

# SENATE BILL NO. 863

February 08, 2022, Introduced by Senators HOLLIER, BULLOCK, WOJNO, MCCANN, GEISS and SCHMIDT and referred to the Committee on Economic and Small Business Development.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
(MCL 206.1 to 206.847) by adding sections 285 and 677.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 285. (1) Subject to the limitations under this section,  
2 beginning January 1, 2023 through December 31, 2032, the Michigan  
3 film and digital media office may approve an application for a  
4 credit against the tax imposed by this part for a state certified  
5 qualified production in an amount determined as follows:

6           (a) Except as otherwise provided under subdivision (b), 25% of

1 the qualified direct production expenditures.

2 (b) If the office determines that the production includes an  
3 approved "filmed in Michigan" logo, 30% of qualified direct  
4 production expenditures.

5 (c) 30% of the qualified personnel expenditures attributable  
6 to employees who are residents of this state.

7 (d) 20% of the qualified personnel expenditures attributable  
8 to employees who are not residents of this state.

9 (2) An applicant proposing to produce a qualified production  
10 in this state and seeking a credit for that qualified production  
11 must submit an application to the office. The application must be  
12 submitted in a form prescribed by the office and shall be  
13 accompanied by a \$1,000.00 nonrefundable application fee for a  
14 qualified production that is less than 20 minutes in duration or a  
15 \$2,000.00 nonrefundable application fee for a qualified production  
16 that is 20 minutes or more in duration and include all of the  
17 information and records requested by the office. An application fee  
18 received by the office under this subsection shall be deposited in  
19 the Michigan film promotion fund. The office shall not process or  
20 approve an application until it is complete. As part of the  
21 application, an applicant shall estimate qualified direct  
22 production expenditures and qualified personnel expenditures for  
23 the proposed qualified production. The office shall approve or deny  
24 a complete application within 2 days after the application for a  
25 qualified production that is less than 20 minutes in duration is  
26 received by the office and within 5 days after the application for  
27 a qualified production that is 20 minutes or more in duration is  
28 received by the office.

29 (3) In determining whether to approve an application under

1 this section, the office shall consider the limitations under  
2 subsection (4) and all of the following:

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

5 (b) The extent to which the qualified production may have the  
6 effect of promoting economic development or job creation in this  
7 state.

8 (c) The extent to which the credit will attract private  
9 investment for the production of qualified productions in this  
10 state.

11 (d) The record of the applicant in completing commitments to  
12 engage in a qualified production.

13 (e) If the applicant expects to spend at least \$300,000.00 in  
14 this state for the preproduction, production, or postproduction  
15 costs of a state certified qualified production that is at least 20  
16 minutes in duration or, for a state certified qualified production  
17 that is less than 20 minutes in duration, spend at least \$50,000.00  
18 in this state for the preproduction and production costs of that  
19 state certified qualified production.

20 (f) If the applicant is delinquent in a tax or other  
21 obligation owed to this state or is owned or under common control  
22 of an entity that is delinquent in a tax or other obligation owed  
23 to this state.

24 (g) If the applicant intends to commence work on the qualified  
25 production within 90 days after approval of the application and the  
26 date of the written notice of approval.

27 (4) Of the total number of applications approved under this  
28 section and section 677, the following limitations, plus any  
29 carryforward as provided under subsection (5) and section 677(5),

1 apply:

2 (a) For qualified productions that are less than 20 minutes in  
3 duration, not more than \$2,000,000.00 shall be approved for each of  
4 the first 3 calendar years of the credit, \$4,000,000.00 for each of  
5 the second 3 calendar years of the credit, and \$10,000,000.00 for  
6 each of the final 4 calendar years of the credit.

7 (b) For qualified productions that are 20 minutes or more in  
8 duration, not more than \$50,000,000.00 for each of the first 3  
9 calendar years of the credit, \$75,000,000.00 for each of the second  
10 3 calendar years of the credit, and \$100,000,000.00 for each of the  
11 final 4 calendar years of the credit.

