

CHAPTER 116U

EXPLORE MINNESOTA TOURISM

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116U.05 EXPLORE MINNESOTA TOURISM.

Explore Minnesota Tourism is created as an office in the executive branch with a director appointed by the governor. The director is under the supervision of the commissioner of employment and economic development. The director serves in the unclassified service and must be qualified by experience and training in travel and tourism.

History: 2004 c 171 s 5

116U.10 DEFINITIONS.

Subdivision 1. **Scope.** As used in this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Director.** "Director" means the director of Explore Minnesota Tourism.

Subd. 3. **Office.** "Office" means Explore Minnesota Tourism.

History: 2004 c 171 s 6

116U.15 MISSION.

The mission of Explore Minnesota Tourism is to promote and facilitate increased travel to and within the state of Minnesota. Its goals are to:

- (1) expand public and private partnerships through increased interagency efforts and increased tourism industry participation;
- (2) increase productivity through enhanced flexibility and options; and
- (3) use innovative fiscal and human resource practices to manage the state's resources and operate the office as efficiently as possible.

The director shall report to the legislature on the performance of the office's operations and the accomplishment of its goals in the office's biennial budget according to section 16A.10, subdivision 1.

History: 2004 c 171 s 7

116U.20 ORGANIZATION.

The director shall:

(1) employ assistants and other officers, employees, and agents that the director considers necessary to discharge the functions of the office; and

(2) define the duties of the officers, employees, and agents, and delegate to them any of the director's powers, duties, and responsibilities, subject to the director's control and under conditions prescribed by the director.

History: 2004 c 171 s 8

116U.25 EXPLORE MINNESOTA TOURISM COUNCIL.

(a) The director shall be advised by the Explore Minnesota Tourism Council consisting of up to 28 voting members appointed by the governor for four-year terms, including:

(1) the director of Explore Minnesota Tourism who serves as the chair;

(2) eleven representatives of statewide associations representing bed and breakfast establishments, golf, festivals and events, counties, convention and visitor bureaus, lodging, resorts, trails, campgrounds, restaurants, and chambers of commerce;

(3) one representative from each of the tourism marketing regions of the state as designated by the office;

(4) six representatives of the tourism business representing transportation, retail, travel agencies, tour operators, travel media, and convention facilities;

(5) one or more ex officio nonvoting members including at least one from the University of Minnesota Tourism Center;

(6) four legislators, two from each house, one each from the two largest political party caucuses in each house, appointed according to the rules of the respective houses; and

(7) other persons, if any, as designated from time to time by the governor.

(b) The council shall act to serve the broader interests of tourism in Minnesota by promoting activities that support, maintain, and expand the state's domestic and international travel market, thereby generating increased visitor expenditures, tax revenue, and employment.

(c) Filling of membership vacancies is as provided in section 15.059. The terms of one-half of the members shall be coterminous with the governor and the terms of the remaining one-half of the members shall end on the first Monday in January one year after the terms of the other members. Members may serve until their successors are appointed and qualify. Members are not compensated. A member may be reappointed.

(d) The council shall meet at least four times per year and at other times determined by the council.

(e) If compliance with section 13D.02 is impractical, the Explore Minnesota Tourism Council may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the council can hear clearly all discussion and testimony and all votes of members of the council and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the council is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(f) Each member of the council participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(g) If telephone or other electronic means is used to conduct a meeting, the council, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The council may require the person making such a connection to pay for documented marginal costs that the council incurs as a result of the additional connection.

(h) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the council shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (g). The timing and method of providing notice is governed by section 13D.04.

History: 2004 c 171 s 9; 2005 c 163 s 57; 2010 c 252 s 1; 2014 c 286 art 8 s 13

116U.26 FILM PRODUCTION JOBS PROGRAM.

(a) The film production jobs program is created. The program shall be operated by the Minnesota Film and TV Board with administrative oversight and control by the commissioner of employment and economic development. The program shall make payment to producers of feature films, national television or Internet programs, documentaries, music videos, and commercials that directly create new film jobs in Minnesota. To be eligible for a payment, a producer must submit documentation to the Minnesota Film and TV Board of expenditures for production costs incurred in Minnesota that are directly attributable to the production in Minnesota of a film product.

