

SENATE BILL No. 1583

November 5, 2008, Introduced by Senators CROPSEY, GILBERT, JANSEN, CASSIS, JELINEK, ALLEN, BIRKHOLZ, SWITALSKI, THOMAS and JACOBS and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending sections 455, 457, and 459 (MCL 208.1455, 208.1457, and 208.1459), section 455 as added by 2008 PA 77, section 457 as added by 2008 PA 86, and section 459 as added by 2008 PA 74.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 455. (1) The Michigan film office, with the concurrence
2 of the state treasurer, may enter into an agreement with an
3 eligible production company providing the company with a credit
4 against the tax imposed by this act or against taxes withheld under
5 chapter 7 of the income tax act of 1967, 1967 PA 281, MCL 206.351
6 to 206.367, as provided under this section and section 367 of the
7 income tax act of 1967, 1967 PA 281, MCL 206.367. To qualify for

1 the credit under this section, a company shall meet all of the
2 following requirements:

3 (a) Spend at least \$50,000.00 in this state for the
4 development, preproduction, production, or postproduction costs of
5 a state certified qualified production.

6 (b) Enter into an agreement as provided in this section.

7 (c) Receive a postproduction certificate of completion from
8 the office under subsection (5).

9 (d) Submit the postproduction certificate of completion issued
10 by the office under subsection (5) to the department under
11 subsection (7).

12 (e) Shall not be delinquent in a tax or other obligation owed
13 to this state or be owned or under common control of an entity that
14 is delinquent in a tax or other obligation owed to this state.

15 (2) For direct production expenditures or qualified personnel
16 expenditures made after February 29, 2008, an agreement under this
17 section may provide for an eligible production company to claim a
18 tax credit equal to 42% of direct production expenditures for a
19 state certified qualified production in a core community, 40% of
20 direct production expenditures for a state certified qualified
21 production in part of this state other than a core community, and
22 30% for qualified personnel expenditures. A taxpayer shall not
23 claim a credit under this section for any of the following:

24 (a) A direct expenditure, or qualified personnel expenditure,
25 for which the company claims a credit under section 459.

26 (b) A direct expenditure, or qualified personnel expenditure,
27 for which the company claims a credit under section 367 of the

1 income tax act of 1967, 1967 PA 281, MCL 206.367.

2 (c) A direct expenditure, or qualified personnel expenditure,
3 for which another taxpayer claims a credit under this section, a
4 credit under section 459, or a credit under section 367 of the
5 income tax act of 1967, 1967 PA 281, MCL 206.367.

6 (3) An eligible production company intending to produce a
7 qualified production in this state, or that initiated production of
8 a qualified production after February 29, 2008 and before ~~the~~
9 ~~effective date of the amendatory act that added this section~~ **APRIL**
10 **8, 2008**, may submit an application to enter into an agreement under
11 this section to the Michigan film office. Except for a qualified
12 production for which production was initiated after February 29,
13 2008 and before ~~the effective date of the amendatory act that added~~
14 ~~this section~~ **APRIL 8, 2008**, direct production expenditures and
15 qualified personnel expenditures incurred prior to approval of an
16 agreement under this section are not eligible for the credit under
17 this section. The request shall be submitted in a form prescribed
18 by the Michigan film office and shall be accompanied by a \$100.00
19 application fee and all of the information and records requested by
20 the office. An application fee received by the office under this
21 subsection shall be deposited in the Michigan film promotion fund.
22 The office shall not process the application until it is complete.
23 As part of the application, the company shall estimate direct
24 production expenditures and qualified personnel expenditures for an
25 identified qualified production. If the office, with the
26 concurrence of the state treasurer, determines to enter into an
27 agreement under this section, the agreement shall provide for all

1 of the following:

2 (a) A requirement that the eligible production company
3 commence work in this state on the identified qualified production
4 within 90 days of the date of the agreement or else the agreement
5 shall expire. However, upon request submitted by the company based
6 on good cause, the office may extend the period for commencement of
7 work in this state for up to an additional 90 days.

8 (b) A statement identifying the company and the qualified
9 production that the company intends to produce in whole or in part
10 in this state.

11 (c) A unique number assigned to the qualified production by
12 the office.

13 (d) A requirement that the qualified production not depict
14 obscene matter or an obscene performance.

15 (e) If the qualified production is a long-form narrative film
16 production, a requirement that the qualified production include an
17 acknowledgement that the qualified production was filmed in this
18 state.

19 (f) A requirement that the company provide the office with the
20 information and independent certification the office and the
21 department deem necessary to verify direct production expenditures,
22 qualified personnel expenditures, and eligibility for the credit
23 under this section.

24 (g) If determined to be necessary by the office and the state
25 treasurer, a provision for addressing expenditures in excess of
26 those identified in the agreement.

27 (4) In determining whether to enter into an agreement under

1 this section, the Michigan film office and the state treasurer
2 shall consider all of the following:

3 (a) The potential that in the absence of the credit the
4 qualified production will be produced in a location other than this
5 state.

6 (b) The extent to which the qualified production may have the
7 effect of promoting this state as a tourist destination.

8 (c) The extent to which the qualified production may have the
9 effect of promoting economic development or job creation in this
10 state.