12 (5) If the office does not receive enough applications to  
13 award the entire amount allocated for credits under subsection  
14 (4) (a) and section 677(4) (a) during any of the first 3 calendar  
15 years or if the office determines that an applicant did not use any  
16 or a portion of the credit approved under the application under  
17 subsection (4) (a) or section 677(4) (a) for any of the first 3  
18 calendar years, that remaining amount may be carried forward to the  
19 next calendar year for credits approved under subsection (4) (b) or  
20 section 677(4) (b). Starting with the second 3 calendar years and  
21 each calendar year thereafter, any remaining amount under  
22 subsection (4) (a) may be carried forward to the next calendar year  
23 for credits approved under subsection (4) (a) or section 677(4) (a).  
24 If the office does not receive enough applications to award the  
25 entire amount allocated for credits under subsection (4) (b) and  
26 section 677(4) (b) during the calendar year or if the office  
27 determines that an applicant did not use any or a portion of the  
28 credit approved under the application under subsection (4) (b) or  
29 section 677(4) (b) during the calendar year, that remaining amount

1 may be carried forward to the next calendar year for credits  
2 approved under subsection (4) (b) or section 677(4) (b) .

3 (6) If the office approves an application, the office shall  
4 provide the applicant with a written notice of the approval and the  
5 written notice must include all of the following:

6 (a) A requirement that the applicant commence work in this  
7 state on the identified qualified production within 90 days of the  
8 date of the written notice or else the application is denied.  
9 However, upon request submitted by the applicant based on good  
10 cause, the office may extend the period to commence work in this  
11 state for up to an additional 90 days.

12 (b) A statement identifying the applicant and the qualified  
13 production that the applicant intends to produce in whole or in  
14 part in this state.

15 (c) A unique number assigned to the qualified production by  
16 the office.

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

19 (e) A requirement that the applicant shall give preference to  
20 qualified Michigan vendors and residents of this state.

21 (f) A requirement that the applicant provide the office with  
22 the information and independent certification the office and the  
23 department determine are necessary to verify qualified direct  
24 production expenditures, qualified personnel expenditures, and  
25 eligibility for the credit under this section.

26 (7) Within 2 years of completion of the qualified production,  
27 the applicant shall provide the department with an independent  
28 certified public accountant's report on applying the agreed-upon  
29 procedures for the qualified production and submit a request to the

1 office for a qualified production certificate of completion on a  
2 form prescribed by the office, along with any information or  
3 independent certification the office or department considers  
4 necessary to verify expenditures and calculate the amount of the  
5 credit. The department or office may request copies of the  
6 applicant's books and records for the qualified production and any  
7 other additional information it determines is necessary before  
8 issuing a qualified production certificate of completion and need  
9 not issue the qualified production certificate of completion until  
10 satisfied that qualified direct production expenditures, qualified  
11 personnel expenditures, and eligibility are adequately established.  
12 The additional information requested must include an itemized  
13 statement of qualified direct production expenditures and qualified  
14 personnel expenditures for the qualified production. The department  
15 shall verify the independent certified public accountant's report  
16 on applying the agreed-upon procedures for the qualified production  
17 and notify the office of the amount of the credit verified and to  
18 be awarded to the applicant within 45 days after receipt and the  
19 office shall process each request within 15 days after receiving  
20 notice from the department of the amount of the credit to be  
21 awarded in the qualified production certificate of completion.  
22 After notification from the department verifying the amount of the  
23 credit to be awarded, if the office determines that an applicant  
24 has complied with the terms of the written notice, the office  
25 shall, within 15 days, issue a qualified production certificate of  
26 completion to the applicant. Each qualified production certificate  
27 of completion shall be signed by the Michigan film commissioner and  
28 shall include the following information:

29 (a) The name of the applicant.

1           (b) The name of the state certified qualified production  
2 produced in whole or in part in this state.

3           (c) The applicant's qualified direct production expenditures  
4 and qualified personnel expenditures for the qualified production.

5           (d) The amount of the applicant's credit awarded under this  
6 section and the designated tax year.

7           (e) The date of completion for the qualified production in  
8 this state.

9           (f) The unique number assigned to the qualified production  
10 project by the office under this section.

11           (g) The applicant's federal employer identification number and  
12 Michigan treasury number.

13           (h) Any independent certification required by the office.

14           (8) Information, records, or other data received, prepared,  
15 used, or retained by the office under this section that are  
16 submitted by an applicant and considered by the applicant and  
17 acknowledged by the office as confidential shall not be subject to  
18 the disclosure requirements of the freedom of information act, 1976  
19 PA 442, MCL 15.231 to 15.246. Information, records, or other data  
20 shall only be considered confidential to the extent that the  
21 information or records describe the commercial and financial  
22 operations or intellectual property of the applicant, 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 applicant at a competitive disadvantage. For purposes of this  
26 subsection, information or records that describe commercial and  
27 financial operations do not include that portion of information or  
28 records that include any expenses that qualify under this section  
29 as qualified personnel expenditures or qualified direct production

1 expenditures and for which a credit may be claimed.