The Minnesota Film and TV Board shall make recommendations to the commissioner of employment and economic development about program payment, but the commissioner has the authority to make the final determination on payments. The commissioner's determination must be based on proper documentation of eligible production costs submitted for payments. No more than five percent of the funds appropriated for the program in any year may be expended for administration, including costs for independent audits and financial reviews of projects.

(b) For the purposes of this section:

(1) "production costs" means the cost of the following:

(i) a story and scenario to be used for a film;

(ii) salaries of talent, management, and labor, including payments to personal services corporations for the services of a performing artist;

(iii) set construction and operations, wardrobe, accessories, and related services;

(iv) photography, sound synchronization, lighting, and related services;

(v) editing and related services;

(vi) rental of facilities and equipment;

(vii) other direct costs of producing the film in accordance with generally accepted entertainment industry practice;

(viii) above-the-line talent fees for nonresident talent; or

(ix) costs incurred during postproduction; and

(2) "film" means a feature film, television or Internet pilot, program, series, documentary, music video, or television commercial, whether on film, video, or digital media. Film does not include news, current events, public programming, or a program that includes weather or market reports; a talk show; a production with respect to a questionnaire or contest; a sports event or sports activity; a gala presentation or awards show; a finished production that solicits funds; or a production for which the production company is required under United States Code, title 18, section 2257, to maintain records with respect to a performer portrayed in a single-media or multimedia program.

(c) Notwithstanding any other law to the contrary, the Minnesota Film and TV Board may make reimbursements of: (1) up to 25 percent of production costs for films that locate production outside the metropolitan area, as defined in section 473.121, subdivision 2, or that incur a minimum Minnesota expenditure of \$1,000,000 in the metropolitan area within a 12-month period; or (2) up to 20 percent of production costs for films that incur less than \$1,000,000 in Minnesota production costs in the metropolitan area within a 12-month period.

History: 2006 c 282 art 11 s 9a; 2008 c 363 art 10 s 17; 2010 c 215 art 8 s 12; 2012 c 264 art 5 s 3; 2013 c 85 art 3 s 16

116U.27 FILM PRODUCTION CREDIT.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Allocation certificate" means a certificate issued by the commissioner to a taxpayer upon receipt of an initial application for a credit for a project that has not yet been completed.

(c) "Application" means the application for a credit under subdivision 4.

(d) "Commissioner" means the commissioner of employment and economic development.

(e) "Credit certificate" means a certificate issued by the commissioner upon submission of the cost verification report in subdivision 4, paragraph (e).

(f) "Eligible production costs" means eligible production costs as defined in section 116U.26, paragraph (b), clause (1), incurred in Minnesota that are directly attributable to the production of a film project in Minnesota.

(g) "Film" has the meaning given in section 116U.26, paragraph (b), clause (2).

(h) "Project" means a film:

(1) that includes the promotion of Minnesota;

(2) for which the taxpayer has expended at least \$1,000,000 in the taxable year for eligible production costs; and

(3) to the extent practicable, that employs Minnesota residents.

(i) "Promotion of Minnesota" or "promotion" means visible display of a static or animated logo, approved by the commissioner and lasting approximately five seconds, that promotes Minnesota within its presentation in the end credits before the below-the-line crew crawl for the life of the project.

Subd. 2. **Credit allowed.** A taxpayer is eligible for a credit up to 25 percent of eligible production costs paid in a taxable year. A taxpayer may only claim a credit if the taxpayer was issued a credit certificate under subdivision 4.

Subd. 3. **Credit assignable.** The recipient of a credit certificate may assign the certificate to another taxpayer before any amount of the credit is claimed. The assignee is allowed the credit under section 290.06, subdivision 39, or 297I.20, subdivision 4. An assignment is not valid unless the assignee notifies the commissioner of revenue within 30 days of the date that the assignment is made. The commissioner of revenue shall prescribe the forms necessary for notifying the commissioner of revenue of the assignment of a credit certificate and for claiming a credit by assignment.

Subd. 4. **Applications; allocations.** (a) To qualify for a credit under this section, a taxpayer must submit to the commissioner an application for a credit in the form prescribed by the commissioner, in consultation with the commissioner of revenue.

(b) Upon approving an application for a credit that meets the requirements of this section, the commissioner shall issue allocation certificates that:

(1) verify eligibility for the credit;

(2) state the amount of credit anticipated for the eligible project, with the credit amount up to 25 percent of eligible project costs; and

(3) state the taxable year in which the credit is allocated.