11 (d) The extent to which the credit will attract private
12 investment for the production of qualified productions in this
13 state.

14 (e) The record of the eligible production company in
15 completing commitments to engage in a qualified production.

16 (5) If the Michigan film office determines that an eligible
17 production company has complied with the terms of an agreement
18 entered into under this section, the office shall issue a
19 postproduction certificate to the company. The company shall submit
20 a request to the office for a postproduction certificate on a form
21 prescribed by the office, along with any information or independent
22 certification the office or the department deems necessary. The
23 office shall process each request within 60 days after the request
24 is complete. However, the office may request additional information
25 or independent certification before issuing a postproduction
26 certificate of completion and need not issue the postproduction
27 certificate until satisfied that direct production expenditures,

1 qualified personnel expenditures, and eligibility are adequately
2 established. The additional information requested may include a
3 report of direct production expenditures and qualified personnel
4 expenditures for the qualified production audited and certified by
5 an independent certified public accountant. Each postproduction
6 certificate of completion shall be signed by the Michigan film
7 commissioner and shall include the following information:

8 (a) The name of the eligible production company.

9 (b) The name of the certified production produced in whole or
10 in part in this state.

11 (c) The eligible production company's direct production
12 expenditures and qualified personnel expenditures for the qualified
13 production.

14 (d) The date of completion for the qualified production in
15 this state.

16 (e) The unique number assigned to the qualified production
17 project by the Michigan film office under subsection (3).

18 (f) The eligible production company's federal employer
19 identification number or Michigan treasury number.

20 (g) Any independent certification required by the department
21 or the Michigan film office.

22 (6) Information, records, or other data received, prepared,
23 used, or retained by the Michigan film office under this section
24 that are submitted by an eligible production company and considered
25 by the taxpayer and acknowledged by the office as confidential
26 shall not be subject to the disclosure requirements of the freedom
27 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,

1 records, or other data shall only be considered confidential to the
2 extent that the information or records describe the commercial and
3 financial operations or intellectual property of the company, the
4 information or records have not been publicly disseminated at any
5 time, and disclosure of the information or records may put the
6 company at a competitive disadvantage. **NOT LATER THAN THE FIFTEENTH**
7 **OF EACH MONTH, THE MICHIGAN FILM OFFICE SHALL MAKE AVAILABLE ON ITS**
8 **WEBSITE A DETAILED MONTHLY REPORT THAT INCLUDES, AT A MINIMUM, ALL**
9 **OF THE FOLLOWING:**

10 (A) THE NUMBER OF APPLICATIONS RECEIVED FOR A CREDIT UNDER
11 THIS SECTION IN THE IMMEDIATELY PRECEDING MONTH INCLUDING THE NAME
12 OF THE ELIGIBLE PRODUCTION COMPANY THAT SUBMITTED THE APPLICATION
13 AND A BRIEF DESCRIPTION OF THE PROPOSED QUALIFIED PRODUCTION
14 INCLUDING THE LOCATIONS IN THIS STATE TO BE USED IN THE PRODUCTION
15 AND THE PROPOSED AMOUNT OF MONEY TO BE EXPENDED BY THE ELIGIBLE
16 PRODUCTION COMPANY TO PRODUCE THE QUALIFIED PRODUCTION IN THIS
17 STATE.

18 (B) THE NUMBER OF APPLICATIONS APPROVED DURING THE IMMEDIATELY
19 PRECEDING MONTH.

20 (C) THE NUMBER OF POSTPRODUCTION CERTIFICATES OF COMPLETION
21 ISSUED DURING THE IMMEDIATELY PRECEDING MONTH.

22 (7) An eligible production company shall submit a
23 postproduction certificate of completion issued under subsection
24 (5) to the department. If the credit allowed under this section
25 exceeds the tax liability of the company for the tax year or if the
26 company claiming the credit does not have a tax liability under
27 this act for the tax year, the department shall refund the excess

1 or pay the amount of the credit to the company. The credit under
2 this section shall be claimed after all other credits under this
3 act.

4 (8) An eligible production company may assign all or a portion
5 of a credit under this section to any assignee. An assignee may
6 subsequently assign a credit or any portion of a credit assigned
7 under this subsection to 1 or more assignees. A company may claim a
8 portion of a credit and assign the remaining credit amount. A
9 credit assignment under this subsection is irrevocable. The credit
10 assignment under this subsection shall be made on a form prescribed
11 by the department. The qualified taxpayer shall send a copy of the
12 completed assignment form to the department in the tax year in
13 which the assignment is made and shall attach a copy of the form to
14 the return on which the credit is claimed.

15 (9) The amount of the credit under this section shall be
16 reduced by a credit application and redemption fee equal to 0.5% of
17 the credit claimed, which shall be deducted from the credit
18 otherwise payable to the taxpayer claiming the credit and be
19 deposited by the department in the Michigan film promotion fund.

20 (10) A taxpayer that willfully submits information under this
21 section that the taxpayer knows to be fraudulent or false shall, in
22 addition to any other penalties provided by law, be liable for a
23 civil penalty equal to the amount of the taxpayer's credit under
24 this section. A penalty collected under this section shall be
25 deposited in the Michigan film promotion fund.

