amounts under subd. 1. shall
2 not be deducted from income, and any consideration received from the transfer shall
3 not be included as income. The transferor may not subtract any amount of credit
4 previously added back to income under s. 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a)
5 10., or 77.92 (4).

6 (f) *Reports.* Annually, no later than April 1, the department of revenue shall,
7 in consultation with the department of commerce, submit to the joint committee on
8 finance a report assessing the use of the credit under this subsection, including the
9 provisions allowing a claimant to transfer such credits to another person. The report
10 shall contain all of the following information, subject to s. 71.78:

11 1. The number of persons who obtained the credit in the previous fiscal year
12 without transferring such credit, regardless of whether the person was able to claim
13 the credit as an offset against Wisconsin income or franchise taxes.

14 2. The number of persons who received the credit in the previous fiscal year that
15 was transferred from another person, regardless of when the credits were originally
16 obtained by the transferor and regardless of whether the transferee was able to claim
17 the credit as an offset against Wisconsin income or franchise taxes.

18 3. The total amount of the credit that was claimed as an offset against the tax
19 liability of persons described in subd. 1. in the previous fiscal year.

20 4. The total amount of credit that was claimed as an offset against the tax
21 liability of persons described in subd. 2. in the previous fiscal year.

22 5. A description of any material noncompliance identified by the department of
23 revenue or the department of commerce regarding the claiming of the credit by
24 persons described in subd. 1. and 2.

25 **SECTION 15.** 71.28 (5h) (a) 2. of the statutes is amended to read:

BILL**SECTION 15**

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

4 **SECTION 16.** 71.28 (5h) (e) and (f) of the statutes are created to read:

5 71.28 (5h) (e) *Transfer of credits.* 1. Any person who is eligible to claim a credit
6 under this subsection, as approved by the department of commerce, may, instead of
7 claiming the credit, transfer the credit amount, in whole or in part, to another person
8 who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43.

9 2. A person who transfers credit amounts under subd. 1. may make no more
10 than 3 such transfers in any calendar year, but a single transfer may involve one or
11 more transferees.

12 3. A person who intends to transfer credit amounts under subd. 1. shall submit
13 to the department of revenue an application that provides the transferor's tax credit
14 balance under this subsection before and after the requested transfer, all tax
15 identification numbers for the transferor and the transferee, the intended date of the
16 transfer, the amount transferred, and any other information required by the
17 department. The intended transferee of such credits shall submit to the department
18 of revenue an application that provides any information required by the department.
19 The person requesting to transfer the credits and the requesting transferee shall
20 each pay to the department of revenue a fee in an amount equal to 1 percent of the
21 credit amounts requested to be transferred or \$500, whichever is less. The person
22 requesting to transfer the credits shall pay to the department of commerce a fee in
23 an amount equal to 2 percent of the credit amounts requested to be transferred or
24 \$5,000, whichever is less. The department of revenue shall certify the transfer before
25 the transfer takes place. The department of revenue shall not issue a certification

BILL

1 to either party if either the transferor or transferee has not met all Wisconsin tax
2 return filing, withholding, and payment obligations. The transferor and transferee
3 shall, at the time that each of them file a Wisconsin income or franchise tax return
4 for the taxable year in which the transfer takes place, attach a copy of the
5 certification to the return and submit a copy of the certification to the department
6 of commerce. The transferee shall attach a copy of the certification to its Wisconsin
7 income or franchise tax return for each taxable year in which the transferee claims
8 the credit transferred pursuant to this subdivision.

9 4. The transfer of any credit amount under subd. 1. does not extend the time
10 in which the credit may be claimed and the carry-forward period for any credit
11 amount that is transferred begins with the first taxable year in which the transferor
12 is eligible to receive the credit on which the transfer is based.

13 5. A transferee shall have only such rights to claim the credit amounts that
14 were available to the transferor at the time of the transfer. To the extent that the
15 transferor was not eligible to claim the credit at the time of the transfer, the
16 department of revenue shall disallow the credit amount claimed by the transferee
17 or recapture the credit amount from the transferee and the transferee shall have no
18 recourse against the department of revenue or the department of commerce.

19 6. Any consideration paid for a transfer of credit amounts under subd. 1. shall
20 not be deducted from income, and any consideration received from the transfer shall
21 not be included as income. The transferor may not subtract any amount of credit
22 previously added back to income under s. 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a)
23 10., or 77.92 (4).