The commissioner must consult with the Minnesota Film and TV Board prior to issuing an allocation certificate.

(c) The commissioner must not issue allocation certificates for more than \$4,950,000 of credits each year. If the entire amount is not allocated in that taxable year, any remaining amount is available for allocation for the four following taxable years until the entire allocation has been made. The commissioner must not award any credits for taxable years beginning after December 31, 2024, and any unallocated amounts cancel on that date.

(d) The commissioner must allocate credits on a first-come, first-served basis.

(e) Upon completion of a project, the taxpayer shall submit to the commissioner a report prepared by an independent certified public accountant licensed in the state of Minnesota to verify the amount of eligible production costs related to the project. The report must be prepared in accordance with generally accepted accounting principles. Upon receipt and review of the cost verification report, the commissioner shall determine the final amount of eligible production costs and issue a credit certificate to the taxpayer. The credit may not exceed the anticipated credit amount on the allocation certificate. If the credit is less than the anticipated amount on the allocation credit, the difference is returned to the amount available for allocation under paragraph (c). To claim the credit under section 290.06, subdivision 39, or 297I.20, subdivision 4, a taxpayer must include a copy of the credit certificate as part of the taxpayer's return.

Subd. 5. **Report required.** By January 15, 2025, the commissioner of revenue, in consultation with the commissioner, must provide a report to the chairs and ranking minority members of the legislative committees

with jurisdiction over economic development and taxes. The report must comply with sections 3.195 and 3.197, and must detail the following:

- (1) the amount of credit certifications issued annually;
- (2) the number of applications submitted, the number of allocation certificates issued, the amount of allocation certificates issued, the number of reports submitted upon completion of a project, and the number of credit certificates issued;
- (3) the types of projects eligible for the credit;
- (4) the total economic impact of the credit in Minnesota, including the calendar year over calendar year percentage changes in the number of jobs held by Minnesota residents in businesses having a primary North American Industry Classification System code of 512110 as reported to the commissioner, for calendar years 2019 through 2023;
- (5) the number of taxpayers per tax type which are assignees of credit certificates under subdivision 3;
- (6) annual Minnesota taxes paid by businesses having a primary North American Industry Classification System code of 512110, for taxable years beginning after December 31, 2018, and before January 1, 2024; and
- (7) any other information the commissioner of revenue, in consultation with the commissioner, deems necessary for purposes of claiming and administering the credit.

[See Note.]

Subd. 6. **Appropriation.** Beginning in fiscal year 2022, \$50,000 is annually appropriated from the general fund to the commissioner of revenue for a transfer to the Department of Employment and Economic Development for costs associated with personnel and administrative expenses related to administering the credit. This subdivision expires on June 30, 2025.

Subd. 7. **Expiration.** Subdivisions 1 to 5 expire January 1, 2025, for taxable years beginning after December 31, 2024.

History: *1Sp2021 c 14 art 1 s 3*

NOTE: The requirement to provide the report under subdivision 5, as added by Laws 2021, First Special Session chapter 14, article 1, section 3, expires July 1, 2025. Laws 2021, First Special Session chapter 14, article 1, section 3, the effective date.

116U.30 DUTIES OF DIRECTOR.

- (a) The director shall:
- (1) publish, disseminate, and distribute informational and promotional materials;
 - (2) promote and encourage the coordination of Minnesota tourism promotion efforts with other state agencies and develop multiagency marketing strategies when appropriate;
 - (3) promote and encourage the expansion and development of international tourism marketing;
 - (4) advertise and disseminate information about Minnesota travel opportunities;
 - (5) aid various local communities to improve their tourism marketing programs;

(6) coordinate and implement a comprehensive state tourism marketing program that takes into consideration public and private businesses and attractions;

(7) contract, in accordance with section 16C.08, for professional services if the work or services cannot be satisfactorily performed by employees of the agency or by any other state agency;

(8) provide local, regional, and statewide tourism organizations with information, technical assistance, training, and advice on using state tourism programs; and

(9) generally gather, compile, and make available statistical information relating to Minnesota tourism and related areas in this state, with authority to call upon other state agencies for statistical data and results obtained by them and to arrange and compile that statistical information.

