Wisconsin Department of Administration
Division of Executive Budget and Finance

# Fiscal Estimate - 2005 Session

[X] Original  [ ] Updated  [ ] Corrected  [ ] Supplemental

| LRB Number **05-4176/1** | Introduction Number **SB-563** |
|---|---|

**Description**
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

**Fiscal Effect**

**State:**
[ ] No State Fiscal Effect
[X] Indeterminate
- [ ] Increase Existing Appropriations
- [ ] Decrease Existing Appropriations
- [X] Create New Appropriations
- [ ] Increase Existing Revenues
- [X] Decrease Existing Revenues
- [X] Increase Costs - May be possible to absorb within agency's budget [X] Yes [ ] No
- [ ] Decrease Costs

**Local:**
[X] No Local Government Costs
[ ] Indeterminate
1. [ ] Increase Costs [ ] Permissive [ ] Mandatory
2. [ ] Decrease Costs [ ] Permissive [ ] Mandatory
3. [ ] Increase Revenue [ ] Permissive [ ] Mandatory
4. [ ] Decrease Revenue [ ] Permissive [ ] Mandatory

5.Types of Local Government Units Affected
[ ] Towns [ ] Village [ ] Cities
[ ] Counties [ ] Others
[ ] School Districts [ ] WTCS Districts

**Fund Sources Affected**
[X] GPR [ ] FED [ ] PRO [ ] PRS [ ] SEG [ ] SEGS

**Affected Ch. 20 Appropriations**
20.835(2)(bm)

| Agency/Prepared By | Authorized Signature | Date |
|---|---|---|
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**Fiscal Estimate Narratives**

**DOR 2/8/2006**

| LRB Number **05-4176/1** | Introduction Number **SB-563** | Estimate Type **Original** |
|---|---|---|
| **Description**<br>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 | | |

**Assumptions Used in Arriving at Fiscal Estimate**

The draft would create a film production services income and franchise tax credit and a film production company investment credit for companies. Both credits must be certified by the Department of Commerce.

Neither credit would be available for the following types of programs: news, current events or public programming that includes weather or market reports, talk shows, game, questionnaire or contest shows, sports events, gala presentation or awards shows, a production that solicits funds, productions for industrial, corporate or institutional purposes, or productions that have record keeping requirements under 18 U.S.C. 2257.

Film Production Services Credit

The production services credit has three components: a nonrefundable component based on salaries, a refundable component based on production expenditures and a nonrefundable component based on sales and use tax paid on qualifying services and property. To qualify for the film production services credit, the project must be an accredited production approved by the Department of Commerce. The aggregate salary and wages included in the cost of production must be at least $100,000 for a project that is 30 minutes or longer and $50,000 for a project that is less than 30 minutes. The three components of the film production services credit are:

• 25% of salary and wages paid to employees for services rendered in the state for film, video or television production if the wages are paid to employees who rendered services in the state or were residents of the state at the time they were paid. The salary and wages must be in the production stage of the project, from the final script stage to the end of the post-production stage. The credit may not exceed an amount equal to the first $25,000 of salary or wages paid to each employee, not including the two highest paid employees. This portion of the credit would be nonrefundable; unused amounts could be carried forward for 15 years for use in offsetting future tax liability.

• 25% of production expenditures paid to produce an accredited production. This portion of the credit would be refundable. Production expenditures are expenditures incurred in the state and include:
o 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 other expenditures determined by the Department of Commerce.
o Music performed, composed or recorded by a musician who is a resident in the state or published or distributed by an entity that has its headquarters in the state, air travel purchased from a travel agency or company with headquarters in the state, and insurance purchased from an insurance agency or company with headquarters in the state.
Production expenditures do not include expenditures for marketing and distribution of the production.

• An amount equal to the sales and use taxes paid for the purchase of tangible personal property and taxable services that are used directly in producing an accredited production in the state, including all stages of production from the final script to the distribution of the finished production. This portion of the credit would be nonrefundable; unused amounts could be carried forward for 15 years for use in offsetting future tax liability.

Film Production Company Investment Credit

The draft would allow a film production company to claim a credit for 15% of certain expenditures during the first three years it was doing business in the state. For purposes of this credit, a film production company is an entity that creates films, videos, electronic games, broadcast advertisement, or television products. Eligible expenditures include:

• The purchase price of depreciable, tangible personal property purchased after December 31, 2005, and that has at least 50% of its use in the claimant's film production business.

• Expenses to acquire, construct, rehabilitate, remodel or repair real property if the physical work of construction, rehabilitation, remodeling or repair or demolition were to begin after December 31, 2005 or if the project is placed in service after December 31, 2005. Physical work does not include planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration. The property cannot be property that the claimant or a related person owned during the two years prior to doing business in the state as a film production company.

The film production company investment credit is nonrefundable and unused amounts may be carried forward for 15 years to offset tax liability in future years. Partnerships, limited liability companies and tax option corporations may not claim the credit, but would compute the amount of the credit that each partner, member or shareholder may claim in proportion to their ownership interests.

Fiscal Effect

Information is not available to estimate the cost of the credits. Credit claims by even one company could have a significant fiscal effect. As an illustration of possible costs associated with the film production services credit, if the credit is applied to wages of $50,000 for 100 employees, it would reduce revenues by $1.25 million (100 x $50,000 x 25%) for the wage portion of the credit. In addition, if the production had $10 million of production expenditures, as defined by the draft, revenues would be reduced further by $2.5 for the production expenditures portion of the credit ($10 million x 25%). Assuming 50% of those expenditures were subject to sales and use taxes, the same expenditures would reduce revenues by an additional $250,000 ($5 million x 5%). Total revenue loss in this example would be $4 million. If five companies claimed the credit as in the illustration, it would reduce revenues by $20 million.

**Long-Range Fiscal Implications**