

# SENATE BILL No. 1176

March 4, 2008, Introduced by Senators BIRKHOLZ, ALLEN, VAN WOERKOM, KUIPERS, STAMAS, BROWN, GILBERT, JANSEN, HARDIMAN, McMANUS, PAPPAGEORGE, RICHARDVILLE, JELINEK, KAHN, GEORGE, GARCIA, JACOBS, CHERRY, WHITMER, PRUSI, GLEASON, BARCIA, THOMAS, ANDERSON, SCHAUER, CLARKE, HUNTER and OLSHOVE and referred to the Committee on Commerce and Tourism.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
(MCL 208.1101 to 208.1601) by adding section 459.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 459. (1) UNTIL SEPTEMBER 30, 2015, THE MICHIGAN FILM  
2 OFFICE, WITH THE CONCURRENCE OF THE STATE TREASURER, MAY ENTER INTO  
3 AN AGREEMENT WITH AN ELIGIBLE PRODUCTION COMPANY PROVIDING THE  
4 COMPANY WITH A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR  
5 QUALIFIED JOB TRAINING EXPENDITURES, AS PROVIDED UNDER THIS  
6 SECTION. TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, A COMPANY  
7 SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

8        (A) MAKE QUALIFIED JOB TRAINING EXPENDITURES FOR A STATE  
9 CERTIFIED QUALIFIED PRODUCTION.

10       (B) AFTER COMPLETION OF THE PRODUCTION OF THE STATE CERTIFIED

1 QUALIFIED PRODUCTION IN THIS STATE, SUBMIT TO THE OFFICE AN  
2 APPLICATION IN A FORM DETERMINED BY THE OFFICE WITH INFORMATION  
3 REGARDING THE QUALIFIED JOB TRAINING EXPENDITURES, INCLUDING  
4 EMPLOYMENT, SALARY, AND RELATED INFORMATION REQUIRED BY THE OFFICE.

5 (C) RECEIVE A QUALIFIED JOB TRAINING EXPENDITURES CERTIFICATE  
6 FROM THE OFFICE UNDER SUBSECTION (5).

7 (D) SUBMIT THE QUALIFIED JOB TRAINING EXPENDITURE CERTIFICATE  
8 ISSUED BY THE OFFICE UNDER SUBSECTION (5) TO THE DEPARTMENT UNDER  
9 SUBSECTION (7).

10 (E) SHALL NOT BE DELINQUENT IN A TAX OR OTHER OBLIGATION OWED  
11 TO THIS STATE OR BE OWNED OR UNDER COMMON CONTROL OF AN ENTITY THAT  
12 IS DELINQUENT IN A TAX OR OTHER OBLIGATION OWED TO THIS STATE.

13 (2) FOR A QUALIFIED JOB TRAINING EXPENDITURE MADE BY A  
14 COMPANY, THE COMPANY MAY CLAIM A TAX CREDIT EQUAL TO 50% OF THE  
15 QUALIFIED JOB TRAINING EXPENDITURE. A COMPANY SHALL NOT CLAIM A  
16 CREDIT UNDER THIS SECTION FOR ANY OF THE FOLLOWING:

17 (A) A DIRECT EXPENDITURE FOR WHICH THE COMPANY CLAIMS A CREDIT  
18 UNDER SECTION 455.

19 (B) A DIRECT EXPENDITURE FOR WHICH THE COMPANY CLAIMS A CREDIT  
20 UNDER SECTION 367 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL  
21 206.367.

22 (C) A DIRECT EXPENDITURE FOR WHICH ANOTHER TAXPAYER CLAIMS A  
23 CREDIT UNDER THIS SECTION, A CREDIT UNDER SECTION 455, OR A CREDIT  
24 UNDER SECTION 367 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL  
25 206.367.