26 (11) Not later than March 1 of each year after 2008, the
27 Michigan film office shall submit to the governor, the president of

1 the Michigan strategic fund, the chairperson of the senate finance
2 committee, and the house tax policy committee an annual report
3 concerning the operation and effectiveness of the credit under this
4 section. The requirements of section 28(1)(f) of 1941 PA 122, MCL
5 205.28, do not apply to disclosure of tax information required by
6 this subsection. The report shall include all of the following:

7 (a) A brief assessment of the overall effectiveness of the
8 credit under this section at attracting qualified productions to
9 this state during the immediately preceding calendar year.

10 (b) The number of qualified productions for which the eligible
11 production company applied for a tax credit under this section
12 during the immediately preceding year, the names of the qualified
13 productions produced in this state for which credits were begun or
14 completed in the immediately preceding year, and the locations in
15 this state that were used in the production of qualified
16 productions in the immediately preceding calendar year.

17 (c) The amount of money spent by each eligible production
18 company identified in subdivision (b) to produce each qualified
19 production in this state and a breakdown of all production spending
20 by all companies classified as goods, services, or salaries and
21 wages in the immediately preceding calendar year.

22 (d) An estimate of the number of persons employed in this
23 state by eligible production companies that qualified for the
24 credit under this section in the immediately preceding calendar
25 year.

26 (e) The value of all tax credit certificates of completion
27 issued under this section in the immediately preceding calendar

1 year.

2 (12) As used in this section:

3 (a) "Below the line crew" means that term as defined under
4 section 459.

5 (b) "Core community" means a qualified local governmental unit
6 as defined under section 2 of the obsolete property rehabilitation
7 act, 2000 PA 146, MCL 125.2782.

8 (c) "Direct production expenditure" means a development,
9 preproduction, production, or postproduction expenditure made in
10 this state that is not a qualified personnel expenditure directly
11 attributable to the production or distribution of a qualified
12 production that is a transaction subject to taxation in this state,
13 including, but not limited to, all of the following:

14 (i) Payments to vendors doing business in this state to
15 purchase or use tangible personal property in producing or
16 distributing the qualified production or to purchase services
17 relating to the production or distribution of the qualified
18 production, including all of the following:

19 (A) Expenditures for optioning or purchasing intellectual
20 property including, but not limited to, books, scripts, music, or
21 trademarks relating to the development or purchase of a script,
22 story, scenario, screenplay, or format, including all expenditures
23 generally associated with the optioning or purchase of intellectual
24 property, including option money, agent fees, and attorney fees
25 relating to the transaction, but not including deferrals,
26 deferments, royalties, profit participation, or recourse or
27 nonrecourse loans negotiated by the eligible production company to

1 obtain the rights to the intellectual property.

2 (B) Production work, production equipment, production
3 software, development work, postproduction work, postproduction
4 equipment, postproduction software, set design, set construction,
5 set operations, props, lighting, wardrobe, makeup, makeup
6 accessories, photography, sound synchronization, special effects,
7 visual effects, audio effects, film processing, music, sound
8 mixing, editing, and related services and materials.

9 (C) Use of facilities or equipment, use of soundstages or
10 studios, location fees, and related services and materials.

11 (D) Catering, food, lodging, and related services and
12 materials.

13 (E) Use of vehicles, which may include chartered aircraft
14 based in this state used for transportation in this state directly
15 attributable to production of a qualified production, but may not
16 include the chartering of aircraft for transportation outside of
17 this state.

18 (F) Commercial airfare if purchased through a travel agency or
19 travel company based in this state for travel to and from this
20 state or within this state directly attributable to production or
21 distribution of a qualified production.

22 (G) Insurance coverage or bonding if purchased from an
23 insurance agent based in this state.

24 (H) Expenditures for distribution, including, but not limited
25 to, both of the following:

26 (I) Preproduction, production, or postproduction costs
27 relating to the creation of trailers, marketing videos,

1 commercials, point-of-purchase videos, and content created on film
2 or digital media, including, but not limited to, the duplication of
3 films, videos, compact discs, digital video discs, and digital
4 files or other digital media created for consumer consumption.

5 (II) Purchase of equipment relating to the duplication or
6 market distribution of any content created or produced in this
7 state.

8 (I) Other expenditures for production of a qualified
9 production in accordance with generally accepted entertainment
10 industry practices.

11 (ii) Payments and compensation, not to exceed \$2,000,000.00 for
12 any 1 employee or contractual or salaried employee who performs
13 services in this state for the production or distribution of a
14 qualified production, including all of the following:

15 (A) Payment of wages, benefits, or fees for talent,
16 management, or labor.

17 (B) Payment to a personal services corporation or professional
18 employer organization for the services of a performing artist or
19 crew member if the personal services corporation or professional
20 employer organization is subject to the tax levied under this act
21 on the portion of the payment qualifying for the tax credit under
22 this section and the payments received by the performing artist or
23 crew member that are subject to taxation under the income tax act
24 of 1967, 1967 PA 281, MCL 206.1 to 206.532, and are withheld and
25 paid to this state in the amount provided under section 351 of the
26 income tax act of 1967, 1967 PA 281, MCL 206.351.