24 (f) *Reports.* Annually, no later than April 1, the department of revenue shall,
25 in consultation with the department of commerce, submit to the joint committee on

BILL**SECTION 16**

1 finance a report assessing the use of the credit under this subsection, including the
2 provisions allowing a claimant to transfer such credits to another person. The report
3 shall contain all of the following information, subject to s. 71.78:

4 1. The number of persons who obtained the credit in the previous fiscal year
5 without transferring such credit, regardless of whether the person was able to claim
6 the credit as an offset against Wisconsin income or franchise taxes.

7 2. The number of persons who received the credit in the previous fiscal year that
8 was transferred from another person, regardless of when the credits were originally
9 obtained by the transferor and regardless of whether the transferee was able to claim
10 the credit as an offset against Wisconsin income or franchise taxes.

11 3. The total amount of the credit that was claimed as an offset against the tax
12 liability of persons described in subd. 1. in the previous fiscal year.

13 4. The total amount of credit that was claimed as an offset against the tax
14 liability of persons described in subd. 2. in the previous fiscal year.

15 5. A description of any material noncompliance identified by the department
16 of revenue or the department of commerce regarding the claiming of the credit by
17 persons described in subds. 1. and 2.

18 ~~SECTION 17.~~ 71.47 (5f) (a) 1. of the statutes is renumbered 71.47 (5f) (a) 1g.

19 **SECTION 18.** 71.47 (5f) (a) 1d. of the statutes is created to read:

20 71.47 (5f) (a) 1d. "Above-the-line employee" means a writer, director, actor, or
21 producer.

22 **SECTION 19.** 71.47 (5f) (a) 1m. of the statutes is created to read:

23 71.47 (5f) (a) 1m. "Below-the-line employee" means an employee who is not
24 an above-the-line employee.

25 **SECTION 20.** 71.47 (5f) (b) 1. of the statutes is amended to read:

BILL

1 71.47 (5f) (b) 1. An amount equal to 25 percent of the salary or wages paid by
2 the claimant to the claimant's employees in the taxable year for services rendered in
3 this state to produce an accredited production and, subject to s. 560.206 (5), paid to
4 employees who were residents of this state at the time that they were paid.

5 ~~SECTION 21. 71.47 (5f) (c) 2. of the statutes is amended to read:~~

6 71.47 (5f) (c) 2. The total amount of the credit that may be claimed by a claimant
7 under par. (b) 1. shall not exceed an amount equal to the first \$25,000 \$100,000 of
8 salary or wages paid to each of the claimant's below-the-line employees, ~~as~~
9 ~~described in par. (b)~~, in the taxable year, ~~not including the salary or wages paid to the~~
10 ~~claimant's 2 highest paid and the first \$1,000,000 of salary or wages paid to each of~~
11 ~~the claimant's above-the-line employees, as described in par. (b)~~, in the taxable year.

12 **SECTION 22.** 71.47 (5f) (e) and (f) of the statutes are created to read:

13 71.47 (5f) (e) *Transfer of credits.* 1. Any person who is eligible to claim a credit
14 under this subsection, as approved by the department of commerce, may, instead of
15 claiming the credit, transfer the credit amount, in whole or in part, to another person
16 who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43.

17 2. A person who transfers credit amounts under subd. 1. may make no more
18 than 3 such transfers in any calendar year, but a single transfer may involve one or
19 more transferees.

20 3. A person who intends to transfer credit amounts under subd. 1. shall submit
21 to the department of revenue an application that provides the transferor's tax credit
22 balance under this subsection before and after the requested transfer, all tax
23 identification numbers for the transferor and the transferee, the intended date of the
24 transfer, the amount transferred, and any other information required by the
25 department. The intended transferee of such credits shall submit to the department

BILL

1 of revenue an application that provides any information required by the department.
2 The person requesting to transfer the credits and the requesting transferee shall
3 each pay to the department of revenue a fee in an amount equal to 1 percent of the
4 credit amounts requested to be transferred or \$500, whichever is less. The person
5 requesting to transfer the credits shall pay to the department of commerce a fee in
6 an amount equal to 2 percent of the credit amounts requested to be transferred or
7 \$5,000, whichever is less. The department of revenue shall certify the transfer before
8 the transfer takes place. The department of revenue shall not issue a certification
9 to either party if either the transferor or transferee has not met all Wisconsin tax
10 return filing, withholding, and payment obligations. The transferor and transferee
11 shall, at the time that each of them file a Wisconsin income or franchise tax return
12 for the taxable year in which the transfer takes place, attach a copy of the
13 certification to the return and submit a copy of the certification to the department
14 of commerce. The transferee shall attach a copy of the certification to its Wisconsin
15 income or franchise tax return for each taxable year in which the transferee claims
16 the credit transferred pursuant to this subdivision.