26 (3) A TAXPAYER SEEKING A CREDIT UNDER THIS SECTION MAY SUBMIT  
27 AN APPLICATION TO ENTER INTO AN AGREEMENT UNDER THIS SECTION TO THE

1 MICHIGAN FILM OFFICE. THE APPLICATION SHALL BE SUBMITTED IN A FORM  
2 PRESCRIBED BY THE MICHIGAN FILM OFFICE AND SHALL BE ACCOMPANIED BY  
3 A \$100.00 APPLICATION FEE AND ALL OF THE INFORMATION AND RECORDS  
4 REQUESTED BY THE OFFICE. AN APPLICATION FEE RECEIVED BY THE OFFICE  
5 UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE MICHIGAN FILM  
6 PROMOTION FUND. THE OFFICE SHALL NOT PROCESS THE APPLICATION UNTIL  
7 IT IS COMPLETE. IF THE OFFICE, WITH THE CONCURRENCE OF THE STATE  
8 TREASURER, DETERMINES TO ENTER INTO AN AGREEMENT UNDER THIS  
9 SECTION, THE AGREEMENT SHALL PROVIDE FOR ALL OF THE FOLLOWING:

10 (A) A UNIQUE NUMBER ASSIGNED TO THE STATE CERTIFIED QUALIFIED  
11 PRODUCTION FOR WHICH QUALIFIED JOB TRAINING EXPENDITURES WERE  
12 INCURRED BY THE COMPANY.

13 (B) A DETAILED DESCRIPTION OF THE STATE CERTIFIED QUALIFIED  
14 PRODUCTION AND THE QUALIFIED JOB TRAINING EXPENDITURES.

15 (C) A REQUIREMENT THAT THE COMPANY PROVIDE THE OFFICE WITH THE  
16 INFORMATION AND INDEPENDENT CERTIFICATION THE OFFICE AND THE  
17 DEPARTMENT DEEM NECESSARY TO VERIFY QUALIFIED JOB TRAINING  
18 EXPENDITURES INVESTMENT EXPENDITURES AND ELIGIBILITY FOR THE CREDIT  
19 UNDER THIS SECTION.

20 (4) IN DETERMINING WHETHER TO AUTHORIZE A CREDIT UNDER THIS  
21 SECTION, THE MICHIGAN FILM OFFICE AND THE STATE TREASURER SHALL  
22 CONSIDER ALL OF THE FOLLOWING:

23 (A) THE EXTENT TO WHICH THE STATE CERTIFIED QUALIFIED  
24 PRODUCTION AND QUALIFIED JOB TRAINING EXPENDITURE MAY HAVE THE  
25 EFFECT OF PROMOTING ECONOMIC DEVELOPMENT OR JOB CREATION IN THIS  
26 STATE.

27 (B) THE EXTENT TO WHICH THE CREDIT MAY ASSIST IN ATTRACTING

1 ADDITIONAL PRIVATE INVESTMENT FOR THE PRODUCTION OF MOTION  
2 PICTURES, VIDEOS, TELEVISION PROGRAMS, AND DIGITAL MEDIA IN THIS  
3 STATE.

4 (C) THE EXTENT TO WHICH THE CREDIT WILL ENCOURAGE THE  
5 DEVELOPMENT OF FILM, VIDEO, TELEVISION, AND DIGITAL MEDIA  
6 PRODUCTION AND POSTPRODUCTION EXPERTISE IN THIS STATE.

7 (5) IF THE MICHIGAN FILM OFFICE DETERMINES THAT A COMPANY HAS  
8 COMPLIED WITH THE TERMS OF AN AGREEMENT ENTERED INTO UNDER THIS  
9 SECTION, THE OFFICE SHALL ISSUE A QUALIFIED JOB TRAINING  
10 EXPENDITURE CERTIFICATE TO THE COMPANY. THE COMPANY SHALL SUBMIT A  
11 REQUEST TO THE OFFICE FOR A QUALIFIED JOB TRAINING EXPENDITURE  
12 CERTIFICATE ON A FORM PRESCRIBED BY THE OFFICE, ALONG WITH ANY  
13 INFORMATION OR INDEPENDENT CERTIFICATION THE OFFICE OR THE  
14 DEPARTMENT DEEMS NECESSARY. THE OFFICE SHALL PROCESS EACH REQUEST  
15 WITHIN 60 DAYS AFTER THE REQUEST IS COMPLETE. HOWEVER, THE OFFICE  
16 MAY REQUEST ADDITIONAL INFORMATION OR INDEPENDENT CERTIFICATION  
17 BEFORE ISSUING A CERTIFICATE AND NEED NOT ISSUE THE CERTIFICATE  
18 UNTIL SATISFIED THAT QUALIFIED JOB TRAINING EXPENDITURES AND  
19 ELIGIBILITY ARE ADEQUATELY ESTABLISHED. THE ADDITIONAL INFORMATION  
20 REQUESTED MAY INCLUDE A REPORT OF EXPENDITURES AUDITED AND  
21 CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. EACH  
22 QUALIFIED JOB TRAINING EXPENDITURE CERTIFICATE SHALL BE SIGNED BY  
23 THE MICHIGAN FILM COMMISSIONER AND SHALL INCLUDE THE FOLLOWING  
24 INFORMATION:

25 (A) THE NAME OF THE TAXPAYER.