27 (d) "Eligible production company" or "company" means an entity

1 in the business of producing qualified productions, but does not
2 include an entity that is more than 30% owned, affiliated, or
3 controlled by an entity or individual who is in default on a loan
4 made by this state, a loan guaranteed by this state, or a loan made
5 or guaranteed by any other state.

6 (e) "Interactive website" means a website, the production
7 costs of which exceed \$500,000.00 in an annual period and primarily
8 includes interactive games, end user applications, animation,
9 simulation, sound, graphics, story lines, or video created or
10 repurposed for distribution over the internet. Interactive website
11 does not include a website primarily used for institutional,
12 private, industrial, retail, or wholesale marketing or promotional
13 purposes, or which contains obscene matter or an obscene
14 performance.

15 (f) "Michigan film office" or "office" means the Michigan film
16 office created under chapter 2A of the Michigan strategic fund act,
17 1984 PA 270, MCL 125.2029 to 125.2029g.

18 (g) "Michigan film promotion fund" means the fund created
19 under chapter 2A of the Michigan strategic fund act, 1984 PA 270,
20 MCL 125.2029 to 125.2029g.

21 (h) "Obscene matter or an obscene performance" means matter
22 described in 1984 PA 343, MCL 752.361 to 752.374.

23 (i) "Postproduction expenditure" means a direct expenditure
24 for editing, Foley recording, automatic dialogue replacement, sound
25 editing, special or visual effects including computer-generated
26 imagery or other effects, scoring and music editing, beginning and
27 end credits, negative cutting, soundtrack production, dubbing,

1 subtitling, or addition of sound or visual effects. Postproduction
2 expenditure includes direct expenditures for advertising,
3 marketing, distribution, or related expenses.

4 (j) "Qualified personnel expenditure" means an expenditure
5 made in this state directly attributable to the production or
6 distribution of a qualified production that is a transaction
7 subject to taxation in this state and is a payment or compensation
8 payable to below the line crew for below the line crew members who
9 were not residents of this state for at least 60 days before
10 approval of the agreement for the qualified production under
11 subsection (3), not to exceed \$2,000,000.00 for any 1 employee or
12 contractual or salaried employee who performs service in this state
13 for the production of a qualified production, including both of the
14 following:

15 (i) Payment of wages, benefits, or fees.

16 (ii) Payment to a personal services corporation or professional
17 employer organization for the services of a performing artist or
18 crew member if the personal services corporation or professional
19 employer organization is subject to the tax levied under this act
20 on the portion of the payment qualifying for the tax credit under
21 this section and the payments received by the performing artist or
22 crew member that are subject to taxation under the income tax act
23 of 1967, 1967 PA 281, MCL 206.1 to 206.532, and are withheld and
24 paid to this state in the amount provided under section 351 of the
25 income tax act of 1967, 1967 PA 281, MCL 206.351.

26 (k) "State certified qualified production" or "qualified
27 production" means single media or multimedia entertainment content

1 created in whole or in part in this state for distribution or
2 exhibition to the general public in 2 or more states by any means
3 and media in any digital media format, film, or video tape,
4 including, but not limited to, a motion picture, a documentary, a
5 television series, a television miniseries, a television special,
6 interstitial television programming, long-form television,
7 interactive television, music videos, interactive games, video
8 games, commercials, internet programming, an internet video, a
9 sound recording, a video, digital animation, or an interactive
10 website. Qualified production also includes any trailer, pilot,
11 video teaser, or demo created primarily to stimulate the sale,
12 marketing, promotion, or exploitation of future investment in a
13 production. Qualified production does not include any of the
14 following:

15 (i) A production for which records are required to be
16 maintained with respect to any performer in the production under 18
17 USC 2257.

18 (ii) A production that includes obscene matter or an obscene
19 performance.

20 (iii) A production that primarily consists of televised news or
21 current events.

22 (iv) A production that primarily consists of a live sporting
23 event.

24 (v) A production that primarily consists of political
25 advertising.

26 (vi) A radio program.

27 (vii) A weather show.

1 (viii) A financial market report.

2 (ix) A talk show.

3 (x) A game show.

4 (xi) A production that primarily markets a product or service
5 other than a state certified qualified production.

6 (xii) An awards show or other gala event production.

7 (xiii) A production with the primary purpose of fund-raising.

8 (xiv) A production that primarily is for employee training or
9 in-house corporate advertising or other similar production.

10 (l) "Sound recording" means a recording of music, poetry, or
11 spoken-word performance, but does not include the audio portions
12 spoken and recorded as part of a motion picture, video, theatrical
13 production, television news coverage, or athletic event.

14 (m) "State certified qualified production" means a qualified
15 production for which a postproduction certificate has been issued
16 by the office under subsection (5).

17 Sec. 457. (1) Until September 30, 2015, the Michigan film
18 office, with the concurrence of the state treasurer, may enter into
19 an agreement with a taxpayer providing the taxpayer with a credit
20 against the tax imposed by this act for an investment in a
21 qualified film and digital media infrastructure project, as
22 provided under this section. To qualify for the credit under this
23 section, a taxpayer shall meet all of the following requirements:

24 (a) Before January 1, 2009, invest and expend at least
25 \$100,000.00 for a qualified film and digital media infrastructure
26 project in this state; after December 31, 2008, invest and expend
27 at least \$250,000.00 for a qualified film and digital media

1 infrastructure project in this state.