(b) The director may:

(1) apply for, receive, and spend money for tourism development and marketing from other agencies and tourism organizations and businesses;

(2) apply for, accept, and disburse grants and other aids for tourism development and marketing from the federal government and other sources;

(3) enter into joint powers or cooperative agreements with agencies of the federal government, local governmental units, regional development commissions, other state agencies, the University of Minnesota and other educational institutions, other states, Canadian provinces, local, statewide, and regional tourism organizations as necessary to perform the director's duties;

(4) enter into interagency agreements and agree to share net revenues with the contributing agencies;

(5) make grants;

(6) conduct market research and analysis to improve marketing techniques in the area of tourism;

(7) monitor and study trends in the tourism industry and provide resources and training to address change;

(8) annually convene conferences of Minnesota tourism providers for the purposes of exchanging information on tourism development, coordinating marketing activities, and formulating tourism development strategies; and

(9) enter into tourism promotion contracts or other agreements with private persons and public entities, including agreements to establish and maintain offices and other types of representation in foreign countries, to promote international travel and to implement this chapter.

(c) Contracts for goods and nonprofessional technical services made under paragraph (b), clauses (3) and (9), are not subject to the provisions of sections 16C.03, subdivision 3, and 16C.06 concerning competitive bidding and section 16C.055 concerning barter arrangements. Unless otherwise determined by the commissioner of administration, all other provisions of chapter 16C apply to this section, including section 16C.08, relating to professional and technical services.

History: 2004 c 171 s 10

116U.35 PROMOTIONAL EXPENSES.

To promote tourism of the state, the director may expend money appropriated by the legislature for these purposes in the same manner as private persons, firms, corporations, and associations make expenditures

for these purposes. Policies on promotional expenses must be approved by the Explore Minnesota Tourism Council and the commissioner of administration. A policy for expenditures on food, lodging, and travel must be approved by the commissioner of management and budget. No money may be expended for the appearance in radio or television broadcasts by an elected public official.

History: 2004 c 171 s 11; 2008 c 204 s 42; 2009 c 101 art 2 s 109

116U.40 SPECIFIC AGREEMENTS PROHIBITED.

The director may not enter into an agreement which would obligate the state to pay any part of a debt incurred by a public or private facility, organization, or attraction.

History: 2004 c 171 s 12

116U.45 SALE OF PUBLICATIONS AND PROMOTIONAL MATERIALS; FEES; ADVERTISING.

(a) The director may sell reports, publications, or related publicity or promotional material of the office as the director determines.

(b) Fees for reports, publications, or related publicity or promotional material are not subject to section 14.386 or to the rulemaking requirements of chapter 14 in general and are not subject to section 16A.1283 or 16A.1285. The fees prescribed by the director must be commensurate with the distribution objective of the office for the material produced or with the cost of furnishing the services.

(c) Office publications may contain advertising and may receive advertising revenue from profit and nonprofit organizations, associations, individuals and corporations, and other state, federal, or local government agencies. The director shall set advertising rates and fees commensurate with services rendered and distribution objectives.

Revenue under this section is governed by section 116U.50.

History: 2004 c 171 s 13

116U.50 REVENUE.

All revenue received by the office must be deposited in a special revenue account and is appropriated to the director for the purposes of this chapter. The money does not cancel and is available until expended.

History: 2004 c 171 s 14

116U.55 GIFTS, GRANTS, AND ENDOWMENTS; ACCOUNT.

Subdivision 1. **Acceptance of gifts and grants.** The office may accept gifts of money, property, or services, may apply for and accept grants from the United States, the state, a subdivision of the state, or a person for any of its purposes; may enter into an agreement required in connection with it; and may hold, use, and dispose of the money, property, or services in accordance with the terms of the gift, grant, or agreement relating to it. The office may also make grants, gifts, and bequests of money, property, or services and enter into contracts to carry out the same. The gift acceptance procedures of sections 16A.013 to 16A.016 do not apply to this section.

Subd. 2. **Outdoor recreation promotion account.** Gifts and grants received by the office for promoting outdoor recreation must be deposited in an outdoor recreation promotion account in the special revenue

fund. Money in the account, including interest earned, is appropriated to the director for the purposes specified in the gift or grant.

History: *2004 c 171 s 15; 1Sp2019 c 4 art 3 s 106*

116U.65 [Repealed, 2009 c 78 art 2 s 44]