26 (B) A DESCRIPTION OF THE STATE CERTIFIED QUALIFIED PRODUCTION  
27 AND THE QUALIFIED JOB TRAINING EXPENDITURES.

1 (C) THE AMOUNT OF THE COMPANY'S QUALIFIED JOB TRAINING  
2 EXPENDITURES FOR THE STATE CERTIFIED QUALIFIED PRODUCTION.

3 (D) THE DATE ON WHICH PRODUCTION OF THE STATE CERTIFIED  
4 QUALIFIED PRODUCTION BEGAN IN THIS STATE, THE STATE ON WHICH  
5 PRODUCTION OF THE STATE CERTIFIED QUALIFIED PRODUCTION ENDED IN  
6 THIS STATE, THE TOTAL NUMBER OF PRODUCTION DAYS IN THIS STATE, AND  
7 THE APPROXIMATE TOTAL CREW SIZE FOR THE STATE CERTIFIED QUALIFIED  
8 PRODUCTION.

9 (E) THE UNIQUE NUMBER ASSIGNED TO THE STATE CERTIFIED  
10 QUALIFIED PRODUCTION BY THE OFFICE UNDER SUBSECTION (3).

11 (F) THE COMPANY'S FEDERAL EMPLOYER IDENTIFICATION NUMBER OR  
12 MICHIGAN TREASURY NUMBER.

13 (G) ANY INDEPENDENT CERTIFICATION REQUIRED BY THE DEPARTMENT  
14 OR THE MICHIGAN FILM OFFICE.

15 (6) INFORMATION AND RECORDS SUBMITTED BY A TAXPAYER TO THE  
16 MICHIGAN FILM OFFICE UNDER THIS SECTION SHALL BE CONSIDERED  
17 CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF  
18 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, TO THE EXTENT  
19 THAT THE INFORMATION OR RECORDS DESCRIBE THE COMMERCIAL AND  
20 FINANCIAL OPERATIONS OF THE TAXPAYER, THE INFORMATION OR RECORDS  
21 HAVE NOT BEEN PUBLICLY DISSEMINATED AT ANY TIME, AND DISCLOSURE OF  
22 THE INFORMATION OR RECORDS MIGHT PUT THE TAXPAYER AT A COMPETITIVE  
23 DISADVANTAGE. A TAXPAYER SUBMITTING MATERIALS UNDER THIS SECTION  
24 SHALL SPECIFICALLY DESIGNATE ANY INFORMATION AND RECORDS THAT THE  
25 TAXPAYER DEEMS CONFIDENTIAL. THE OFFICE MAY RELEASE ANY INFORMATION  
26 AND RECORDS SUBMITTED UNDER THIS SECTION THAT HAVE NOT BEEN  
27 DESIGNATED CONFIDENTIAL BY THE TAXPAYER.

1           (7) TO CLAIM A CREDIT UNDER THIS SECTION, A COMPANY SHALL  
2       SUBMIT A QUALIFIED JOB TRAINING EXPENDITURE CERTIFICATE ISSUED  
3       UNDER SUBSECTION (5) TO THE DEPARTMENT. IF THE CREDIT ALLOWED UNDER  
4       THIS SECTION EXCEEDS THE AMOUNT OF TAXES OWED BY THE COMPANY UNDER  
5       THIS ACT FOR A TAX YEAR, THAT PORTION OF THE CREDIT THAT EXCEEDS  
6       THE TAX LIABILITY OF THE COMPANY FOR THE TAX YEAR SHALL NOT BE  
7       REFUNDED BUT MAY BE CARRIED FORWARD AS A CREDIT AGAINST TAX  
8       LIABILITY UNDER THIS ACT IN SUBSEQUENT TAX YEARS FOR A PERIOD NOT  
9       TO EXCEED 10 TAX YEARS.