2 (9) The office shall forward a copy of each qualified  
3 production certificate of completion issued under this section to  
4 the governor, the president of the Michigan strategic fund, the  
5 chairperson of the senate finance committee, the chairperson of the  
6 house tax policy committee, the director of the senate fiscal  
7 agency, and the director of the house fiscal agency. An applicant  
8 or assignee that claims a credit under this section shall submit  
9 with the annual return filed under this part on which the credit  
10 under this section is claimed a copy of the qualified production  
11 certificate of completion and, if the credit was assigned, a copy  
12 of the assignment form provided for under this section to the  
13 department within the same tax year in which the qualified  
14 production certificate of completion was issued. A credit amount  
15 assigned under this subsection may be claimed against the  
16 assignee's tax under this part or part 2. A credit amount  
17 authorized or assigned to a partnership, limited liability company,  
18 or subchapter S corporation under this section or section 677 may  
19 be claimed against the partner's, member's, or shareholder's tax  
20 liability under this part based on the partner's, member's, or  
21 shareholder's proportionate share of ownership or an alternative  
22 method approved by the office. If the credit allowed under this  
23 section exceeds the tax liability of the applicant or assignee for  
24 the tax year or if the taxpayer claiming the credit does not have a  
25 tax liability under this part for the tax year, that portion that  
26 exceeds the tax liability for the tax year shall not be refunded  
27 but may be carried forward to offset tax liability in subsequent  
28 tax years for 5 years or until used up, whichever occurs first. The  
29 department shall, as soon as the information is available, annually



1 report to the governor, the president of the Michigan strategic  
2 fund, the chairperson of the senate finance committee, the  
3 chairperson of the house tax policy committee, the director of the  
4 senate fiscal agency, and the director of the house fiscal agency  
5 the total amount of the credits claimed under this section that  
6 exceed the taxpayer's tax liability for the most recent year that  
7 tax information is available and for which returns have cleared and  
8 been processed. The credit under this section shall be claimed  
9 after all other credits under this part.

10 (10) An applicant may transfer and assign all or a portion of  
11 a credit awarded under this section to up to 10 assignees. An  
12 applicant may claim a portion of a credit and assign the remaining  
13 credit amount. A credit assignment can only be made once within the  
14 first year after the qualified production certificate of completion  
15 is issued, and a credit assignment under this section is  
16 irrevocable. The credit assignment under this subsection shall be  
17 made on a form prescribed by the department.

18 (11) The amount of the credit under this section shall be  
19 reduced by a redemption fee equal to 0.5% of the credit claimed,  
20 which shall be deducted from the credit otherwise payable to the  
21 applicant claiming the credit and be deposited by the department in  
22 the Michigan film promotion fund.

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

29 (13) Not later than March 1, 2024 and each March 1 thereafter

1 through March 1, 2033, the office shall evaluate the credits under  
2 this section and section 677 and submit to the governor, the  
3 president of the Michigan strategic fund, the chairperson of the  
4 senate finance committee, the chairperson of the house tax policy  
5 committee, the director of the senate fiscal agency, and the  
6 director of the house fiscal agency an annual report concerning the  
7 operation and effectiveness of the credit under this section and  
8 section 677. The requirements of section 28(1)(f) of 1941 PA 122,  
9 MCL 205.28, do not apply to disclosure of tax information required  
10 by this subsection. The report shall include all of the following:

11 (a) A brief assessment of the overall effectiveness of the  
12 credit under this section and section 677 at attracting qualified  
13 productions to this state during the immediately preceding calendar  
14 year. The assessment must include the economic impact data of the  
15 credit program, including both of the following:

16 (i) The number of full-time equivalent jobs created and  
17 retained and whether those jobs are entry level, production staff  
18 and crew, management, talent-related positions, or vendor-related  
19 positions.

20 (ii) The amount of qualified direct production expenditures in  
21 this state, including the amount of those expenditures attributable  
22 to qualified Michigan vendors.

23 (b) The number of applications received for a tax credit under  
24 this section and section 677 during the immediately preceding  
25 calendar year, the names of the applicants and a brief description  
26 of the proposed qualified productions, including the locations in  
27 this state to be used in the production of qualified productions,  
28 and the proposed amount of money to be expended by the applicants  
29 to produce qualified productions in this state in the immediately

1 preceding calendar year.

2 (c) The number of applications approved under this section and  
3 section 677 during the immediately preceding calendar year.