17 4. The transfer of any credit amount under subd. 1. does not extend the time
18 in which the credit may be claimed and the carry-forward period for any credit
19 amount that is transferred begins with the first taxable year in which the transferor
20 is eligible to receive the credit on which the transfer is based.

21 5. A transferee shall have only such rights to claim the credit amounts that
22 were available to the transferor at the time of the transfer. To the extent that the
23 transferor was not eligible to claim the credit at the time of the transfer, the
24 department of revenue shall disallow the credit amount claimed by the transferee

BILL

1 or recapture the credit amount from the transferee and the transferee shall have no
2 recourse against the department of revenue or the department of commerce.

3 6. Any consideration paid for a transfer of credit amounts under subd. 1. shall
4 not be deducted from income, and any consideration received from the transfer shall
5 not be included as income. The transferor may not subtract any amount of credit
6 previously added back to income under s. 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a)
7 10., or 77.92 (4).

8 (f) *Reports.* Annually, no later than April 1, the department of revenue shall,
9 in consultation with the department of commerce, submit to the joint committee on
10 finance a report assessing the use of the credit under this subsection, including the
11 provisions allowing a claimant to transfer such credits to another person. The report
12 shall contain all of the following information, subject to s. 71.78:

13 1. The number of persons who obtained the credit in the previous fiscal year
14 without transferring such credit, regardless of whether the person was able to claim
15 the credit as an offset against Wisconsin income or franchise taxes.

16 2. The number of persons who received the credit in the previous fiscal year that
17 was transferred from another person, regardless of when the credits were originally
18 obtained by the transferor and regardless of whether the transferee was able to claim
19 the credit as an offset against Wisconsin income or franchise taxes.

20 3. The total amount of the credit that was claimed as an offset against the tax
21 liability of persons described in subd. 1. in the previous fiscal year.

22 4. The total amount of credit that was claimed as an offset against the tax
23 liability of persons described in subd. 2. in the previous fiscal year.

BILL**SECTION 22**

1 5. A description of any material noncompliance identified by the department
2 of revenue or the department of commerce regarding the claiming of the credit by
3 persons described in subds. 1. and 2.

4 **SECTION 23.** 71.47 (5h) (a) 2. of the statutes is amended to read:

5 71.47 (5h) (a) 2. "Film production company" means an entity that creates films,
6 videos, electronic games, broadcast advertisement, or television productions, not
7 including the productions described under s. 71.47 (5f) (a) ~~1.~~ 1g. a. to h.

8 **SECTION 24.** 71.47 (5h) (e) and (f) of the statutes are created to read:

9 71.47 (5h) (e) *Transfer of credits.* 1. Any person who is eligible to claim a credit
10 under this subsection, as approved by the department of commerce, may, instead of
11 claiming the credit, transfer the credit amount, in whole or in part, to another person
12 who is subject to the taxes imposed under s. 71.02, 71.23, or 71.43.

13 2. A person who transfers credit amounts under subd. 1. may make no more
14 than 3 such transfers in any calendar year, but a single transfer may involve one or
15 more transferees.

16 3. A person who intends to transfer credit amounts under subd. 1. shall submit
17 to the department of revenue an application that provides the transferor's tax credit
18 balance under this subsection before and after the requested transfer, all tax
19 identification numbers for the transferor and the transferee, the intended date of the
20 transfer, the amount transferred, and any other information required by the
21 department. The intended transferee of such credits shall submit to the department
22 of revenue an application that provides any information required by the department.
23 The person requesting to transfer the credits and the requesting transferee shall
24 each pay to the department of revenue a fee in an amount equal to 1 percent of the
25 credit amounts requested to be transferred or \$500, whichever is less. The person

BILL

1 requesting to transfer the credits shall pay to the department of commerce a fee in
2 an amount equal to 2 percent of the credit amounts requested to be transferred or
3 \$5,000, whichever is less. The department of revenue shall certify the transfer before
4 the transfer takes place. The department of revenue shall not issue a certification
5 to either party if either the transferor or transferee has not met all Wisconsin tax
6 return filing, withholding, and payment obligations. The transferor and transferee
7 shall, at the time that each of them file a Wisconsin income or franchise tax return
8 for the taxable year in which the transfer takes place, attach a copy of the
9 certification to the return and submit a copy of the certification to the department
10 of commerce. The transferee shall attach a copy of the certification to its Wisconsin
11 income or franchise tax return for each taxable year in which the transferee claims
12 the credit transferred pursuant to this subdivision.