10          (8) THE CREDIT UNDER THIS SECTION SHALL BE CLAIMED AFTER ALL  
11       OTHER CREDITS UNDER THIS ACT. THE AMOUNT OF THE CREDIT UNDER THIS  
12       SECTION SHALL BE REDUCED BY A CREDIT APPLICATION AND REDEMPTION FEE  
13       EQUAL TO 0.5% OF THE CREDIT CLAIMED, WHICH SHALL BE PAID BY THE  
14       TAXPAYER CLAIMING THE CREDIT AND BE DEPOSITED BY THE DEPARTMENT IN  
15       THE MICHIGAN FILM PROMOTION FUND.

16          (9) A TAXPAYER THAT WILLFULLY SUBMITS INFORMATION UNDER THIS  
17       SECTION THAT THE TAXPAYER KNOWS TO BE FRAUDULENT OR FALSE, SHALL,  
18       IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, BE LIABLE FOR A  
19       CIVIL PENALTY EQUAL TO THE AMOUNT OF THE TAXPAYER'S CREDIT UNDER  
20       THIS SECTION. A PENALTY COLLECTED UNDER THIS SECTION SHALL BE  
21       DEPOSITED IN THE MICHIGAN FILM PRODUCTION PROMOTION FUND.

22          (10) AS USED IN THIS SECTION:

23          (A) "BELOW THE LINE CREW" MEANS PERSONS EMPLOYED BY AN  
24       ELIGIBLE PRODUCTION COMPANY FOR STATE CERTIFIED QUALIFIED  
25       PRODUCTION EXPENDITURES MADE AFTER PRODUCTION BEGINS AND BEFORE  
26       PRODUCTION IS COMPLETED, INCLUDING, BUT NOT LIMITED TO, A BEST BOY,  
27       BOOM OPERATOR, CAMERA LOADER, CAMERA OPERATOR, ASSISTANT CAMERA

1 OPERATOR, COMPOSITOR, DIALOGUE EDITOR, FILM EDITOR, ASSISTANT FILM  
2 EDITOR, FOCUS PULLER, FOLEY OPERATOR, FOLEY EDITOR, GAFFER, GRIP,  
3 KEY GRIP, LIGHTING CREW, LIGHTING BOARD OPERATOR, LIGHTING  
4 TECHNICIAN, MUSIC EDITOR, SOUND EDITOR, SOUND EFFECTS EDITOR, SOUND  
5 MIXER, STEADICAM OPERATOR, AND OTHER SIMILAR PERSONNEL. BELOW THE  
6 LINE CREW DOES NOT INCLUDE A PRODUCER, DIRECTOR, WRITER, ACTOR, OR  
7 OTHER SIMILAR PERSONNEL.

8 (B) "ELIGIBLE PRODUCTION COMPANY" MEANS THAT TERM AS DEFINED  
9 IN SECTION 455.

10 (C) "MICHIGAN FILM OFFICE" OR "OFFICE" MEANS THE MICHIGAN FILM  
11 OFFICE CREATED UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT,  
12 1984 PA 270, MCL 125.2029 TO 125.2029G.

13 (D) "MICHIGAN FILM PROMOTION FUND" MEANS THE FUND CREATED  
14 UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,  
15 MCL 125.2029 TO 125.2029G.

16 (E) "QUALIFIED JOB TRAINING EXPENDITURE" MEANS SALARY AND  
17 OTHER EXPENDITURES PAID BY AN ELIGIBLE PRODUCTION COMPANY TO  
18 PROVIDE QUALIFIED PERSONNEL WITH ON-THE-JOB TRAINING AS A MEMBER OF  
19 THE BELOW THE LINE CREW FOR A STATE CERTIFIED QUALIFIED PRODUCTION  
20 THAT IS INTENDED TO UPGRADE OR ENHANCE THE SKILLS OF THE QUALIFIED  
21 PERSONNEL AND ADDRESS DEFICIENCIES IN SKILLS AMONG RESIDENTS OF  
22 THIS STATE AS DETERMINED BY THE OFFICE.

23 (F) "QUALIFIED PERSONNEL" MEANS A PERSON WHO HAS RESIDED IN  
24 THIS STATE FOR NOT LESS THAN 12 MONTHS, WHO HAS LEGAL STATUS FOR  
25 EMPLOYMENT, AND WHO DEMONSTRATES SUFFICIENT PRIOR EXPERIENCE OR  
26 TRAINING IN THE FILM AND DIGITAL MEDIA INDUSTRY, AS CERTIFIED BY  
27 THE MICHIGAN FILM OFFICE.

1           (G) "STATE CERTIFIED QUALIFIED PRODUCTION" MEANS THAT TERM AS  
2   DEFINED IN SECTION 455.