4 (d) The number of qualified production certificates of  
5 completion during the immediately preceding calendar year and the  
6 total amount of credits awarded by those qualified production  
7 certificates of completion.

8 (14) As used in this section and section 677:

9 (a) "Applicant" means a taxpayer that is engaged in the  
10 business of producing qualified productions or that is authorized  
11 by, or has a contract with, another entity or copyright holder that  
12 is engaged in the business of producing qualified productions, but  
13 does not include an entity that is more than 30% owned, affiliated,  
14 or controlled by an entity or individual who is in default on a  
15 loan made by this state, a loan guaranteed by this state, or a loan  
16 made or guaranteed by any other state.

17 (b) "Certified public accountant" means a person licensed as a  
18 certified public accountant under article 7 of the occupational  
19 code, 1980 PA 299, MCL 339.720 to 339.736.

20 (c) "Commence work" means to begin filming, taping,  
21 photographing, or any other form of digital capturing for the  
22 qualified production, including any preparation activity necessary  
23 to start filming, taping, photographing, or capturing digitally.  
24 For purposes of an animated production, the commence work date is  
25 the date the artwork that is to be used in actual frames of the  
26 qualified production is created.

27 (d) "Commercial domicile" means the principal place from which  
28 the trade or business of the person is directed or managed.

29 (e) "Economic impact data" means data related to the types of

1 jobs created and retained in this state by the applicant during the  
2 qualified production and the amount spent to produce the qualified  
3 production in this state during the qualified production.

4 (f) "Entry level position" means the lowest level of a  
5 hierarchy in a production, including untrained or unskilled  
6 employees working on a qualified production.

7 (g) "Full-time equivalent employee" and "full-time equivalent  
8 job" mean a job performed by an individual for at least 35 or more  
9 hours a week and whose income and social security taxes are  
10 withheld by the applicant. For purposes of calculating full-time  
11 equivalent employees under this section and section 677, an  
12 individual who is hired as an extra for the qualified production is  
13 considered a full-time equivalent employee for each 8-hour day he  
14 or she is hired to work as an extra for the qualified production.

15 (h) "Inventory" means the stock of goods held for resale in  
16 the ordinary course of trade of a business. Inventory does not  
17 include personal property under lease or principally intended for  
18 lease rather than sale or property allowed a deduction or allowance  
19 for depreciation or depletion under the internal revenue code.

20 (i) "Michigan film and digital media office" or "office" means  
21 the office created under section 29a of the Michigan strategic fund  
22 act, 1984 PA 270, MCL 125.2029a.

23 (j) "Michigan film promotion fund" means the fund created  
24 under section 29d of the Michigan strategic fund act, 1984 PA 270,  
25 MCL 125.2029d.

26 (k) "Obscene matter or an obscene performance" means matter  
27 described in 1984 PA 343, MCL 752.361 to 752.374.

28 (l) "Postproduction costs" means a qualified direct production  
29 expenditure for animation, dailies, digital intermediate color

1 grading, editing, Foley recording, automatic dialogue replacement,  
2 sound recording, sound editing and mixing, special or visual  
3 effects including computer-generated imagery or other effects,  
4 scoring and music editing, beginning and end credits, negative  
5 processing and cutting, soundtrack production, dubbing, subtitling,  
6 or addition of sound or visual effects. Postproduction expenditure  
7 includes direct expenditures for advertising, marketing,  
8 distribution, or related expenses.

9 (m) "Production staff and crew" means office, production, and  
10 postproduction staff including, but not limited to, accountants,  
11 coordinators, secretaries, and any other individual involved with  
12 cameras, casting, construction, costume, electric, editing, grip,  
13 location, hair, makeup, props, swing gang, set decorating, sound,  
14 special effects, transportation, and visual effects related to the  
15 qualified production.

16 (n) "Qualified direct production expenditure" means a  
17 preproduction, production, or postproduction expenditure that is  
18 made in this state to a qualified Michigan vendor and is not a  
19 personnel expenditure but is directly attributable to the  
20 production or distribution of a qualified production and that is a  
21 transaction subject to taxation in this state. Qualified direct  
22 production expenditure does not include any pass-through  
23 transactions or purchases made from a qualified Michigan vendor for  
24 any goods or services that are not within the ordinary course of  
25 business of that qualified Michigan vendor. Qualified direct  
26 production expenditures paid to a qualified Michigan vendor  
27 include, but are not limited to, the purchase or use of tangible  
28 personal property in producing or distributing the qualified  
29 production or the purchase of services relating to the production

1 or distribution of the qualified production, including all of the  
2 following:

3 (i) Expenditures for optioning to include Michigan-based  
4 content, including a "filmed in Michigan" logo, and optioning or  
5 purchasing intellectual property, including, but not limited to,  
6 books, scripts, music, or trademarks relating to the purchase of a  
7 script, story, scenario, screenplay, or format, including all  
8 expenditures generally associated with the optioning or purchase of  
9 intellectual property, including option money, agent fees, and  
10 attorney fees relating to the transaction, but not including  
11 deferrals, deferments, royalties, profit participation, or recourse  
12 or nonrecourse loans negotiated by the applicant to obtain the  
13 rights to the intellectual property.