13 4. The transfer of any credit amount under subd. 1. does not extend the time
14 in which the credit may be claimed and the carry-forward period for any credit
15 amount that is transferred begins with the first taxable year in which the transferor
16 is eligible to receive the credit on which the transfer is based.

17 5. A transferee shall have only such rights to claim the credit amounts that
18 were available to the transferor at the time of the transfer. To the extent that the
19 transferor was not eligible to claim the credit at the time of the transfer, the
20 department of revenue shall disallow the credit amount claimed by the transferee
21 or recapture the credit amount from the transferee and the transferee shall have no
22 recourse against the department of revenue or the department of commerce.

23 6. Any consideration paid for a transfer of credit amounts under subd. 1. shall
24 not be deducted from income, and any consideration received from the transfer shall
25 not be included as income. The transferor may not subtract any amount of credit

BILL**SECTION 24**

1 previously added back to income under s. 71.05 (6) (a) 15., 71.26 (2) (a), 71.45 (2) (a)
2 10., or 77.92 (4).

3 (f) *Reports.* Annually, no later than April 1, the department of revenue shall,
4 in consultation with the department of commerce, submit to the joint committee on
5 finance a report assessing the use of the credit under this subsection, including the
6 provisions allowing a claimant to transfer such credits to another person. The report
7 shall contain all of the following information, subject to s. 71.78:

8 1. The number of persons who obtained the credit in the previous fiscal year
9 without transferring such credit, regardless of whether the person was able to claim
10 the credit as an offset against Wisconsin income or franchise taxes.

11 2. The number of persons who received the credit in the previous fiscal year that
12 was transferred from another person, regardless of when the credits were originally
13 obtained by the transferor and regardless of whether the transferee was able to claim
14 the credit as an offset against Wisconsin income or franchise taxes.

15 3. The total amount of the credit that was claimed as an offset against the tax
16 liability of persons described in subd. 1. in the previous fiscal year.

17 4. The total amount of credit that was claimed as an offset against the tax
18 liability of persons described in subd. 2. in the previous fiscal year.

19 5. A description of any material noncompliance identified by the department
20 of revenue or the department of commerce regarding the claiming of the credit by
21 persons described in subds. 1. and 2.

22 **SECTION 25.** 560.206 (5) of the statutes is created to read:

23 560.206 (5) (a) Notwithstanding ss. 71.07 (5f) (b) 1., 71.28 (5f) (b) 1., and 71.47
24 (5f) (b) 1., for taxable years beginning after December 31, 2007, and before January
25 1, 2010, a person may claim the credits under ss. 71.07 (5f) (b) 1., 71.28 (5f) (b) 1., and

BILL

1 71.47 (5f) (b) 1. for employees who are not residents of this state at the time that they
2 were paid.

3 (b) Notwithstanding ss. 71.07 (5f) (b) 1., 71.28 (5f) (b) 1., and 71.47 (5f) (b) 1.,
4 for taxable years beginning after December 31, 2009, and before January 1, 2014, a
5 person may claim the credits under ss. 71.07 (5f) (b) 1., 71.28 (5f) (b) 1., and 71.47 (5f)
6 (b) 1. for employees who are not residents of this state at the time that they were paid,
7 if the department certifies that at least 25 percent of the person's employees related
8 to the production for which the person is receiving credits were residents of this state
9 at the time that they were paid.

10 (c) Notwithstanding ss. 71.07 (5f) (b) 1., 71.28 (5f) (b) 1., and 71.47 (5f) (b) 1.,
11 for taxable years beginning after December 31, 2013, a person may claim the credits
12 under ss. 71.07 (5f) (b) 1., 71.28 (5f) (b) 1., and 71.47 (5f) (b) 1. for employees who are
13 not residents of this state at the time that they were paid, if the department certifies
14 that at least 50 percent of the person's employees related to the production for which
15 the person is receiving credits were residents of this state at the time that they were
16 paid.

17 (END)

Please jouet

step 1 for

the club

Joe