2 (b) Enter into an agreement as provided in this section.

3 (c) Receive an investment expenditure certificate from the
4 office under subsection (5).

5 (d) Submit the investment expenditure certificate issued by
6 the office under subsection (5) to the department under subsection
7 (7).

8 (e) Shall not be delinquent in a tax or other obligation owed
9 to this state or be owned or under common control of an entity that
10 is delinquent in a tax or other obligation owed to this state.

11 (2) For investment expenditures made by a taxpayer for all
12 qualified film and digital media infrastructure projects in this
13 state, an agreement under this section may provide for the taxpayer
14 to claim a tax credit equal to 25% of the taxpayer's base
15 investment. The credit under this section shall be reduced by any
16 credit claimed by the taxpayer under section 437 for the same base
17 investment. No more than \$20,000,000.00 in total credits under this
18 section shall be authorized in a tax year. If all or a portion of a
19 qualified film and digital media infrastructure project is a
20 facility that may be used for purposes unrelated to production or
21 postproduction activities, then the project is eligible for the
22 credit only if the department determines that the facility will
23 support and be necessary to secure production or postproduction
24 activity for the production and postproduction facility and the
25 taxpayer agrees to both of the following:

26 (a) The facility will be used as a state of the art production
27 or postproduction facility or as support and component of the

1 facility for the useful life of the facility.

2 (b) A credit will not be claimed under this section until the
3 facility is complete.

4 (3) A taxpayer seeking a credit under this section may submit
5 an application to enter into an agreement under this section to the
6 Michigan film office. The application shall be submitted in a form
7 prescribed by the Michigan film office and shall be accompanied by
8 a \$100.00 application fee and all of the information and records
9 requested by the office. An application fee received by the office
10 under this subsection shall be deposited in the Michigan film
11 promotion fund. The office shall not process the application until
12 it is complete. If the office, with the concurrence of the state
13 treasurer, determines to enter into an agreement under this
14 section, the agreement shall provide for all of the following:

15 (a) A requirement that construction on the qualified film and
16 digital media infrastructure project commence within 180 days of
17 the date of the agreement or else the agreement shall expire.
18 However, upon request submitted by the taxpayer based on good
19 cause, the office may extend the period for commencement of work
20 for up to an additional 90 days.

21 (b) A unique number assigned to the qualified film and digital
22 media infrastructure project.

23 (c) A detailed description of the qualified film and digital
24 media infrastructure project.

25 (d) A detailed business plan and market analysis for the
26 qualified film and digital media infrastructure project.

27 (e) A projected budget for the qualified film and digital

1 media infrastructure project.

2 (f) Estimated start date and completion date for the qualified
3 film and digital media infrastructure project.

4 (g) A requirement that the taxpayer not file a claim for the
5 credit under this section until at least 25% of the base investment
6 in the qualified film and digital media infrastructure project
7 identified in the agreement has been expended.

8 (h) A requirement that the taxpayer provide the office with
9 the information and independent certification the office and the
10 department deem necessary to verify investment expenditures and
11 eligibility for the credit under this section.

12 (i) A requirement that if the cost of tangible assets
13 described in subsection (11)(a) was paid or accrued in a tax year
14 beginning after December 31, 2007, the taxpayer shall repay an
15 amount equal to 25% of the gross proceeds or benefit derived from
16 the sale or other disposition of the tangible assets minus the
17 gain, multiplied by the apportionment factor for the taxable year
18 as prescribed in chapter 3, and plus the loss, multiplied by the
19 apportionment factor for the taxable year as prescribed in chapter
20 3 from the sale or other disposition reflected in federal taxable
21 income and minus the gain from the sale or other disposition added
22 to the business income tax base in section 201.

23 (4) In determining whether to enter into an agreement under
24 this section, the Michigan film office and the state treasurer
25 shall consider all of the following:

26 (a) The potential that in the absence of the credit the
27 qualified film and digital media infrastructure project will be

1 constructed in a location other than this state.

2 (b) The extent to which the qualified film and digital media
3 infrastructure project may have the effect of promoting economic
4 development or job creation in this state.

5 (c) The extent to which the credit will attract private
6 investment for the production of motion pictures, videos,
7 television programs, and digital media in this state.

8 (d) The extent to which the credit will encourage the
9 development of film, video, television, and digital media
10 production and postproduction facilities in this state.

11 (5) If the Michigan film office determines that a taxpayer has
12 complied with the terms of an agreement entered into under this
13 section, the office shall issue an investment expenditure
14 certificate to the taxpayer. The taxpayer shall submit a request to
15 the office for an investment expenditure certificate on a form
16 prescribed by the office, along with any information or independent
17 certification the office or the department deems necessary. The
18 office shall process each request within 60 days after the request
19 is complete. However, the office may request additional information
20 or independent certification before issuing an investment
21 expenditure certificate and need not issue the investment
22 expenditure certificate until satisfied that investment
23 expenditures and eligibility are adequately established. The
24 additional information requested may include a report of
25 expenditures audited and certified by an independent certified
26 public accountant. Each investment expenditure certificate shall be
27 signed by the Michigan film commissioner and shall include the

1 following information:

2 (a) The name of the taxpayer.