14 (ii) Production work, production equipment, production  
15 software, postproduction work, postproduction equipment,  
16 postproduction software, set design, set construction, set  
17 operations, props, lighting, wardrobe, makeup, makeup accessories,  
18 photography, sound synchronization, special effects, visual  
19 effects, audio effects, film or digital processing, music, sound  
20 recording, sound editing and mixing, editing, and related services  
21 and materials.

22 (iii) Rental or use of facilities or equipment, use of  
23 soundstages or studios, location fees, and related services and  
24 materials.

25 (iv) Catering, food, lodging, and related services and  
26 materials, but not including any per diem disbursements made for  
27 food, lodging, and related services and materials.

28 (v) Use of vehicles, which may include chartered aircraft  
29 based in this state used for transportation in this state directly

1 attributable to production of a qualified production, but may not  
2 include the chartering of aircraft for transportation outside of  
3 this state. For purposes of this subparagraph, use of vehicles and  
4 chartered aircraft includes fuel costs incurred in this state, and  
5 costs attributable to chartered aircraft are limited to 2 roundtrip  
6 fares per individual, per qualified production.

7 (vi) Commercial airfare for domestic travel to and from this  
8 state or within this state directly attributable to production or  
9 distribution of a qualified production. In calculating expenditures  
10 under this subparagraph, commercial airfare expenditures are  
11 limited to 2 roundtrip fares per individual, per qualified  
12 production.

13 (vii) Insurance coverage or bonding if purchased from an  
14 insurance agent based in this state.

15 (viii) Expenditures for distribution, including, but not limited  
16 to, preproduction, production, or postproduction costs relating to  
17 the creation of trailers, marketing videos, commercials, point-of-  
18 purchase videos, and content created on film or digital media,  
19 including, but not limited to, the duplication of films, videos,  
20 compact discs, digital video discs, and digital files or other  
21 digital media created for consumer consumption in this state.

22 (o) "Qualified Michigan vendor" means a business that  
23 satisfies each of the following:

24 (i) Has commercial domicile in this state or is incorporated or  
25 registered to do business in this state, prior to commencing work  
26 on the qualified production.

27 (ii) Has at least 1 full-time equivalent employee.

28 (iii) Has at least 1 physical location in this state and has  
29 been doing business for at least 6 months before the date of the

1 approval of the application for the qualified production under this  
2 section.

3 (iv) For a vendor engaged in the business of selling or renting  
4 equipment, maintains inventory in this state on a continuous basis.

5 (v) Is subject to the levy of taxes under this act, the  
6 general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and  
7 the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

8 (p) "Qualified personnel expenditure" means any payments and  
9 compensation for any 1 employee or contractual or salaried employee  
10 who performs services in this state for the production or  
11 distribution of a qualified production, including all of the  
12 following:

13 (i) Payment of wages.

14 (ii) Payment to a personal services corporation for the  
15 services of any individual as long as the employer withholds and  
16 pays to this state at least 5% from each payment.

17 (iii) Qualified personnel expenditure does not include any  
18 compensation or payments made to any 1 employee or contractual or  
19 salaried employee that receives wages in excess of \$500,000.00 for  
20 his or her services in this state for the production or  
21 distribution of a qualified production.

22 (q) "Qualified production" means single media or multimedia  
23 content created in whole or in part in this state for distribution  
24 or exhibition by any means and media in any digital media format,  
25 film, or videotape, including, but not limited to, a motion  
26 picture, a documentary, a television series, a television  
27 miniseries, a television special, interstitial television  
28 programming, long-form television, interactive television, music  
29 videos, commercials, industrials, short films, web-based content,



1 an internet video, a video, motion capture, or animation. Qualified  
2 production also includes any trailer, pilot, video teaser, or demo  
3 created primarily to stimulate the sale, marketing, promotion, or  
4 exploitation of future investment in a production. Qualified  
5 production does not include any of the following:

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

9 (ii) A production that includes obscene matter or an obscene  
10 performance.

