

Subject Film production tax credit

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## Overview

The bill establishes a non-refundable income and corporate franchise tax credit equal to 25 percent of “film production costs.” The credit is transferable in whole or in part, and capped at \$25 million per taxable year through 2030, after which no credits may be allocated. Under the bill, the Department of Employment and Economic Development (DEED) is responsible for administering the application process for the credit.

## Summary

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**1 Film production credit.**

**Subd. 1. Definitions.** Defines “allocation certificate,” “application,” “commissioner,” “credit certificate,” “eligible production costs,” “film,” “project,” and “promotion of Minnesota.”

“Eligible production costs” are defined by reference to the direct spending film production jobs program statute (section 116U.26). Defined costs cover amounts spent for a broad range of activities involved in making a film, such as:

- the story and scenario;
- salaries of talent, management, and labor;
- set construction and operations, wardrobe, accessories, and related services;
- photography, sound synchronization, lighting, and related services;
- editing;
- rental of facilities and equipment;
- other direct costs of production under generally accepted entertainment industry practice;
- above-the-line talent fees for nonresident talent; and

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- postproduction costs.

“Allocation certificate” means a certificate issued by DEED upon receipt of an application for the credit.

“Application” means the application for a credit certificate under subdivision 4.

“Commissioner” means the commissioner of DEED.

“Credit certificate” means a certificate issued by DEED after the cost verification report under subdivision 4 has been made.

“Films” are defined by reference to include television or Internet pilots, programs, series, documentaries, music videos, and television commercials, but exclude news, weather, current events, talk shows, sports coverage, award shows, and similar.

“Project” is defined as a film that includes the promotion of Minnesota and for which a taxpayer expended at least \$1 million in eligible production costs in the taxable year.

“Promotion of Minnesota” means visible display of the term “produced in Minnesota” or “filmed in Minnesota.”

**Subd. 2. Credit allowed.** Provides an income and corporate franchise tax credit equal to 25 percent of “eligible production costs.” A taxpayer may only claim a credit if a credit certificate is issued.

**Subd. 3. Credit assignable.** Allows a taxpayer to sell or assign the credit in whole or in part. The sale or assignment must be for 75 percent of the credit amount.

The assignee must notify DEED within 30 days of the assignment.

**Subd. 4. Application; allocations.** Requires taxpayers to apply to DEED prior to claiming the credit.

Requires DEED to issue allocation certificates that verify eligibility for the credit, state the amount of credit anticipated, and state the taxable year in which the credit is allocated. Prior to issuing the certificate, the commissioner of DEED must consult with Minnesota Film and Television.

Limits credit amounts to \$25 million per taxable year. No credits may be allocated after 2030.

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Requires that credits be allocated on a first-come, first-served basis. Any credit amounts not allocated do not cancel and are added to the subsequent year's allocation until after 2030.

Requires an independent audit report detailing production costs to be submitted to DEED once the project is completed and the final credit amount must be based on the verified costs.

Permits the Department of Revenue to use its audit and examination powers to verify the taxpayer is eligible for the credit.

**Subd. 5. Report required.** Requires DEED to submit a report on the credit to the tax and economic development committees of the legislature by March 15, 2021. The report must detail the amount of credits claimed in each taxable year, the number of applications received and approved, the types of projects eligible for the credit, the total economic impact of the credit including jobs, and any other information DEED deems necessary.

**Effective date:** Tax years in 2021 through 2030.

**2 Film production credit.**

Allows taxpayers issued certificates under section 1 of the bill to claim the credit against the individual income or corporate franchise tax.

Limits the credit or credit transfer to the taxpayer's liability in the taxable year. Allows taxpayers to carry forward the credit to each of the five succeeding tax years. Requires taxpayers to claim the carryover credits in the first year for which they may be claimed.

Permits the Department of Revenue to use its audit and examination powers to verify the taxpayer is eligible for the credit and the amount of any improperly claimed credit.

Requires that credits for pass-through entities are passed through pro rata to the entity's members, partners, shareholders, or owners.

Requires credits for part-year residents to be allocated based on their residency percentage.

**Effective date:** Tax years in 2021 through 2030.

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3	<p data-bbox="316 258 625 296"><b>Film production credit.</b></p> <p data-bbox="316 306 1430 380">Allows an insurance company subject to the premium tax to claim the credit against premium tax due.</p> <p data-bbox="316 415 1242 453"><b>Effective date:</b> Tax years and premiums received in 2021 through 2030.</p>



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