3 (b) A description of the qualified film and digital media
4 infrastructure project.

5 (c) The taxpayer's eligible investment expenditures for the
6 qualified film and digital media infrastructure project.

7 (d) The unique number assigned to the qualified film and
8 digital media infrastructure project by the office under subsection
9 (3).

10 (e) The taxpayer's federal employer identification number or
11 Michigan treasury number.

12 (f) Any independent certification required by the department
13 or the Michigan film office.

14 (6) Information, records, or other data received, prepared,
15 used, or retained by the Michigan film office under this section
16 that are submitted by an eligible production company and considered
17 by the taxpayer and acknowledged by the office as confidential
18 shall not be subject to the disclosure requirements of the freedom
19 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
20 records, or other data shall only be considered confidential to the
21 extent that the information or records describe the commercial and
22 financial operations or intellectual property of the company, the
23 information or records have not been publicly disseminated at any
24 time, and disclosure of the information or records may put the
25 company at a competitive disadvantage. **NOT LATER THAN THE FIFTEENTH**
26 **OF EACH MONTH, THE MICHIGAN FILM OFFICE SHALL MAKE AVAILABLE ON ITS**
27 **WEBSITE A DETAILED MONTHLY REPORT THAT INCLUDES, AT A MINIMUM, ALL**

1 OF THE FOLLOWING:

2 (A) THE NUMBER OF APPLICATIONS RECEIVED FOR A CREDIT UNDER
3 THIS SECTION IN THE IMMEDIATELY PRECEDING MONTH INCLUDING THE NAME
4 OF THE ELIGIBLE PRODUCTION COMPANY THAT SUBMITTED THE APPLICATION
5 AND A BRIEF DESCRIPTION OF THE PROPOSED QUALIFIED PRODUCTION
6 INCLUDING THE LOCATIONS IN THIS STATE TO BE USED IN THE PRODUCTION
7 AND THE PROPOSED AMOUNT OF MONEY TO BE EXPENDED BY THE ELIGIBLE
8 PRODUCTION COMPANY TO PRODUCE THE QUALIFIED PRODUCTION IN THIS
9 STATE.

10 (B) THE NUMBER OF APPLICATIONS APPROVED DURING THE IMMEDIATELY
11 PRECEDING MONTH.

12 (C) THE NUMBER OF POSTPRODUCTION CERTIFICATES OF COMPLETION
13 ISSUED DURING THE IMMEDIATELY PRECEDING MONTH.

14 (7) To claim a credit under this section, a taxpayer shall
15 submit an investment expenditure certificate issued under
16 subsection (5) to the department. If the credit allowed under this
17 section exceeds the amount of taxes owed by the taxpayer under this
18 act for a tax year, that portion of the credit that exceeds the tax
19 liability of the taxpayer for the tax year shall not be refunded
20 but may be carried forward to offset tax liability under this act
21 in subsequent tax years for a period not to exceed 10 tax years or
22 until used up, whichever occurs first.

23 (8) The credit under this section shall be claimed after all
24 other credits under this act. A taxpayer eligible to claim a credit
25 under this section may assign all or a portion of a credit under
26 this section to any assignee. An assignee may subsequently assign a
27 credit or any portion of a credit assigned under this subsection to

1 1 or more assignees. A taxpayer may claim a portion of a credit and
2 assign the remaining credit amount. A credit assignment under this
3 subsection is irrevocable. The credit assignment under this
4 subsection shall be made on a form prescribed by the department. A
5 taxpayer claiming a credit under this section shall send a copy of
6 the completed assignment form to the department in the tax year in
7 which the assignment is made and shall attach a copy of the form to
8 the return on which the credit is claimed.

9 (9) The amount of the credit under this section shall be
10 reduced by a credit application and redemption fee equal to 0.5% of
11 the credit claimed, which shall be deducted from the credit
12 otherwise payable to the taxpayer claiming the credit and be
13 deposited by the department in the Michigan film promotion fund.

14 (10) A taxpayer that willfully submits information under this
15 section that the taxpayer knows to be fraudulent or false shall, in
16 addition to any other penalties provided by law, be liable for a
17 civil penalty equal to the amount of the taxpayer's credit under
18 this section. A penalty collected under this section shall be
19 deposited in the Michigan film production promotion fund.

20 (11) As used in this section:

21 (a) "Base investment" means the cost, including fabrication
22 and installation, paid or accrued in the taxable year of tangible
23 assets of a type that are, or under the internal revenue code will
24 become, eligible for depreciation, amortization, or accelerated
25 capital cost recovery for federal income tax purposes, provided
26 that the assets are physically located in this state for use in a
27 business activity in this state and are not mobile tangible assets

1 expended by a person in the development of a qualified film and
2 digital media infrastructure project. Base investment does not
3 include a direct production expenditure or qualified personnel
4 expenditure eligible for a credit under section 455.

5 (b) "Michigan film office" or "office" means the Michigan film
6 office created under chapter 2A of the Michigan strategic fund act,
7 1984 PA 270, MCL 125.2029 to 125.2029g.

8 (c) "Michigan film promotion fund" means the fund created
9 under chapter 2A of the Michigan strategic fund act, 1984 PA 270,
10 MCL 125.2029 to 125.2029g.