11 (iii) A production that primarily consists of televised news or  
12 current events.

13 (iv) A production that primarily consists of a live sporting  
14 event.

15 (v) A production that primarily consists of political  
16 advertising.

17 (vi) A radio program.

18 (vii) A weather show.

19 (viii) A financial market report.

20 (ix) A talk show.

21 (x) A game show.

22 (xi) An awards show or other gala event production.

23 (xii) A production with the primary purpose of fund-raising.

24 (xiii) A nonscripted reality production that is not a  
25 commercial.

26 (r) "Resident" means an individual who is domiciled in this  
27 state for at least 6 months before commencing work on a qualified  
28 production and has an operator's or chauffeur's license issued

1 under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923,  
2 an enhanced driver license issued under the enhanced driver license  
3 and enhanced official state personal identification act, 2008 PA  
4 23, MCL 28.301 to 28.308, an official state personal identification  
5 card issued under 1972 PA 222, MCL 28.291 to 28.300, or an enhanced  
6 official state personal identification card issued under the  
7 enhanced driver license and enhanced official state personal  
8 identification card act, 2008 PA 23, MCL 28.301 to 28.308. As used  
9 in this subdivision, "domicile" means a place where an individual  
10 has his or her true, fixed, and permanent home and principal  
11 establishment, to which, whenever absent therefrom, he or she  
12 intends to return, and domicile continues until another permanent  
13 establishment is established.

14 (s) "State certified qualified production" means a qualified  
15 production for which a qualified production certificate of  
16 completion has been issued by the office under this section or  
17 section 677.

18 (t) "Talent-related positions" means individuals with  
19 speaking, background, or extra roles that appear in front of the  
20 camera or individuals with voice-over roles that are physically  
21 recorded in this state.

22 (u) "Vendor-related positions" means jobs obtained or created  
23 through a subcontractor including, but not limited to, security,  
24 janitorial, printing, florist, dry cleaners, and limousine  
25 services.

26 (v) "Wages" means all compensation paid for services rendered  
27 by an employee that are attributable to a qualified production.  
28 Compensation includes health, life, and disability insurance  
29 premiums, payments under the federal insurance contributions act,

1 chapter 21 of subtitle C of the internal revenue code, 26 USC 3101  
2 to 3128, retirement or pension contributions, and vacation and sick  
3 leave pay.

4 Sec. 677. (1) Subject to the limitations under this section,  
5 beginning January 1, 2023 through December 31, 2032, the Michigan  
6 film and digital media office may approve an application for a  
7 credit against the tax imposed by this part for a state certified  
8 qualified production in an amount determined as follows:

9 (a) Except as otherwise provided under subdivision (b), 25% of  
10 the qualified direct production expenditures.

11 (b) If the office determines that the production includes an  
12 approved "filmed in Michigan" logo, 30% of qualified direct  
13 production expenditures.

14 (c) 30% of the qualified personnel expenditures attributable  
15 to employees who are residents of this state.

16 (d) 20% of the qualified personnel expenditures attributable  
17 to employees who are not residents of this state.

18 (2) An applicant proposing to produce a qualified production  
19 in this state and seeking a credit for that qualified production  
20 must submit an application to the office. The application must be  
21 submitted in a form prescribed by the office and shall be  
22 accompanied by a \$1,000.00 nonrefundable application fee for a  
23 qualified production that is less than 20 minutes in duration or a  
24 \$2,000.00 nonrefundable application fee for a qualified production  
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3 the proposed qualified production. The office shall approve or deny  
4 a complete application within 2 days after the application for a  
5 qualified production that is less than 20 minutes in duration is  
6 received by the office and within 5 days after the application for  
7 a qualified production that is 20 minutes or more in duration is  
8 received by the office.

9 (3) In determining whether to approve an application, the  
10 office shall consider the limitations under subsection (4) and all  
11 of the following:

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

14 (b) The extent to which the qualified production may have the  
15 effect of promoting economic development or job creation in this  
16 state.

17 (c) The extent to which the credit will attract private  
18 investment for the production of qualified productions in this  
19 state.

20 (d) The record of the applicant in completing commitments to  
21 engage in a qualified production.

22 (e) If the applicant expects to spend at least \$300,000.00 in  
23 this state for the preproduction, production, or postproduction  
24 costs of a state certified qualified production that is at least 20  
25 minutes in duration or, for a state certified qualified production  
26 that is less than 20 minutes in duration, spend at least \$50,000.00  
27 in this state for the preproduction, production, or postproduction  
28 costs of that state certified qualified production.

29 (f) If the applicant is delinquent in a tax or other

1 obligation owed to this state or is owned or under common control  
2 of an entity that is delinquent in a tax or other obligation owed  
3 to this state.

4 (g) If the applicant intends to commence work on the qualified  
5 production within 90 days after approval of the application and the  
6 date of the written notice of approval.

7 (4) Of the total number of applications approved under this  
8 section and section 285, the following limitations, plus any  
9 carryforward as provided under subsection (5) and section 285(5),  
10 apply:

11 (a) For qualified productions that are less than 20 minutes in  
12 duration, not more than \$2,000,000.00 shall be approved for each of  
13 the first 3 calendar years of the credit, \$4,000,000.00 for each of  
14 the second 3 calendar years of the credit, and \$10,000,000.00 for  
15 each of the final 4 calendar years of the credit.

16 (b) For qualified productions that are 20 minutes or more in  
17 duration, not more than \$50,000,000.00 for each of the first 3  
18 calendar years of the credit, \$75,000,000.00 for each of the second  
19 3 calendar years of the credit, and \$100,000,000.00 for each of the  
20 final 4 calendar years of the credit.

21 (5) If the office does not receive enough applications to  
22 award the entire amount allocated for credits under subsection  
23 (4)(a) and section 285(4)(a) during any of the first 3 calendar  
24 years or if the office determines that an applicant did not use any  
25 or a portion of the credit approved under the application under  
26 subsection (4)(a) or section 285(4)(a) for any of the first 3  
27 calendar years, that remaining amount may be carried forward to the  
28 next calendar year for credits approved under subsection (4)(b) or  
29 section 285(4)(b). Starting with the second 3 calendar years and

1 each calendar year thereafter, any remaining amount under  
2 subsection (4) (a) and section 285(4) (a) may be carried forward to  
3 the next calendar year for credits approved under subsection (4) (a)  
4 or section 285(4) (a). If the office does not receive enough  
5 applications to award the entire amount allocated for credits under  
6 subsection (4) (b) or section 285(4) (b) during the calendar year or  
7 if the office determines that an applicant did not use any or a  
8 portion of the credit approved under the application under  
9 subsection (4) (b) or section 285(4) (b) during the calendar year,  
10 that remaining amount may be carried forward to the next calendar  
11 year for credits approved under subsection (4) (b) or section  
12 285(4) (b).

13 (6) If the office approves an application, the office shall  
14 provide the applicant with a written notice of the approval and the  
15 written notice must include all of the following:

16 (a) A requirement that the applicant commence work in this  
17 state on the identified qualified production within 90 days of the  
18 date of the written notice or else the application is denied.  
19 However, upon request submitted by the applicant based on good  
20 cause, the office may extend the period to commence work in this  
21 state for up to an additional 90 days.

22 (b) A statement identifying the applicant and the qualified  
23 production that the applicant intends to produce in whole or in  
24 part in this state.

25 (c) A unique number assigned to the qualified production by  
26 the office.

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

29 (e) A requirement that the applicant shall give preference to

1 qualified Michigan vendors and residents of this state.

2 (f) A requirement that the applicant provide the office with  
3 the information and independent certification the office and the  
4 department determines is necessary to verify qualified direct  
5 production expenditures, qualified personnel expenditures, and  
6 eligibility for the credit under this section.

7 (7) Within 2 years of completion of the qualified production,  
8 the applicant shall provide the department with an independent  
9 certified public accountant's report on applying the agreed-upon  
10 procedures for the qualified production and submit a request to the  
11 office for a qualified production certificate of completion on a  
12 form prescribed by the office, along with any information or  
13 independent certification the office or department considers  
14 necessary to verify expenditures and calculate the amount of the  
15 credit. The department or office may request copies of the  
16 applicant's books and records for the qualified production and any  
17 other additional information it determines is necessary before  
18 issuing a qualified production certificate of completion and need  
19 not issue the qualified production certificate of completion until  
20 satisfied that qualified direct production expenditures, qualified  
21 personnel expenditures, and eligibility are adequately established.  
22 The additional information requested must include an itemized  
23 statement of qualified direct production expenditures and qualified  
24 personnel expenditures for the qualified production. The department  
25 shall verify the independent certified public accountant's report  
26 on applying the agreed-upon procedures for the qualified production  
27 and notify the office of the amount of the credit verified and to  
28 be awarded to the applicant within 45 days after receipt and the  
29 office shall process each request within 15 days after receiving

1 notice from the department of the amount of the credit to be  
2 awarded in the qualified production certificate of completion.  
3 After notification from the department verifying the amount of the  
4 credit to be awarded, if the office determines that an applicant  
5 has complied with the terms of the written notice, the office  
6 shall, within 15 days, issue a qualified production certificate of  
7 completion to the applicant. Each qualified production certificate  
8 of completion shall be signed by the Michigan film commissioner and  
9 shall include the following information:

10 (a) The name of the applicant.