11 (d) "Qualified film and digital media infrastructure project"
12 means a film, video, television, or digital media production and
13 postproduction facility located in this state, movable and
14 immovable property and equipment related to the facility, and any
15 other facility that is a necessary component of the primary
16 facility. A qualified film and digital media infrastructure project
17 does not include a movie theater or other commercial exhibition
18 facility, a facility used to produce obscene matter or an obscene
19 performance as described in 1984 PA 343, MCL 752.361 to 752.374, or
20 a facility used for a production for which records are required to
21 be maintained with respect to any performer in the production under
22 18 USC 2257.

23 Sec. 459. (1) Until September 30, 2015, the Michigan film
24 office, with the concurrence of the state treasurer, may enter into
25 an agreement with an eligible production company providing the
26 company with a credit against the tax imposed by this act for
27 qualified job training expenditures, as provided under this

1 section. To qualify for the credit under this section, a company
2 shall meet all of the following requirements:

3 (a) Make qualified job training expenditures for a state
4 certified qualified production.

5 (b) After completion of the production of the state certified
6 qualified production in this state, submit to the office an
7 application in a form determined by the office with information
8 regarding the qualified job training expenditures, including
9 employment, salary, and related information required by the office.

10 (c) Receive a qualified job training expenditures certificate
11 from the office under subsection (5).

12 (d) Submit the qualified job training expenditure certificate
13 issued by the office under subsection (5) to the department under
14 subsection (7).

15 (e) Shall not be delinquent in a tax or other obligation owed
16 to this state or be owned or under common control of an entity that
17 is delinquent in a tax or other obligation owed to this state.

18 (2) For a qualified job training expenditure made by a
19 company, the company may claim a tax credit equal to 50% of the
20 qualified job training expenditure. A company shall not claim a
21 credit under this section for any of the following:

22 (a) A direct expenditure, or qualified personnel expenditure,
23 for which the company claims a credit under section 455.

24 (b) A direct expenditure, or qualified personnel expenditure,
25 for which the company claims a credit under section 367 of the
26 income tax act of 1967, 1967 PA 281, MCL 206.367.

27 (c) A direct expenditure, or qualified personnel expenditure,

1 for which another taxpayer claims a credit under this section, a
2 credit under section 455, or a credit under section 367 of the
3 income tax act of 1967, 1967 PA 281, MCL 206.367.

4 (3) A taxpayer seeking a credit under this section may submit
5 an application to enter into an agreement under this section to the
6 Michigan film office. The application shall be submitted, prior to
7 making qualified job training expenditures, in a form prescribed by
8 the Michigan film office and shall be accompanied by a \$100.00
9 application fee and all of the information and records requested by
10 the office. An application fee received by the office under this
11 subsection shall be deposited in the Michigan film promotion fund.
12 The office shall not process the application until it is complete.
13 If the office, with the concurrence of the state treasurer,
14 determines to enter into an agreement under this section, the
15 agreement shall provide for all of the following:

16 (a) A unique number assigned to the state certified qualified
17 production for which qualified job training expenditures were
18 incurred by the company.

19 (b) A detailed description of the state certified qualified
20 production and the qualified job training expenditures.

21 (c) A requirement that the company provide the office with the
22 information and independent certification the office and the
23 department deem necessary to verify qualified job training
24 expenditures and eligibility for the credit under this section.

25 (4) In determining whether to authorize a credit under this
26 section, the Michigan film office and the state treasurer shall
27 consider all of the following:

1 (a) The extent to which the state certified qualified
2 production and qualified job training expenditure may have the
3 effect of promoting economic development or job creation in this
4 state.

5 (b) The extent to which the credit may assist in attracting
6 additional private investment for the production of motion
7 pictures, videos, television programs, and digital media in this
8 state.

9 (c) The extent to which the credit will encourage the
10 development of film, video, television, and digital media
11 production and postproduction expertise in this state.

12 (5) If the Michigan film office determines that a company has
13 complied with the terms of an agreement entered into under this
14 section, the office shall issue a qualified job training
15 expenditure certificate to the company. The company shall submit a
16 request to the office for a qualified job training expenditure
17 certificate on a form prescribed by the office, along with any
18 information or independent certification the office or the
19 department deems necessary. The office shall process each request
20 within 60 days after the request is complete. However, the office
21 may request additional information or independent certification
22 before issuing a certificate and need not issue the certificate
23 until satisfied that qualified job training expenditures and
24 eligibility are adequately established. The additional information
25 requested may include a report of expenditures audited and
26 certified by an independent certified public accountant. Each
27 qualified job training expenditure certificate shall be signed by

1 the Michigan film commissioner and shall include the following
2 information:

3 (a) The name of the taxpayer.

4 (b) A description of the state certified qualified production
5 and the qualified job training expenditures.

6 (c) The amount of the company's qualified job training
7 expenditures for the state certified qualified production.

8 (d) The date on which production of the state certified
9 qualified production began in this state, the date on which
10 production of the state certified qualified production ended in
11 this state, the total number of production days in this state, and
12 the approximate total crew size for the state certified qualified
13 production.

14 (e) The unique number assigned to the state certified
15 qualified production by the office under subsection (3).