11 (b) The name of the state certified qualified production  
12 produced in whole or in part in this state.

13 (c) The applicant's qualified direct production expenditures  
14 and qualified personnel expenditures for the qualified production.

15 (d) The amount of the applicant's credit allowed under this  
16 section and the designated tax year.

17 (e) The date of completion for the qualified production in  
18 this state.

19 (f) The unique number assigned to the qualified production  
20 project by the office under this section.

21 (g) The applicant's federal employer identification number or  
22 Michigan treasury number.

23 (h) Any independent certification required by the office.

24 (8) Information, records, or other data received, prepared,  
25 used, or retained by the office under this section that are  
26 submitted by an applicant and considered by the applicant and  
27 acknowledged by the office as confidential shall not be subject to  
28 the disclosure requirements of the freedom of information act, 1976  
29 PA 442, MCL 15.231 to 15.246. Information, records, or other data



1 shall only be considered confidential to the extent that the  
2 information or records describe the commercial and financial  
3 operations or intellectual property of the applicant, 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 applicant at a competitive disadvantage. For purposes of this  
7 subsection, information or records that describe commercial and  
8 financial operations do not include that portion of information or  
9 records that include any expenses that qualify under this section  
10 as qualified personnel expenditures or qualified direct production  
11 expenditures and for which a credit may be claimed.

12 (9) The office shall forward a copy of each qualified  
13 production certificate of completion issued under this section to  
14 the governor, the president of the Michigan strategic fund, the  
15 chairperson of the senate finance committee, the chairperson of the  
16 house tax policy committee, the director of the senate fiscal  
17 agency, and the director of the house fiscal agency. An applicant  
18 or assignee that claims a credit under this section shall submit  
19 with the annual return filed under this part on which the credit  
20 under this section is claimed a copy of the qualified production  
21 certificate of completion and, if the credit was assigned, a copy  
22 of the assignment form provided for under this section to the  
23 department within the same tax year in which the qualified  
24 production certificate of completion was issued. A credit amount  
25 assigned under this subsection may be claimed against the  
26 assignee's tax under this part or part 1. If the credit allowed  
27 under this section exceeds the tax liability of the applicant or  
28 assignee for the tax year or if the taxpayer claiming the credit  
29 does not have a tax liability under this part for the tax year,

1 that portion that exceeds the tax liability for the tax year shall  
2 not be refunded but may be carried forward to offset tax liability  
3 in subsequent tax years for 5 years or until used up, whichever  
4 occurs first. The department shall, as soon as the information is  
5 available, annually report to the governor, the president of the  
6 Michigan strategic fund, the chairperson of the senate finance  
7 committee, the chairperson of the house tax policy committee, the  
8 director of the senate fiscal agency, and the director of the house  
9 fiscal agency the total amount of the credits claimed under this  
10 section that exceed the taxpayer's tax liability for the most  
11 recent year that tax information is available and for which returns  
12 have cleared and been processed. The credit under this section  
13 shall be claimed after all other credits under this part.

14 (10) An applicant may transfer and assign all or a portion of  
15 a credit awarded under this section to up to 10 assignees. An  
16 applicant may claim a portion of a credit and assign the remaining  
17 credit amount. A credit assignment can only be made within the  
18 first year after the qualified production certificate of completion  
19 is issued, and a credit assignment under this section is  
20 irrevocable. The credit assignment under this subsection shall be  
21 made on a form prescribed by the department.

22 (11) The amount of the credit under this section shall be  
23 reduced by a redemption fee equal to 0.5% of the credit claimed,  
24 which shall be deducted from the credit otherwise payable to the  
25 applicant claiming the credit and be deposited by the department in  
26 the Michigan film promotion fund.

27 (12) An applicant that willfully submits information under  
28 this section that the applicant knows to be fraudulent or false  
29 shall, in addition to any other penalties provided by law, be

1 liable for a civil penalty equal to the amount of the applicant's  
2 credit under this section. A penalty collected under this section  
3 shall be deposited in the Michigan film promotion fund.