16 (f) The company's federal employer identification number or
17 Michigan treasury number.

18 (g) Any independent certification required by the department
19 or the Michigan film office.

20 (6) Information, records, or other data received, prepared,
21 used, or retained by the Michigan film office under this section
22 that are submitted by an eligible production company and considered
23 by the taxpayer and acknowledged by the office as confidential
24 shall not be subject to the disclosure requirements of the freedom
25 of information act, 1976 PA 442, MCL 15.231 to 15.246. Information,
26 records, or other data shall only be considered confidential to the
27 extent that the information or records describe the commercial and

1 financial operations or intellectual property of the company, the
2 information or records have not been publicly disseminated at any
3 time, and disclosure of the information or records may put the
4 company at a competitive disadvantage. **NOT LATER THAN THE FIFTEENTH**
5 **OF EACH MONTH, THE MICHIGAN FILM OFFICE SHALL MAKE AVAILABLE ON ITS**
6 **WEBSITE A DETAILED MONTHLY REPORT THAT INCLUDES, AT A MINIMUM, ALL**
7 **OF THE FOLLOWING:**

8 (A) THE NUMBER OF APPLICATIONS RECEIVED FOR A CREDIT UNDER
9 THIS SECTION IN THE IMMEDIATELY PRECEDING MONTH INCLUDING THE NAME
10 OF THE ELIGIBLE PRODUCTION COMPANY THAT SUBMITTED THE APPLICATION
11 AND A BRIEF DESCRIPTION OF THE PROPOSED QUALIFIED PRODUCTION
12 INCLUDING THE LOCATIONS IN THIS STATE TO BE USED IN THE PRODUCTION
13 AND THE PROPOSED AMOUNT OF MONEY TO BE EXPENDED BY THE ELIGIBLE
14 PRODUCTION COMPANY TO PRODUCE THE QUALIFIED PRODUCTION IN THIS
15 STATE.

16 (B) THE NUMBER OF APPLICATIONS APPROVED DURING THE IMMEDIATELY
17 PRECEDING MONTH.

18 (C) THE NUMBER OF POSTPRODUCTION CERTIFICATES OF COMPLETION
19 ISSUED DURING THE IMMEDIATELY PRECEDING MONTH.

20 (7) To claim a credit under this section, a company shall
21 submit a qualified job training expenditure certificate issued
22 under subsection (5) to the department. If the credit allowed under
23 this section exceeds the amount of taxes owed by the company under
24 this act for a tax year, that portion of the credit that exceeds
25 the tax liability of the company for the tax year shall not be
26 refunded but may be carried forward as a credit against tax
27 liability under this act in subsequent tax years for a period not

1 to exceed 10 tax years.

2 (8) The credit under this section shall be claimed after all
3 other credits under this act. The amount of the credit under this
4 section shall be reduced by a credit application and redemption fee
5 equal to 0.5% of the credit claimed, which shall be deducted from
6 the credit otherwise payable to the taxpayer claiming the credit
7 and be deposited by the department in the Michigan film promotion
8 fund.

9 (9) A taxpayer that willfully submits information under this
10 section that the taxpayer knows to be fraudulent or false, shall,
11 in addition to any other penalties provided by law, be liable for a
12 civil penalty equal to the amount of the taxpayer's credit under
13 this section. A penalty collected under this section shall be
14 deposited in the Michigan film production promotion fund.

15 (10) As used in this section:

16 (a) "Below the line crew" means persons employed by an
17 eligible production company for state certified qualified
18 production expenditures made after production begins and before
19 production is completed, including, but not limited to, a best boy,
20 boom operator, camera loader, camera operator, assistant camera
21 operator, compositor, dialogue editor, film editor, assistant film
22 editor, focus puller, Foley operator, Foley editor, gaffer, grip,
23 key grip, lighting crew, lighting board operator, lighting
24 technician, music editor, sound editor, sound effects editor, sound
25 mixer, steadicam operator, first assistant camera operator, second
26 assistant camera operator, digital imaging technician, camera
27 operator working with a director of photography, electric best boy,

1 grip best boy, dolly grip, rigging grip, assistant key for makeup,
2 assistant key for hair, assistant script supervisor, set
3 construction foreperson, lead set dresser, assistant key for
4 wardrobe, scenic foreperson, assistant propmaster, assistant audio
5 mixer, assistant boom person, assistant key for special effects,
6 and other similar personnel. Below the line crew does not include a
7 producer, director, writer, actor, or 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. Qualified personnel includes, but is not

1 limited to, a person who has completed a training program at a
2 Michigan proprietary school licensed by the department of labor and
3 economic growth that offers a program of instruction in film and
4 video production and has been designated with a classification of
5 instructional programs code of 50 by the department of labor and
6 economic growth and a person in an advanced crew position that
7 meets the residency requirements of this subdivision and is hired
8 and mentored by a key or supervisor. Qualified personnel do not
9 include a person with fewer than 1 or more than 4 film credits in
10 the same below the line crew position for which the eligible
11 production company claimed a credit under this section.

12 (g) "Qualified personnel expenditure" means that term as
13 defined under section 455.

14 (h) "State certified qualified production" means that term as
15 defined in section 455.